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**CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH**

O.A.381/04

Wednesday this the 16th day of March 2005

C O R A M :

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

P.Perumal,
S/o.Ponnan,
Retrenched Casual Labourer,
Southern Railway, Palghat Division.
Residing at : Annanagar Colony, Kaspapettai Post,
M.S.Mangalam, Erode District.

..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 Mrs.Sumathi Dandapani)

This application having been heard on 16th March 2005 the Tribunal on the same day delivered the following :-

ORDER

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

The applicant is a retrenched casual labourer of Southern Railway, Palghat Division. He worked intermittently from 21.5.1981 to 20.10.1982. Thereafter was reengaged on 21.8.1987 and again retrenched on 17.2.1990. According to the applicant he had put in a total of 539 & ½

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days of casual service. The applicant was by letter dated 5.3.1999 of the Senior Divisional Engineer, Southern Railway, Palghat, called upon to report to the Divisional Office for verification of his records for the purpose of reengagement (Annexure A-1). The applicant as is alleged in the application reported on 25.3.1999 producing all the original documents including the Original Casual Labour Card and his name was included in the Live Register and handed over the Original Casual Labour Card in the office of the Senior Divisional Engineer. While the applicant was awaiting orders of reengagement/absorption he found that casual labourers in the Live Register between Serial No.636 and 1395 were directed to report at Divisional Office, Palghat with casual labourer card and other documents on dates between 17.3.2003 and 19.3.2003. The applicant whose name was placed at Serial No.778 in the Live Register reported within the stipulated period and he was called for screening by Annexure A-3 letter to appear on 7.10.2003. The applicant allegedly informing the official that he had already handed the casual labour card in 1999 and he was not in a position to submit the card but submitted all other materials. However he was not reengaged/absorbed but was told by Annexure A-4 letter dated 20.3.2004 that the screening committee did not recommend his name for absorption since he had not produced the original casual labour card. Aggrieved by that the applicant has filed this application seeking to set aside Annexure A-4 order and for a direction to the respondents to consider the applicant for absorption against a Group D post in preference to his juniors and to grant consequential benefits to him.

2. The respondents resist the claim of the applicant contending that since the applicant did not produce the original casual labour card it was not possible to verify the date on which he was engaged, whether he was

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engaged before the upper age limit and such other details and therefore it was not possible to accede to his request. However in the reply statement the respondents conceded that the applicant is a retrenched casual labourer placed at Serial No.778 in the Live Register and that he had rendered 274 & ½ days of casual service. The respondents also have stated that the applicant was 37 years old as on 1.1.2003 and that since he belong to Schedule Caste community he is within the age limit prescribed to be considered for absorption.

3. The applicant in his rejoinder has reiterated the contention that he had already produced the casual labour card.


4. I have perused the materials on record and have heard Shri.T.C.Govindaswamy learned counsel of the applicant and Smt.Sumathi Dandapani learned counsel of the respondents. The question that arises in this case is whether on account of the missing of the casual labour card the respondents are justified in denying absorption/reengagement to the applicant if he is otherwise entitled.

5. Learned counsel of the applicant submitted that what was given to the applicant was not casual labour card but casual labour service particulars, the original of which he had produced in the year 1999 when he was called upon to report for screening. Respondents have denied the allegation. However learned counsel of the applicant has produced for my perusal a photo copy of the original casual labour service particulars and stated that the applicant would hand over a photo copy of the same to the respondents if they wanted to reverify the details.



6. The facts situation in this case disclose that there is no dispute regarding the identity of the applicant as casual labourer whose name is shown at Serial No.778 in the merged Live Register of casual labourers and that undisputedly the applicant has put in 274 & ½ days of casual service. It is also not disputed that the applicant is within the age limit for consideration for reengagement/absorption in terms of Railway Board's letter. The only problem according to the respondents which stand in the way of applicant being reengaged/absorbed is that he did not produce the original casual labour card. It is now seen that it is not the casual labour card but casual labour service particulars that was given to the applicant which shows the details of the applicant's engagement with his left thumb impression as also the signature of the Controlling Officer, the Permanent Way Inspector. It should be possible for the respondents if they wanted to reverify the details to do so with a photo copy of the casual labour service particulars which the applicant can produce before them in case original casual labour card is missing either from their hands or from the hands of the applicant. In the peculiar facts and circumstances of the case I am of the considered view that the interest of justice would be met if the applicant is directed to produce a photo copy of the casual labour service particulars before the 3rd respondent and directing the 3rd respondent to verify the same with reference to the details in the Live Register/LTI Register etc. and to consider the absorption of the applicant on a Group D post with effect from the date on which a person placed lower in the seniority list of casual labourer than the applicant has been absorbed with consequential benefits of notional fixation of pay and seniority.

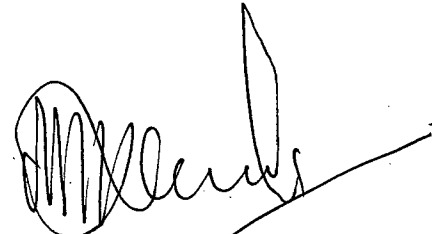
7. In the light of what is stated above the application is disposed of directing the applicant to report before the Senior Divisional Personnel



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Officer, Palghat (3rd respondent) with a photo copy of the casual labour service particulars within three weeks from the date of receipt of a copy of this order and directing the 3rd respondent to verify the details himself or cause to be verified and to issue orders regarding the absorption of the applicant on Group D post if he is not found otherwise unsuitable on a Group D post with effect from the date any person who is junior to the applicant in the Live Register has been absorbed. It is also directed that in case the applicant is so absorbed he should be assigned seniority accordingly and his pay should be notionally fixed. The above exercise shall be complied with and resultant orders issued within a period of three months from the date of applicant reporting before the 3rd respondent. No order as to costs.

(Dated the 16th day of March 2005)



**A.V.HARIDASAN
VICE CHAIRMAN**

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