

CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

Dated Wednesday the twenty seventh day of September
one thousand nine hundred eighty nine

PRESENT

Hon'ble Shri S.P.Mukerji, Vice Chairman

&

Hon'ble Shri A.V.Haridasan, Judicial Member

T.A.No.139/87

P.T.John Vs. Union of India, represented by
the General Manager, Southern Railway,
Madras and others.

O.A.38/89 ✓

N.T.Francis Vs. Union of India, represented by
Divisional Personnel Officer, Divisional Office, (Personnel Branch)
Southern Railway, Trivandrum & Others.

O.A.No.65/89

K.Koyakutty & others Vs. Divisional Personnel Officer,
Southern Railway, Trivandrum and
others.

O.A. 91/89

V.V. Velayudhan Vs. The Chief Bridge Inspector
(Construction),
Southern Railway, Ernakulam
and four others.

Counsel for the
applicants in all cases : M/s Ashok M Cherian
and Mathew
Valsalan.

Counsel for the respondents
in all cases : Mrs. Sumati Dandapani
Railway Advocate.

ORDER

(Shri S.P. Mukerji, Vice Chairman)

Since common questions of facts, law and relief are involved in the aforesaid four applications filed under Section 19 of the Administrative Tribunals Act they are being disposed of by a common judgment as follows.

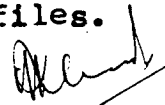
2. The applicants have been working as casual labourers in the Construction Wing of the Southern Railway in the skilled/semi-skilled category drawing the prerevised pay scale of Rs 260-400 and the revised pay scales of Rs 800-1150 and Rs 950-1500. Normally they are absorbed in the regular grade D cadre of khalasis (Rs 196-232/750-940) or Gangmen (Rs 200-250/775-1025). They are also eligible to be considered for regular absorption in the skilled grade in the 25% of 50% promotion quota after passing requisite trade test. Since the number of vacancies in the 25% quota is few and far between, the skilled/semi-skilled casual labourers are absorbed first in the regular cadre of Gangmen/khalasis and then considered for promotion to the skilled grade. The applicants in these applications have objected to their being offered absorption against regular temporary posts of Gangmen/khalasis with pay scales lower than the pay scales which they have been drawing in the skilled/semi-skilled category. They have argued that their transfer to the lower grade of Gangmen is against Article 311 of the Constitution as also Articles 14 and 16 of the Constitution. The respondents have indicated that it is for their security in service that under the decasualisation scheme they have been absorbed in the regular casual grade D post of Gangmen but if the applicants choose to remain as casual workers in the skilled category and are unwilling to be absorbed in the regular grade D cadre of Gangmen they are welcome to remain as casual

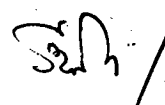
skilled/semi-skilled workers provided they express their unwillingness to be absorbed as Gangmen in writing. In that case the applicants will be subjected to the risk of being retrenched in case the work in which they are employed as casual workmen are over.

3. We have heard the arguments of the learned counsel for both the parties and gone through the documents carefully. Since the applicants are not willing to be absorbed in the regular cadre of Gangmen/Khalasis in the lower scale and are prepared to face the risk of retrenchment in their own category of skilled/semi-skilled workers and would rather wait for being promoted in the 25% quota reserved for them, the respondents need not force them to be transferred for regular absorption as Gangmen. In the facts and circumstances we set-aside the impugned orders at Appendix 1 (in OA 38/89), Appendix 1 (in OA 65/89), Appendix 1 (in OA 91/89) and Ext. P 2 (in TA 139/87) in so far as the applicants are concerned. We direct that the applicants should be considered for ^{the} assigning of temporary status in accordance with the scheme of the Railway Board as approved by the Hon'ble Supreme Court in the Inderpal Yadav and Others Vs Union of India and others (1985 (2) SCC 648) and such other schemes as the Railway Board may have promulgated. The applicants will continue as casual workers in their own skilled/semi-skilled category subject to the risk of their being retrenched in accordance with law unless in the meantime they are absorbed against regular skilled/semi-skilled vacancies.

4. There will be no order as to costs.

5. A copy of this order will be placed on each of the four files.


(A.V. Haridasan)
Member (Judicial)
27-9-1989


(S.P. Mukerji)
Vice Chairman
27-9-1989