

**CENTRAL ADMINISTRATIVE TRIBUNAL,
ERNAKULAM BENCH**

Original Application No.180/00169/2018

Wednesday, this the 14th day of February, 2018

C O R A M :

HON'BLE Mr. U. SARATHCHANDRAN, JUDICIAL MEMBER
HON'BLE Mr.E.K.BHARAT BHUSHAN, ADMINISTRATIVE MEMBER

1. S.Swaminathan,
A/C Mechanic-II, Nagarcoil,
Southern Railway, Trivandrum Division.
 2. N.Guruvayoorappan,
AC/CA, Nagarcoil,
Southern Railway, Trivandrum Division.
- ... **Applicants**

(By Advocate - Mr.Siby.J.Monippally)

V e r s u s

1. Union of India rep. by General Manager,
Southern Railway, Park Town, Chennai-3.
 2. The Senior Divisional Personnel Officer,
Southern Railway, Trivandrum Division,
Trivandrum 14.
- ... **Respondents**

(By Advocate - Mr. Sunil Jacob Jose)

This Original Application having been heard on 14th February 2018,
the Tribunal on the same day delivered the following :

ORDER

Per : HON'BLE Mr.U.SARATHCHANDRAN, JUDICIAL MEMBER

Applicants in this case were formerly Commission Bearers. By virtue of an Apex Court judgment in *T.I.Madhavan and others v. Union of India and others* in which it was ordered by the Apex Court to progressively absorb the Commission Bearers/Vendors in catering units/other departments against

vacancies in Group D, applicants were also absorbed in regular Group D services of the Railways. In this Original Application, applicants are seeking 50% of the period of their engagement as Commission Bearers to be reckoned along with the length of their regular service for all service benefits including pensionary benefits.

2. Learned counsel for the applicants referred to a common order dated 4.6.2014 passed by this Tribunal in O.A.No.417/2013 and connected cases. In that case the question considered by this Tribunal was whether the applicants are entitled to count 50% of their service as Commission Bearers/Vendors from the date of their initial engagement till their regular absorption in service for the purpose of calculation of pension and gratuity. This Tribunal issued a direction to the Railway Administration to count half the service rendered by the applicants in the above case as Commission/Salaried Bearer before their regular absorption for the purpose of pension and other terminal benefits on the analogy of the provisions contained in Indian Railway Establishment Code that half the service rendered by the casual labourers who have joined on temporary status till regular absorption on the post are entitled to count for pensionary purposes. In the aforesaid order in O.A.No.417/2013 and connected cases this Tribunal relied on the decisions of this Tribunal in O.A.Nos.440/2003, 311/2010 and a decision of the Madras Bench of this Tribunal in O.A.No.360/2011. In all the above cases the orders passed by this Tribunal were not interfered with when those orders were challenged before the High Courts concerned.

3. In the above circumstance, Shri.Siby J Monippally, learned counsel for applicants submitted that since the applicants in this case are similarly situated, they also may be given the benefit of the aforesaid order of this Tribunal in O.A.No.417/2013 which was not interfered with by the High Court of Kerala when challenged by the Railways.

4. Learned standing counsel appearing for the respondents submitted that the records relating to the period of engagement of the applicants as Commission Bearers/Vendors require to be verified by the respondents Railways for determining the period of their engagement as such before the benefit of 50% of such service is reckoned for the purpose of pensionary benefits.

5. In view of the decision of this Tribunal in O.A.No.417/13 and connected cases, this Tribunal is of the view that the applicants in the present case are also to be given the benefits of that order as their case also are similar in nature. Therefore, respondents are directed to extend similar benefits to the applicants in this case also. It is made clear that the respondents shall, in terms of this order, re-fix the pay and other service benefits including MACP and arrears etc thereto and the same shall be reckoned for the purpose of calculating the pension and pensionary benefits also. Appropriate orders in this regard shall be issued by the Railways within two months from the date of receipt of a copy of this order.

6. It is made clear that, for the above purpose, the requisite proof for the period of engagement of the applicants as Commission Bearers/Vendors shall be produced by each of the applicant before the respondents within one month from the date of receipt of a copy of this order. Ordered accordingly.

7. This Original Application is disposed of accordingly. No order as to costs.

(Dated this the 14th day of February 2018)

(E.K.BHARAT BHUSHAN)
ADMINISTRATIVE MEMBER

(U.SARATHCHANDRAN)
JUDICIAL MEMBER

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List of Annexures in O.A.No.180/00169/2018 :

- 1. Annexure A-1** - A photostat copy of the Receipt issued by the Southern Railway 25.1.1989.
 - 2. Annexure A-2** - A photostat copy of the Receipt issued by the Southern Railway 26.6.1990.
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