

CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

OA No. 366 of 1997

Wednesday, this the 25th day of March, 1998

CORAM

HON'BLE MR. A.M. SIVADAS, JUDICIAL MEMBER

1. K. Bharathi, D/o Kesavan,
Ex. Casual Labourer,
Southern Railway, Trivandrum Division,
Residing at: Valuvappallil Tharayil,
Pullikanakku Post,
Kayamkulam. .. Applicant

By Advocate Mr. TC Govindaswamy

Versus

1. Union of India through the
General Manager, Southern Railway,
Headquarters Office,
Park Town PO, Madras-3
2. The Chief Personnel Officer,
Southern Railway, Headquarters Office,
Park Town PO, Madras-3
3. The Divisional Railway Manager,
Southern Railway,
Trivandrum Division, Trivandrum-14
4. The Senior Divisional Personnel Officer,
Southern Railway,
Trivandrum Division, Trivandrum-14
5. Ms. N. Pankajakshi, Gang Woman,
Under the Junior Engineer (Permanent Way),
Southern Railway,
Mavelikkara. .. Respondents

By Advocate Mr. Mathews J. Nedumpara (R1-4)

The application having been heard on 25-3-1998, the
Tribunal on the same day delivered the following:

O R D E R

The applicant seeks to declare that she is entitled
to be re-engaged and absorbed in preference to the fifth
respondent, to quash A-6 and A-7 orders to the extent it
excludes her name and includes the name of the fifth

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respondent, and to direct the respondents to absorb her against a Group 'D' vacancy duly including her in A-6 and A-7.

2. The applicant is a post 1-1-81 retrenched open line casual labourer belonging to the Civil Engineering Unit of Southern Railway, Trivandrum Division. She was initially engaged as a casual labourer on 3-10-1975 in the Construction Unit under the Inspector of Works (Construction), Quilon. She continued as such upto 4-10-1976 and on completion of work she was disengaged on that date. Thereafter on 27-1-77 she was re-engaged in the open line establishment in the Civil Engineering Unit under the Permanent Way Inspector, Southern Railway, Mavelikkara. She continued as such till she was retrenched on 10-12-77. She was again re-engaged on 21-12-80 and this engagement continued upto 20-1-81 in the very same open line establishment. After that the applicant was re-engaged on 2-6-81 and was finally disengaged on 1-10-81. A-1 and A-1(a) are the copies of the applicant's service card. From the same it is seen that the applicant has got a total number of 712 days of casual labour service under the respondents. While the applicant came across the notification issued by the respondents inviting applications from retrenched open line casual labourers for absorption in Group 'D' category against the vacancies earmarked for the members of the Scheduled Caste community, since she belongs to the said community, she submitted an application. In pursuance of the same she was called for an interview on 15-1-1993 as per letter dated 30-12-1992. A copy of which is produced as A-3. She attended the interview on 15-1-93. Nothing has been heard thereafter. When she came to know

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that some of the casual labourers with lesser number of days of service have been re-engaged, she approached this Bench of the Tribunal by filing OA No. 355/94. That OA was disposed of as per order dated 8-3-1995 permitting her to submit a representation to the 2nd respondent and to produce the original service cards and other documents available with her within one month. She submitted a representation setting out the grounds for the delay. There was no response to that representation.

3. This OA came up for hearing for the first time on 13-3-97. On that date two weeks' time was granted to the respondents for filing a reply statement. On 3-4-97, as requested by the learned counsel for the respondents, two weeks' further time was granted for filing a reply statement. The applicant thereafter sought some time to file a rejoinder. No rejoinder was filed. When the OA was taken up on 28-5-97, as requested by the learned counsel for the respondents, adjournment was granted. Again on 20-6-97, as requested by the learned counsel for the respondents, an adjournment was granted. So also on 24-6-97. Again on 27-2-98, as requested by the learned counsel for respondents, an adjournment was granted. The OA was then posted to 17-3-98. On 17-3-98, the learned counsel appearing for the respondents sought an adjournment stating that he was informed that there is a circular which is applicable to the facts of the case. When the learned counsel for the respondents was asked about the year of the circular, it was submitted that he is not aware of the year of the circular and he has to ascertain it from the Divisional Personnel Officer. Considering the fact that adjournments were

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granted on various occasions at the request of the learned counsel for respondents, an adjournment was granted on 17-3-98 on condition that an amount of Rs.500/- shall be paid by the respondents as costs. The OA was then posted to this date. The costs has not been paid. Hence, the defence of the respondents was struck down in spite of the request made by the learned counsel for respondents seeking adjournment for payment of costs. It is quite unfortunate that when an adjournment was granted on payment of costs, for payment of costs another adjournment is sought for.

4. In support of the stand of the applicant that she was retrenched after 1-1-81, she is relying on A-1 and A-1(a). From A-1 and A-1(a) it is seen that she was engaged initially on 3-10-1975 and was retrenched last on 1-10-1981 afternoon.

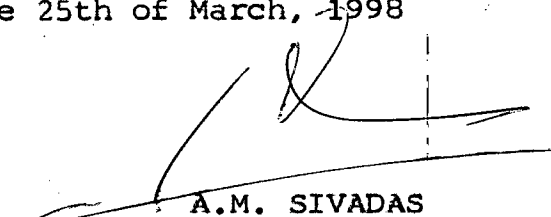
5. In OA No. 1485/96, following the order in OA No. 811/96 this Bench of the Tribunal directed the respondents to consider the case of the applicant therein for re-engagement and pass appropriate orders within three months. Facts are practically identical in the said OA and in this OA.

6. Following the order in OA No. 1485/96 it is to be held that the applicant is entitled to be re-engaged in accordance with her seniority in the open line retrenched casual labourers list who were retrenched after 1-1-81.

7. The respondents shall consider the case of the applicant for re-engagement and pass appropriate orders within three months from today.

8. The application is disposed of as above. No costs.

Dated the 25th of March, 1998



A.M. SIVADAS
JUDICIAL MEMBER

LIST OF ANNEXURES

1. Annexure A-1 : Service Card of the applicant for the period from 3-10-75 to 20-12-77 issued by the Inspector of Works, Southern Railway, Construction, Quilon.
2. Annexure A-1(a): Service Card of the applicant for the period from 22-12-80 to 1-10-81 issued by the Permanent Way Inspector, Southern Railway, Mavelikkara.
3. Annexure A-3 : Letter No.V/P O.A.268/OA 767/91/SC dated 30-12-92 issued by the fourth respondent.
4. Annexure A-6 : Memorandum No.V/P 564/I/Emp/TVC Divn./Vol.4 dated 16-2-96 issued by the 4th respondent.
5. Annexure A-7 : Office Order No.27/96/WP dated 15-3-96 issued by the fourth respondent.

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