

CENTRAL ADMINISTRATIVE TRIBUNAL,
ERNAKULAM BENCH

Original Application No. 180/00214/2018
Wednesday, this the 14th day of March, 2018

CORAM:

Hon'ble Mr. U. Sarathchandran, Judicial Member
Hon'ble Mr. E.K. Bharat Bhushan, Administrative Member

K.Sreekumaran Pillai
Helper-II, Southern Railway
Trivandrum Division, Trivandrum **Applicant**

(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 – 600 003
2. The Senior Divisional Personnel Officer,
Southern Railway, Trivandrum Division,
Trivandrum – 695 033 ... **Respondents**

(By Advocate : Mr. Sunil Jacob Jose)

This application having been heard on 12.3.2018, the Tribunal on 14.3.2018 delivered the following:

ORDER

Per: Hon'ble Mr. U. Sarathchandran, Judicial Member -

Applicant in this case was formerly a Commission Bearer. By virtue of the Apex Court judgment in ***T.I.Madhavan and others v. Union of India and others*** in which it was ordered to progressively absorb the Commission Bearers/Vendors in the catering units/other departments against vacancies in Group D, applicant was also absorbed in regular group D services of the Railways. In this Original Application, applicant is seeking 50% of the period of his engagement as Commission Bearer to be reckoned along with the length of

his regular service for all service benefits including pensionary benefits.

2. Learned counsel for the applicant 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 on temporary status till regular absorption in the post are entitled to count for pensionary purposes. In the aforesaid order in O.A 417/2013 and connected cases this Tribunal had relied on the decisions of this Tribunal in O.A 440/2003, 311/2010 and a decision of the Madras Bench of this Tribunal in O.A 360/2011. In all the above cases the orders passed by this Tribunal were not interfered with when they were challenged in the High Courts concerned.

3. In the above circumstance, Shri.Sibi J Monippally, learned counsel for applicant submitted that since the applicant in this case is similarly situated, he also may be given the benefit of the order of this Tribunal in O.A 417/2013 which was not interfered with by the High Court of Kerala when the same was challenged by the Railways.

4. Learned standing counsel for the respondents submitted that the records relating to the period of engagement of the applicant as Commission Bearer/Vendor require to be verified by the respondent Railways for calculating

the period of his engagement as such before reckoning the benefit of 50% of such service for the purpose of pensionary benefits.

5. In view of the decision of this Tribunal in Original Application No.417/13 and connected cases, this Tribunal is of the view that the applicant in the present case also requires to be given the benefits of that order as his case also is similar in nature. Therefore, respondents are directed to extend similar benefits to the applicant 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 applicant shall furnish the requisite proof of the period of engagement of the applicant as Commission Bearer/Vendor to 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.

(E.K. BHARAT BHUSHAN)
ADMINISTRATIVE MEMBER

(U. SARATHCHANDRAN)
JUDICIAL MEMBER

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APPLICANT'S ANNEXURES

Annexure A1 - Copy of the receipt of security deposit evidencing his commission bearer service from the date 12.7.1990.

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