

CENTRAL ADMINISTRATIVE TRIBUNAL, ERNAKULAM BENCH

O.A.No.381/97

Thursday, this the 7th day of October, 1999.

CORAM:

HON'BLE MR A.M.SIVADAS, JUDICIAL MEMBER

HON'BLE MR J.L.NEGI, ADMINISTRATIVE MEMBER

K.V.Ravindran,
Motor Vehicle Driver,
Grade.II, Divisional Office,
Southern Railway,
Thiruvananthapuram.

- Applicant

By Advocate Mr P.R.Shaji

Vs

1. Union of India Owning Southern Railway
represented by Chief Personnel Officer,
Southern Railway,
Madras.
2. Divisional Personnel Officer,
Southern Railway,
Trivandrum Division,
Thiruvananthapuram.
3. N.Jalaludheen,
Motor Vehicle Driver,
General Branch,
Divisional Office,
Southern Railway,
Trivandrum.
4. S.Manoharan,
Motor Vehicle Driver,
Section Engineer's Works Office,
Southern Railway,
Nagarcoil, Tamilnadu.
5. N.Thankappan,
Motor Vehicle Driver,
General Branch,
Divisional Office,
Southern Railway, Trivandrum.
6. P.Narayanan,
Motor Vehicle Driver,
Carriage and Wagon Superintendent Office,
Southern Railway, Ernakulam.

- Respondents

7. S.Thankavelu,
Motor Vehicle Driver,
Senior Section Engineer,
Electrical Power Office,
Southern Railway,
Trivandrum.
8. N.Kumaraswamy,
Motor Vehicle Driver,
General Branch, Divisional Office,
Southern Railway,
Trivandrum. - Respondents

By Advocate Mr K Karthikeya Panicker, for R.1&2

By Advocate Mr Sibi J Monippally (for R-8)

The application having been heard on 7.10.99, the
Tribunal on the same day delivered the following:

O R D E R

HON'BLE MR A.M.SIVADAS, JUDICIAL MEMBER

The applicant seeks to direct respondents 1&2, to promote him immediately on the basis of the revised seniority list dated 16.6.94 by reverting the erroneously promoted respondents, if necessary, with arrears of wages and other consequential benefits from the date on which his junior was promoted.

2. When the O.A. was taken up, the learned counsel appearing for the official respondents submitted that the applicant has been promoted retrospectively with effect from the date on which his immediate junior was promoted. In the light of this submission, what remains is only the question of arrears of wages.

3. There is no dispute as to the fact that arrears of pay was not given to the applicant. The question is whether the applicant is entitled to.

4. The learned counsel appearing for the applicant drew our attention to the ruling in P Narayanan Nair and others Vs Chief General Manager, Telecom, Kerala Circle, Thiruvananthapuram and others, 1994(1) SLJ,415 wherein relying on State of Mysore Vs

C.R.Sheshadri, AIR 1974 SC,262, Miss Asha Rani Vs State of Haryana and others, 1983(1)SLR,400 and Union of India Vs Janki Ram, AIR 1991 SC,2010, has held that in a situation like this the applicant is entitled to pay and allowances from the date of notional promotion. It is also held therein that the doctrine of "no work no pay" applies to a situation where work was not done by an official for reasons due to him but where the official was willing and work was denied to him by the Government, he could not be denied wages.

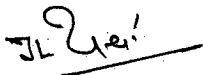
5. In the case on hand, the applicant could not discharge his duties of the higher post not for the reasons due to him but for the reasons entirely due to the official respondents. The applicant has been making successive representations and with all that only as per the admitted case of the official respondents, he was promoted as per order dated 11.6.97. Respondents did not promote the applicant early and hence he could not discharge the duties of the higher post.

6. The ruling in Harbans Singh Vs State of Punjab & others, 1995(5)SLR,224 also supports the view that the applicant is entitled to all consequential benefits.

7. Accordingly, we find that the applicant is entitled to pay and allowances for the period he could not function in the higher post for reasons beyond his control. He will be paid pay and allowances from the date of notional promotion as if he had performed the duties of the post. Amount will be quantified and paid to the applicant within three months from the date of receipt of a copy of this order.

8. The O.A. is disposed of as above. No costs.

Dated, the 7th of October, 1999.


(J.L.NEGI)
ADMINISTRATIVE MEMBER


(A.M.SIVADAS)
JUDICIAL MEMBER