

CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

O.A. 380/04

Monday this the 21st day of November, 2005

CORAM

HON'BLE MRS. SATHI NAIR, VICE CHAIRMAN
HON'BLE MR. GEORGE PARACKEN, JUDICIAL MEMBER

M. Muthusamy, aged 38 years
S/o Marudai Veeran
Ex-Casual Labourer,
S.Rly, Palghat Division,
Kilinjanatham, Mayannoor Post,
Krishnarayapuram,
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.
- 4 The Senior Divisional Engineer,
Southern Raiway, Palghat Division,
Palghat.Respondents

(By Advocate Mr. Sunil Jose)

The Application having been heard on 21.11.2005, the Tribunal on the
same day delivered the following:

ORDER

HON'BLE MRS. SATHI NAIR, VICE CHAIRMAN

The applicant in this OA is a retrenched Casual Labour who has claimed that he has worked under the Permanent Way Inspector, Southern Railway during the period from 12.10.81 to 20.7.83. He belongs to Scheduled Caste Community. Vide letter dated 5.3.99 he was summoned to the office of the Divisional Personnel Officer, 4th respondent, for verification of record for the purpose of re-engagement. He has submitted that at that time he submitted his original casual labour card and copies of community certificate but the original casual labour card has not been returned to him. By notice dated 12.3.2003 (Annexure.A2) respondents directed the retrenched casual labourers in the seniority list between Sl.No.636 and 1395 to report at the office for verification of their particulars for the purpose of re-engagement. The applicant visited the office and handed over the requisite documents except the casual labour card of the applicant. However, the applicant's case was rejected vide letter dated 20.3.2004 (Annexure.A4) while according to him many of his juniors were considered for re-engagement. This rejection is only due to non-production of the casual labour card.

2 It has been stated by the respondents in their reply statement that it is true that the applicant had been called for verification of documents but he could not produce the original of the casual labour card. The casual labour card is required to verify the details of the service particulars namely, date of engagement, age, nature of engagement, number of days worked and the left thumb impression of the employee. As regards age, the applicant produced the school certificate according to which his date of

birth is 7.5.65 and it is admitted by the respondents that he has completed 37 years of age and since he belongs to SC Community he is within the age limit. It is further submitted that the age recorded in the casual labour card must be tallied with the document produced to prove his date of birth and since this could not be done, the applicant could not be considered for re-engagement.

3 An additional reply statement has also been filed by the respondents stating that though the name of the applicant is available in the live register his particulars could not be tallied with the particulars recorded in the casual labour card.

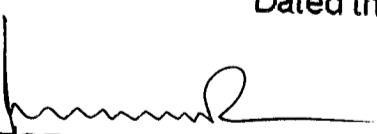
4 When the matter came up for hearing, counsel for the applicant produced a photo copy of the service particulars issued to him at the time of retrenchment by the Permanent Way Inspector giving particulars of the period and the number of days which the applicant had worked which totalled to 355 days and it also contains the left thumb impression of the applicant. A copy of the orders in OA 381/04 of this Tribunal filed by a similarly placed retrenched casual labour who had failed to produce the casual labour card, has been brought to our notice by the counsel for the applicant.

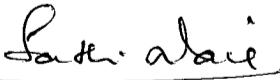
5 On a perusal of the documents produced before us and the orders in OA 381/04 referred to above, we are of the view that the facts of this case are similar to the case in the above OA. There is no dispute regarding the identity of the applicant that he is a retrenched casual labour as borne out from the position in the live register and the certificate produced by him clearly showing that he has worked 355 days. It is also not disputed by the respondents that he is within the age limit prescribed. The only

technical objection that has been raised is that the original service casual labour card has not been produced. It is the case of the applicant that he has handed it over at the time of original verification in 1999 and the respondents deny that they have received it. This is a matter which cannot be settled in the absence of the record. Since the service particulars which the department have issued under their seal to the applicant and the photo copy of the same has been produced, it can be verified with the live register which also contains the particulars of the applicant including the age. Therefore, following our earlier orders in OA 381/04 we are of the view that in the interests of justice and equity, the respondents shall be given a direction to verify the details with reference to the records produced by the applicant and to consider him for re-engagement on par with any person who was shown junior to the applicant in the live register, for re-engagement.

6 We, accordingly dispose of this application and direct the third respondent to verify the details produced by the applicant and if he is found suitable for absorption, ^{against a C or D post,} to consider him with effect from the date any of his juniors in the live register have been absorbed. This exercise shall be completed within a period of three months from the date of receipt of this order. No order as to costs.

Dated this the 21st day of November, 2005


GEORGE PARACKEN
JUDICIAL MEMBER


SATHINAIR
VICE CHAIRMAN