

**CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH**

O.A.397/05

Tuesday this the 16th day of August 2005

C O R A M :

**HON'BLE MR.K.V.SACHIDANANDAN, JUDICIAL MEMBER
HON'BLE MR.N.RAMAKRISHNAN, ADMINISTRATIVE MEMBER**

V.B.Bhaskaran,
S/o.V.Gopalan,
Stationary Pump Attendant,
Diesel Loco Shed, Southern Railway,
Ernakulam Junction, Ernakulam.
Residing at Thittethara, Gandhi Nagar,
Kochi – 20.

...Applicant

(By Advocate Mr.Siby J Monippally)

Versus

1. Union of India represented by the Chief Personnel Manager,
Southern Railway, Chennai.
2. The Divisional Railway Manager,
Southern Railway, Trivandrum Division,
Trivandrum.
3. The Senior Section Engineer,
Diesel/Loco Shed, Southern Railway,
Ernakulam Junction, Ernakulam.

...Respondents

(By Advocate Mr.P.Haridas)

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

ORDER (ORAL)

HON'BLE MR.K.V.SACHIDANANDAN, JUDICIAL MEMBER

Applicant who was a Mechanic in the Diesel Loco Shed at Ernakulam entered the services of Railways on 19.6.1970. Applicant was suspended from service pending disciplinary proceedings with effect from 2.7.2000. Later on, after enquiry, disciplinary proceedings were cancelled by an order dated 5.12.2003. But the respondents did not allow him to join duty. The applicant filed OA 1061/00. Applicant also filed OP 38071/00

before the Hon'ble High Court of Kerala which was disposed of by judgment dated 11.1.2001 directing the respondents to constitute a Medical Board comprising of members of Medical College, Trivandrum. A Medical Board was constituted and applicant was examined. The case of the applicant is that despite his reporting to Medical Officer vide Annexure A-4 he has not been reinstated. Aggrieved the applicant has filed this application seeking the following reliefs :-

1. To direct the respondents to reinstate the applicant into service forthwith with all consequential benefits.
2. To direct the respondents to grant all monetary benefits with effect from 2.7.2000 with interest to the applicant.

2. Respondents have filed a detailed reply statement contending that as per records the applicant is out of service from 2.7.2000 as he was discharged from the Railways' sick list under Senior Divisional Medical Officer, Ernakulam Junction for non attendance. He has not been reported for duty before the Railway authorities along with a Fit certificate issued by a Railway Doctor. Therefore, prayer for monetary benefits cannot be granted.

3. When the matter came up for hearing Shri.Siby J Monippally appeared for the applicant and Shri.P.Haridas appeared for the respondents. The dispute has been centred around only on the point that as per the orders of the Hon'ble High Court in W.P.(C) No.22278/04 the applicant has been directed to appear before the Medical Board and if found fit he should be reinstated. Annexure A-3 order was issued by the Railway on 18.10.2001. Learned counsel for the respondents submitted that Annexure A-4 certificate does not contain all the details and they insisted that the applicant should report to the Railway Doctor in order to

find out his fitness finally considering all other aspects. Railways has passed Annexure R-1 order dated 13.12.2004 which is quoted as under :-

SOUTHERN RAILWAY

No.V/P. OA.1061/2000/64

Divisional Office
Personnel Branch,
Trivandrum – 14.
Dated 13.12.2004.

Shri.V.G.Bhaskaran,
S/o.late V Gopalan,
Thittethara House,
Gandhi Nagar, Kochi.

Sub :-Directions of the Hon'ble High Court of Kerala in
WP(C) No.22278 of 2004 (B).

Ref :- (1) This office letter of even No. dt.24.9.04.
(2) Your representation dated 05.10.2004.

It is advised that the OP card produced by you as per your representation cited above has been got verified by the authorities in the Medical College Hospital, Trivandrum. It has been advised by them that you had not reported before the referred Psychiatrist after 17.10.2001 for the needed medical observation. Hence it is advised that you may comply with the advice given in this office letter cited above.

This is issued as ordered by DRM/TVC.

Sd/-

Sr.Divisional Personnel Officer

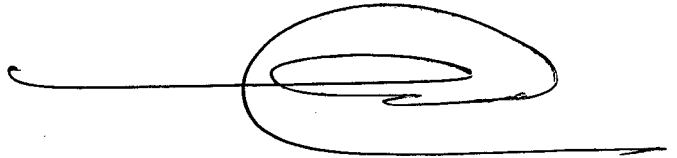
4. It is submitted that a W.P.(C) was filed by the applicant before the Hon'ble High Court. The Hon'ble High Court however directed for an appearance of the applicant before the Medical Board. It is clear from Annexure R-1 order. Learned counsel for the applicant submitted that the applicant is now prepared to appear before the Medical College Hospital, Trivandrum as directed in Annexure R-1 but he may not be insisted to appear before a Railway Doctor. Since there is no matter to be adjudicated we are of the view that interest of justice will be met by directing the respondents to extend the time in carrying out the stipulations of Annexure

R-1 dated 13.12.2004 for two months more from today. The applicant is directed to present himself before the Medical College Hospital, Trivandrum as directed in Annexure R-1 within two months for getting fitness certificate and on receipt of the same produce it before the Railway authorities to take appropriate action. The OA is disposed of accordingly. In the circumstances, no order as to costs.

(Dated the 16th day of August 2005)



N.RAMAKRISHNAN
ADMINISTRATIVE MEMBER



K.V.SACHIDANANDAN
JUDICIAL MEMBER

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