

CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE BENCH
.....

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Diary No. 1374/12/87

Date: 6/11/87

Commercial Complex(BDA),
Indiranagar,
Bangalore- 560 038.

Dated: 31/11/87

APPLICATION NO

79

/87(F)

W.P.No.

APPLICANT

Vs

RESPONDENTSShri N. Muralidharan Nair
ToThe GM, Southern Rly,
Sr S 000

1. Shri N. Muralidharan Nair
153/T, Railway Quarters
Bangalore - 560046.
2. Shri N.R. Nayak
Advocate
211, Srirama Road
2nd Block, Thyagarajanagar
Bangalore - 560028.
3. The General Manager
Southern Railway
Park Town
Madras - 3
4. The Divisional Personnel Officer
Bangalore Division
City Railway Station
Bangalore

5. The Divisional Medical
Officer
Bangalore Division
City Railway Station
Bangalore
6. Shri Balasundaram
Driver
Office of the Additional
Divisional Railway
Manager
City Railway Station
Bangalore
7. Shri K. Laxmanachari
Driver
Office of the Senior
Divisional Engineer
City Railway Station
Bangalore

Subject: SENDING COPIES OF ORDER PASSED BY THE BENCHPlease find enclosed herewith the copy of ORDER/~~STAY~~/~~INTERIM ORDER~~ passed by this Tribunal in the above said application
on 28-10-87.

8. Shri M. Sreerangaiah
Railway Advocate
3, SP Buildings, 10th cross
Cubbanpet Main Road
Encl: as above. Bangalore - 560002

By Venkat Reddy
Deputy Registrar
(JUDICIAL)

jc

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE BENCH BANGALORE

DATED THIS THE 28th OCTOBER, 1987

Present : Hon'ble Sri L.H.A. Rego - Member (A)

Hon'ble Sri Ch. Ramakrishna Rao - Member (J)

APPLICATION No.79/1987

N. Muralidharan Nair
No.153/J, Railway Quarters
Bangalore 560 046

- Applicant

(Sri N.R. Nayak, Advocate)

v.

1. The Union of India represented by
the General Manager, Southern Railway,
Park Town, Madras 03
 2. The Divisional Railway Manager,
Bangalore Division,
City Railway Station,
Bangalore
 3. The Divisional Personnel Officer,
Bangalore Division,
City Railway Station,
Bangalore
 4. The Divisional Medical Officer
Bangalore Division
City Railway Station
Bangalore
 5. Sri Balasundaram
Driver, Office of Addl Divisional
Railway Manager, City Railway Station
Bangalore
 6. Sri K. Laxmanachari
Driver, Office of the Senior Divisional Engineer
Bangalore
- Respondents
- (Sri M.Sreerangaiah, Advocate for R1 to R4)



This application came up for hearing before
this Tribunal and Hon'ble Sri Ch. Ramakrishna Rao,
Member (J) to-day made the following

O R D E R

This is an application filed under Section 19
of the Administrative Tribunals Act, 1985.

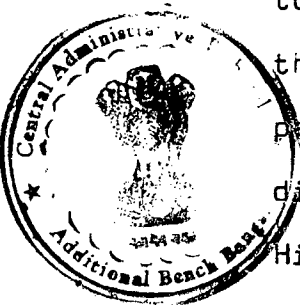
The facts giving rise to this application are, briefly, as follows: The applicant was appointed as a casual labourer in the construction department on 16.12.1981. After satisfactory service he was confirmed as a gangman and posted under Permanent Way Inspector/Open Line, Bangalore as a Gangman in the scale Rs.200-250. On the applicant's request he was posted as Peon in scale Rs.196-232 in the General Branch, Bangalore on 6.1.82. He worked as a Peon under the Divisional Personnel Officer, Bangalore Division (Respondent III : R3) and continued till November, 1984. On 11.3.85, the Divisional Personnel Officer, Bangalore Division (Respondent IV : R4) issued orders directing him to perform the duties of Driver of ambulance van in the manner stated therein. Since then the applicant has been working as a Driver under the control of R4. He made a representation to R4 for confirming or regularising him as a Driver in the department. Though he has been designated as a Peon, he has been discharging the duties of a Driver but he has not been paid the salary due to a driver, despite several representations made by him in this behalf. Aggrieved, the applicant has filed this application.

2. Sri N.R. Nayak, learned counsel for the applicant, contends that his client is entitled to the emoluments payable to a driver since he has been actually ^{performing} the duties of a driver but not the duties attaching to the post of peon. According to him, the emoluments are not to be paid on the basis of designation but on the basis of duties actually performed; otherwise it would vitiate the principle of 'equal pay for equal work'.

3. Sri M. Sreerangaiah, learned counsel for respondents 1 to 4 submits that the applicant was not, in fact, appointed as a ambulance or motor car driver and it is open to the respondents to utilise the services of the applicant in the manner they consider it most expedient and conducive to the efficient^{functioning}/of the administration.

4. We have considered the rival contentions carefully. From the annexures to the application it is apparent that the services of the applicant working as Peon in the Medical Branch, Divisional Office, Southern Railway, Bangalore City were being utilised as Ambulance/Motor Car Driver during March 1985 and December 1986. The grievance of the applicant is that though he was holding the post of Peon his services were being utilised as a Driver but the salary due to a Driver was not paid to him. If he has actually performed the duties of Ambulance Van/Motor Car Driver though designated as Peon, he is entitled to the emoluments payable to a driver on the principle of 'equal pay for equal work' as held by us in A.No. 1597/86 (Sri B. Hameed Kunju : Applicant) decided today.

5. We, therefore, direct Respondents 1 to 4 to pay to the applicant, the difference between the salary payable to a driver and the salary paid to him as a Peon within three months from the date of receipt of the order. The payment should continue to be made as long as the applicant ~~discharges~~ discharges the duties of a Driver holding the post of Peon. His claim for night duty and over time allowance is, however, rejected.



Chf

6. In the view we have taken, we do not consider it necessary for the purpose of this application to determine whether the applicant was entitled to be consider for adhoc promotion when Respondents 5 & 6 were promoted to the post of Driver.

7. The application is disposed of, subject to the direction given above. There will be no order as to costs.

Sd/-

(Ch. Ramakrishna Rao)
Member (J)

Sd/-

(L.H.A. Rego) 28.12.87
Member (A)



- True Copy -

B.V. Venkatesh Reddy
DEPUTY REGISTRAR

CENTRAL ADMINISTRATIVE TRIBUNAL
ADDITIONAL BENCH
BANGALORE

3/11/87