

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM

O. A. No. 410/89
T. A. No.

199

DATE OF DECISION 23.5.1990

K.K.Raghavan Applicant (s)

K.Ramakumar Advocate for the Applicant (s)

Versus

Union of India rep. by Respondent (s)
Divl.Railway Manager, Trivandrum & Oth.

Smt.Sumati Dandapani Advocate for the Respondent (s)

CORAM:

The Hon'ble Mr. S.P.Mukerji, Vice Chairman

The Hon'ble Mr. N.Dharmadan, Judicial Member

1. Whether Reporters of local papers may be allowed to see the Judgement? Yes
2. To be referred to the Reporter or not? Yes
3. Whether their Lordships wish to see the fair copy of the Judgement? Yes
4. To be circulated to all Benches of the Tribunal? Yes

JUDGEMENT

(Hon'ble Shri S.P.Mukerji, Vice Chairman)

In this application dated 29th June, 1989 filed under Section 19 of the Administrative Tribunals Act, the applicant who is a member of the Scheduled Caste and working as a Gangman under the Senior Divisional Engineer, Southern Railway, Trivandrum has prayed that the respondents be directed to promote him as Keyman ^{to} and ^{him} further promote ^{as} as Maistry with retrospective effect when his juniors had been promoted, with all consequential benefits. He has also prayed that his representations at Annexure.I and Annexure.2 should be directed to be disposed of expeditiously by the respondents in accordance with law.

2. The applicant has been working as Gangman with effect from 21.10.1955. According to him he was entitled to get his next promotion as Keyman on completion of five years of service as Gangman. After more than 30 years of service, however, he is still continuing as Gangman while a number of his juniors have been promoted not only to the next higher rank of Keyman but to still higher rank of Maistry. His representations at Annexure.1 and Annexure.2 have also not been disposed of nor any reason communicated to him for his non-selection as Keyman/Maistry. His contention is that for promotion as Keyman/Maistry no selection is involved.


3. The contention of the respondents is that ^{applicant} ~~the~~ cannot claim promotion as Keyman after completing five years of service. Their further argument is that the applicant being completely illiterate he cannot read or measure levels and rail gaps and that he is not able to give even small messages in vernacular. This will be a safety risk if he is posted as Keyman. They have further indicated that Keymen are promoted further as Gangmate and without being literate one cannot act as a Gangmate. They have also indicated that posting as a Keyman is a selection process and his juniors have been promoted

as Keyman as they were found fit in the selection process.

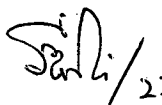
4. The applicant has denied that he is unable to give small messages in vernacular and urged that persons who have no knowledge and cannot even speak vernacular have been given promotion as Keyman. He has also stated that he was awarded a cash reward of Rs. 201/- for having averted a train accident by the timely detection of removal of fish plates.

5. We have heard the learned counsel for both the parties and have gone through the documents carefully. The learned counsel for the respondents showed us the Permanent Way Inspector Manual which did not indicate that promotion of Gangmen as Keyman is by selection. The duties of Keyman also did not give any impression that literacy is a must for Keyman. It is true that for Gangmate which is the next higher post a knowledge of reading and writing is necessary but that does not mean that an illiterate person cannot be promoted even as a Keyman when the duties of Keyman are different from those of Gangmate. If as a Keyman the applicant is not found fit for Gangmate he can have no grievance. But he can have a legitimate grievance if on the grounds of the duties of Gangmate he is not even promoted as Keyman. However, we do not wish to give any direction about promoting the applicant as Keyman. This is a matter which has^{to}

be left entirely to the respondents. However, in view of the fact that the applicant is a member of the Scheduled Caste and he has been stagnating for more than 30 years as Gangman when his juniors had been promoted, his case needs reconsideration for promotion atleast as Keyman. The Government's policy has been that in the selection process where Scheduled Castes are involved, one of the members of the Selection Committee should be a member of the Scheduled Caste. In order to give full reassurance to the applicant that his case will be considered with fullest understanding, we close this application with the direction to the respondents that the applicant should be considered for promotion as Keyman by a Selection Committee consisting of ^{as suggested by the learned counsel for the respondents} an Assistant Engineer and a Permanent Way Inspector ^{SV} atleast one of whom should be a member of the Scheduled Caste. The applicant should be promoted as Keyman if he is found fit for such promotion by that Committee. Action on the above lines should be completed within a period of three months from the date of communication of this order. In the circumstances, there will be no order as to costs.


(N. Dharmadan)
Judicial Member

23.5.90


(S.P. Mukerji)
Vice Chairman

23.5.1990

Ksn.