

# CENTRAL ADMINISTRATIVE TRIBUNAL ERNAKULAM BENCH

ORIGINAL APPLICATION NO. 390 OF 2008

Dated the Wednesday, 14<sup>th</sup> January, 2009

CORAM:-

HON'BLE MR. JUSTICE M. RAMACHANDRAN, VICE CHAIRMAN

T. Renganathan,  
S/o Thangalayan, Ex. Casual Labourer,  
Southern Railway, Trivandrum Division,  
Residing at Mankanru Vilai, Saral Vilai,  
Mangalakuntu, PO, Vilavancode Taluk,  
Kanyakumari District.

.... Applicant

[By Advocate: Mr Shyam for TCG Swamy]

-Versus-

1. Union of India, represented by the General Manager, Southern Railway, Headquarters Office, Park Town PO, Chennai-3.
2. The Chief Engineer, Construction, Egmore, Chennai-8.
3. The Divisional Railway Manager, Southern Railway, Trivandrum Division, Trivandrum-14.
4. The Divisional Personnel officer, Southern Railway, Trivandrum Division, Trivandrum-14.

...Respondents

[By Advocates: Ms Viji for Mr Sunil Jose, ACGSC]

This application having been heard on 14<sup>th</sup> January, 2009 the Tribunal delivered the following -

No

ORDER

The prayer of the applicant is for declaration that he is entitled to be considered for regular absorption as a Group-D employee in the Trivandrum Division of Southern Railway without any age restriction in preference to persons with lesser service.

[2] The claim of the applicant is rested on the judgment of the Division Bench of the Hon'ble High Court of Kerala in WP(C) No.21777 of 2007, wherein it has been held that the age limit prescribed by the Railway Administration will not be applicable to the casual labourers, who have completed 360 days service; he is entitled to be considered. The only point for consideration is whether the rejection of the claim of the applicant needs interference.

[3] Annexure-A/1 has been produced by the applicant to show his service particulars. It is a copy of the Casual Labour Service Card issued by the Payment Way Inspector (Construction), Southern Railway, Palayamkottai. Full details are given in respect of the applicant and the period of employment is shown from 6.6.80 to 5.12.80. The total days of services are 183 days and it is specifically stated that his claim has been settled as on 5.12.80. With reference to the above claim, counter statement has been filed by the respondents stating that the applicant had only 183 days of service. Specific reference is also made in this regard in the reply statement as follows:

"4. Regarding the averments in paragraph 4 (a) it is humbly submitted that the applicant's name is available as Sl. No. 2564. His date of birth is 21.4.1957 and he completed 45 years of age as on 1.1.2003. He belongs to OBC community. The statement that he has about two years of casual service is not correct since as per the merged seniority list of the retrenched casual labourers published pursuant to the order of this Hon'ble Tribunal in OA 1706/94, he has only 183 days of service."

[4] Rejoinder has been filed by the applicant denying the stand that he had worked only for 183 days. The stress is on a stand that he was initially engaged as a Khalasi from 7.1.79 onwards and that would lead to a presumption that he had worked for more than 360 days. But in view of the extracted portion of the written statement and also the facts disclosed from the casual labour card, such a contention is difficult to be accepted.

[5] Of course, the counsel has referred to the fact that copy of the document produced contained certain details of service super scribed by hand, but no further particulars had been produced to substantiate the claim of the applicant. The counsel had handed over for my perusal a photocopy of a Card, but on examination, it is found that it has been the extracts issued by the PWD, Nagarcovil. No claim has been made at any point of time earlier or as of now based on this. Going by Annexure-A/3 judgment of the Hon'ble High Court there cannot be possible to come to any different conclusion. The applicant is over aged and going by his

date of birth, he will be aged over 52 years as of now. In the circumstances, the claim for regularisation had been treated as it deserved. I do not find any arbitrariness in the manner his claim have been considered and disposed of by the Administration. In the result, the OA is dismissed. No costs.



(Justice M Ramachandran)  
Vice Chairman

Stn