

**CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH**

O.A.NO.377/04

FRIDAY THIS THE 8TH DAY OF JULY, 2005

CORAM

HON'BLE MRS. SATHI NAIR, VICE CHAIRMAN

R.Ponnusamy, aged 43 years,
S/o Raman, (Ex-Casual Labourer)
Southern Railway Palghat Division,
Manavasi Post, Krishnarayapuram Tk.
Karur Dt. Tamil Nadu.Applicant

(By Advocate Mr.T.C.Govindaswamy)

V.

1. Union of India, represented by the General Manager,
Southern Railway, Headquarters Office,
Park Town PO, Chennai.3.
2. The Divisional Railway Manager,
Southern Railway, Palghat Division,
Palghat.
3. The Senior Divisional Personnel Officer,
Southern Railway, Palghat Division,
Palghat.Respondents

(By Advocate Mr. Thomas Mathew Nellimootil)

The application having been heard on 30.6.05 the Tribunal on
8.7.2005 delivered the following:

ORDER

HON'BLE MRS. SATHI NAIR, VICE CHAIRMAN

The applicant is a retrenched Casual Labourer of the Southern Railway, Palakkad Division and had worked under the Permanent Way Inspector, Southern Railway during the period from 2.3.82 to 20.10.82. He is a member of the Scheduled Caste Community. The third respondent issued a notice dated 12.3.03 directing the retrenched casual labourers in the Seniority List between Sl.Nos. 636 and 1395 to report with the casual labour cards, date of birth certificate and other related documents on dates between 17.3.03 and 19.3.03 for screening for the purpose of absorption against Group D posts. The applicant's name figures at Sl.No.1031. According to the applicant he reported for the screening and his documents were verified and during September, 2003 he received a letter directing him to report before the third respondent with certain documents. The applicant had attended the office of the third respondent and handed over all the requisite documents. While so he came to know that the respondents have prepared a list of retrenched casual labourers in which a number of his juniors were included and he was not considered. Therefore he made a representation on 2.4.04 but there is no response to his representation at Annexure.A.2. According to the applicant the denial of consideration for absorption is arbitrary since he had produced all the requisite documents.

2. In the reply statement the respondents have denied the fact that the applicant had submitted the requisite documents. It is admitted that the applicant is a retrenched casual labourer borne on the Live Casual Labour Register of Palakkad Division at Sl.No.1031 having 181 days of casual labour service. During 2003, sanction was communicated for filling up 270 posts of Trackman from the Live Register and accordingly a notification Annexure.A.1 was issued calling of the retrenched casual labourers from Sl.Nos. 636 to 1395. The applicant did not produce the original casual labour service card and school certificate in proof of date of birth. The cut off date for reckoning age is 1.1.03 and the relaxation of upper age limit has been allowed upto 40 years for unreserved candidates, 43 in the case of OBC candidates and 45 in the case of SC/ST candidates. The casual labour service card is authentic record to substantiate the work of the casual labourers as it contained all the service particulars such as date of engagement, age, left thumb impression, nature of engagement etc. The applicant was therefore found ineligible in the preliminary verification. Therefore, he could not be called for the screening. Out of 446 persons reported 226 persons were found eligible for the preliminary verification and called for screening. The screening committee thereafter recommended the names of 124 persons for absorption. Since the juniors of the applicant have fulfilled all the conditions for absorption their names were recommended by the screening committee and there is nothing arbitrary or discriminatory. The applicant thereafter filed a rejoinder

stating that he had produced the school certificate as proof of date of birth and produced a copy marked as Annexure.A.3. As regards the casual labour card he could not submit the same as it was collected by the respondents earlier. There are instances where casual labourers were reengaged even after having lost their service cards and therefore that cannot be a reason for denying absorption to the applicant.

3. An additional reply was also filed by the respondents contending that the applicant submitted only the Photostat copy of the record sheet issued by the Headmaster which cannot be accepted as proof of date of birth. The identity of the person and the genuineness of the casual labourers particulars have to be verified through the Finger Print Inspector and since this aspect could not be verified in the absence of the LTI Register which is not traceable. They have also denied the contention of the applicant that the Original Casual Labour Service Card was collected from him earlier.

4. The learned counsel of the applicant relied on the judgment of this Tribunal in OA 379/04 in a similar case wherein the application was allowed with a direction to screen the applicant without insisting on production of casual labour service card. It was also stated that several other Original Applications were also allowed by this Tribunal.

5. I have gone through the records and judgment referred to by the learned counsel for the applicant. It is seen that the applicant in that O.A.379/04 was also similarly placed and denied absorption as he had failed to produce the original casual labour service card. The

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ground taken by the applicant in that OA was also that the original card was returned to the authorities and it had not been received back. In this case the applicant has not enclosed the casual labour service particulars which were produced by him at the time of preliminary verification but the respondents in their additional reply statement have admitted that he had submitted casual labour service particulars. It is the contention of the respondents that in the absence of the card it is not possible to verify the identity of the applicant through Finger Print verification and also the age and other details. All these particulars are available from the details submitted by the applicant. It is true that the juniors might have been able to produce the original service cards but in the absence of any record from the Railway authorities that such cards were issued to all casual labourers, the submission of the applicant that the card was returned to the authorities has to be accepted, since the casual labour service as well as the inclusion of his name in the Live Register is not denied. The second objection raised by the respondents is regarding the original school certificate. The applicant seems to have studied only upto 5th class and he has produced a copy of the record sheet which is issued by the Headmaster at the time of the student leaving the school. The date of birth of the applicant is shown as 27.6.61 in this record. Though it is an extract of the school record, once it is issued by the Head Master it can be taken as an authentic certificate and there is no reason why the respondents could not have accepted the same as proof of date of birth. The applicant belongs to the

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Scheduled Caste Community and therefore he is well within the upper age limit as on the cut off date ie. 1.1.03. Hence I am of the view that both the objections raised by the respondents for not considering him for verification and screening are not valid. Moreover, this case also falls squarely within the decision in OA 379/04 and this court would have to follow the precedent.

6. Therefore, following the ratio in the judgment, the O.A. is allowed. The respondents are directed to screen the applicant on the basis of the casual labour service particulars produced by him and proof of age record from the school authorities and to consider him for absorption in preference to his juniors, if otherwise found eligible under rules. The above exercise shall be completed within a period of three months from the date of receipt of a copy of this order. No order as to costs.

Dated this the 8TH day of July, 2005


SATHI NAIR
VICE CHAIRMAN

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