

**CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH**

O.A.No.379/04

Thursday this the 3rd day of February 2005

C O R A M :

HON'BLE MR. A.V.HARIDASAN, VICE CHAIRMAN

K.Raju,
S/o.Karuppan,
(Ex-Casual Labourer, Southern Railway,
Palghat Division), Venkatapuram Street,
Puliyur Post, Karur District, Tamil Nadu.Applicant

(By Advocate Mr.T.C.Govindaswamy)

Versus

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

(By Advocate Mr.Sunil Jose)

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This application having been heard on 3rd February 2005 the Tribunal on the same day delivered the following :

ORDER

HON'BLE MR. A.V.HARIDASAN, VICE CHAIRMAN

The applicant was first engaged under the Permanent Way Inspector, Southern Railway, Erode from 12.10.1981 to 20.10.1982. He was again re-engaged on 21.8.1987 and continued to be engaged with intermittent breaks to 17.2.1990. Thereafter he was retrenched. According to him he had put in 441 & ½ days of casual labourer service. The applicant was served with Annexure A-1 letter dated 5.3.1999 calling upon him to appear before the Senior Divisional Engineer, Palghat for the purpose of up-dating the Live Register of Casual Labourers producing the original Casual Labour Card, original Community Certificate, original School Certificate, two passport size photographs and one self addressed cover. He complied with the above direction on 24.3.1999. Thereafter he was served with Annexure A-2 notice dated 12.3.2003 informing him that as it had been decided to consider the legally retrenched Casual Labourers of Engineering Department whose names are available in the Live Register (from Serial No.636 to 1395) for filling up of some vacancies of Trackman (Gangman) in the Division and calling upon him to report between 17.3.2003 to 19.3.2003 before the D.P.O., Palghat with Casual Labour Card, Date of Birth certificate, photo identity card and other relevant documents. The applicant allegedly complied with the directions and produced all the documents except the original Casual Labour Card which he had allegedly handed over on 24.3.1999. The applicant's documents were verified and his left thumb

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impression was also taken in a Register. Thereafter the applicant was served with a notice dated 23.9.2003 directing him to appear before the Screening Committee for the purpose of re-engagement with proof of identity from two serving employees, original Casual Labour Service Card, original Date of Birth Certificate. The applicant reported and allegedly informing the Railway authority that he had already submitted the original Casual Labour Service Card which has not been returned to him. Since the applicant did not get any order regarding re-engagement/absorption he submitted a representation dated 15.3.2004 putting forth his grievance. In reply to the above representation he was told by the impugned order dated 20.3.2004 (Annexure A-4) that his representation has been considered and since he had not produced the original Casual Labour Service Card he was not considered by the Screening Committee for absorption. Aggrieved by that the applicant has filed this application seeking to set aside Annexure A-4 and for a direction to the respondents to absorb him against a Group D post in preference to his juniors and to grant him the consequential benefits on par with his juniors in the seniority list of retrenched casual labourers of the Palghat Division with consequential benefits. It is alleged in the application that juniors to the applicant in the Live Register of Casual Labourers have already been absorbed on Group D posts.

2. The respondents have filed a reply statement. They did not dispute the fact that the applicant's name figure in the Live Register of Casual Labourers and according to them the applicant had put in 358 & $\frac{1}{2}$ days of casual labour service. It is also admitted that the applicant whose date of birth is 26.7.1963 and who belong to Schedule Caste is within the age limit to be considered for absorption. The claim of the applicant is resisted only

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on the ground that the applicant did not produce original Casual Labour Card from which alone the real particulars regarding the date of birth at the time of initial engagement etc. could be verified and in the absence of that the applicant is not entitled to the reliefs.

3. The applicant has in the rejoinder stated that the Casual Labour Card given to him had already been handed over on 24.3.1999 that it had not been returned to him and therefore he should not be faulted for the same.

4. In the additional reply statement the respondents have stated that what the applicant produced is not a Casual Labour Card but only a Casual Labour Service particulars and without the production of Casual Labour Card the applicant cannot claim the relief.

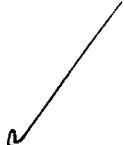
5. I have carefully gone through the pleadings and materials placed on record. Learned counsel of the applicant has made available for the perusal of the Bench a photo copy of the Casual Labour Card particulars the original of which the applicant had produced before the respondents on 24.3.1999. From this photo copy it is seen that the name, address and date of engagement has been shown and on the bottom LTI of the applicant as also the signature of Permanent Way Inspector and seal are available. The respondents do not have any doubt regarding the identity of the applicant. They also admit that the applicant's name was there in the Live Register of the Casual Labourers and on getting the particulars the same was updated. If the applicant had not produced the relevant service particulars of Casual Labour Card the respondents could not have entered the name of the applicant at the appropriate place in the updated Live Register. It is not

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disputed that the name of the applicant included in the updated Live Register also. The only ground for rejecting the claim of the applicant for re-engagement on par with persons who have lesser length of service than the applicant is that the applicant has not been able to produce the original Casual Labour Card in the absence of which it is not possible to verify records regarding date of birth etc. furnished by him at the time of initial engagement. Learned counsel of the applicant submitted that apart from the Casual Labour Service particulars, a photo copy of which has been produced by him no other Casual Labour Card was given to the applicant and that the applicant cannot be faulted for not producing the Casual Labour Card in the format which was never given to him. The contention of the respondents that the applicant is not entitled for engagement/absorption for the reason that the Casual Labour Card is not produced by him is untenable and unjust.

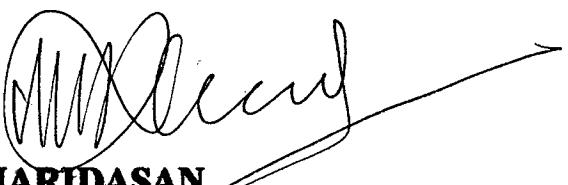
6. I am convinced that the contention of the respondents that it is not possible to verify the details and other particulars of the applicant has no force at all because admittedly the applicant had produced the School Certificate in proof of age regarding which the respondents have no dispute or doubt. Since the identity of the applicant and the claim of the applicant regarding his casual service have not even been doubted by the respondents, merely for the reason that the applicant did not have a Casual Labour Card in the prescribed format his legitimate claim for absorption on par with his juniors cannot be denied to him.

7. In the light of what is stated above I allow this application and set aside Annexure A-4 order. The respondents are directed to screen the



applicant and if not found otherwise unsuitable to absorb him on a Group D post with effect from the date on which the juniors of the applicant in the casual labour Live Register has been absorbed and to fix his seniority and pay accordingly. The above direction shall be complied with and order in that regard shall be issued by the competent authority among the respondents within a period of three months from the date of receipt of a copy of this order. However, the applicant shall not be entitled to any back wages. No order as to costs.

(Dated the 3rd day of February 2005)



A.V. HARIDASAN
VICE CHAIRMAN

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