

CENTRAL ADMINISTRATIVE TRI BUNAL
ERNAKULAM BENCH

DATED FRIDAY THE ELEVENTH DAY OF AUGUST, ONE THOUSAND
NINE HUNDRED EIGHTY NINE

P R E S E N T

HON'BLE SHRI S.P MUKERJI, VICE CHAIRMAN

AND

HON'BLE SHRI A.V HARIDASAN, JUDICIAL MEMBER

ORIGINAL APPLICATION NO. 378/89

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ORIGINAL APPLICATION NO. 379/89

O.A NO. 378/89

P.Ramachandran Nair

.. Applicant

v.

1. Union of India represented
by the General Manager,
Southern Railway, Madras.
2. The Chief Engineer,
Construction, Southern Railway,
Madras.
3. Divisional Personnel Officer,
Southern Railway,
Trivandrum.
4. Executive Engineer,
Bridge, Constructions,
Southern Railway,
Ernakulam.

.. Respondents

O.A. NO. 379/89

C.Somasekharan Nair

.. Applicant

v.

1. Union of India represented
by the General Manager,
Southern Railway, Madras.
2. Divisional Personnel Officer,
Southern Railway,
Trivandrum.
3. Deputy Chief Engineer,
Construction, Southern Railway,
Ernakulam.
4. The Executive Engineer (Construction),
Southern Railway,
Ernakulam.

.. Respondents

M/s. K.Ramakumar &
V.R.Ramachandran Nair

.. Counsel for the
applicants

Mrs. Sumathi Dandapani

.. Counsel for the
respondents.

O R D E R

Shri S.P Mukerji, Vice-Chairman

Since similar questions of facts, law and reliefs

..2..

are involved in these two applications filed under Section 19 of the Administrative Tribunals Act, they are disposed of by a common order as follows.

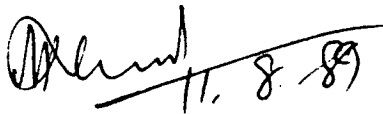
2. The applicant in the first application (O.A 378/89) has been working as a Mistri in the scale of Rs.950-1500 as a casual employee and secured temporary status with effect from 1.1.81. The applicant in the second case (O.A 379/89) has been working as a Lorry Driver in the scale of Rs.950-1500 and originally empanelled as a casual labour. He was also given temporary status. By the impugned orders dated 16th June, 1989 (Annexure B to the first application) and dated 29th May, 1989 (Annexure B to the second application), they have been empanelled for regular appointment as Gangmen in the lower scale of Rs.775-1025. They have challenged these orders as violative of the principle of natural justice and prayed that the respondents be directed to allow them to continue in the respective grades.

2. We have heard the arguments of the learned Counsel for both the parties and gone through the documents carefully. The respondents have not filed any counter affidavit and their learned Counsel has argued that these applications might ~~should~~ be disposed of on the basis of the judgments given in similar cases in T.A 98/87, O.A 69/89 and O.A 8/89.

3. The Tribunal in similar cases has been taking the view that if the Skilled or Semi-skilled casual workers

in the higher grades are not prepared to be absorbed in the regular cadre of Gangman, though in the lower grade, they may be allowed to continue in the present grade subject of course to the risk of their being retrenched in case as casual employees they are found to be surplus. The respondents also do not have any objection to retain them in the existing grades subject to the petitioners' declaring that they are not willing to be absorbed as Gangmen and subject to their undertaking the risk of being retrenched from the present grade in accordance with law.

4. In the circumstances we allow these applications and direct the respondents that the applicants may be retained in their present grade, subject to their declaring that they are not willing to be regularly absorbed as Gangmen and are prepared to undertake the risk of being retrenched in accordance with law from the present grade. There will be no order as to costs. A copy of this order may be placed on both the files.


11.8.87

(A.V. HARIDASAN)
JUDICIAL MEMBER


11.8.87

(S.P. MUKERJI)
VICE CHAIRMAN