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**CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH**

Original Application No.180/00606/2018

Friday, this the 30th day of November, 2018

CORAM:

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

HON'BLE Mr.ASHISH KALIA, JUDICIAL MEMBER

1. K.Sukumaran,
Server/Peon, Divisional Officer,
Trivandrum Division, Trivandrum.
2. C.Viswanathan,
Server/Peon, Divisional Office ,
Trivandrum Division, Trivandrum.
3. N.Sreedharan,
Server/Peon, Divisional Office,
Trivandrum Division, Trivandrum.
4. V.Rajan,
Server/Peon, Divisional Office,
Trivandrum Division, Trivandrum.
5. D.Chandran,
Server/Peon, Divisional Office,
Trivandrum division, Trivandrum.
6. K.Vidhyadharan,
Server/Peon, Divisional Office,
Trivandrum Division, Trivandrum.
7. M.R.Hari,
Store Khalasi, S&T Workshop,
Pothannoor, Coimbotore.
8. M.Narayanankutty,
Senior TE, Tirur, Palghat Division,
PALGHAT.

....Applicant

(By Advocate Mr.Siby J Monippally.)

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V e r s u s

1. The Union of India,
Represented by the General Manager,
Southern Railway, Park Town,
Chennai-3
2. The Senior Divisional Personnel Officer,
Southern Railway,
Trivandrum Division, Trivandrum.
3. The Senior Divisional Personnel Officer,
Southern Railway, Palghat Division,
Palghat.
4. The Deputy Chief Commercial Manager/LW/Per
(Dy.CMM/LW/PER),
Southern Railway,
Chennai. ...Respondents

(By Standing Counsel, Mrs.Mini R. Menon for Respondents)

This application having been heard on 28th November 2018, the Tribunal on 30th November, 2018 delivered the following :

O R D E R

HON'BLE MR.E.K.BHARAT BHUSHAN, ADMINISTRATIVE MEMBER

The applicants in this OA are former Commission Bearers who have since been absorbed in the regular Railway service. As per the order of Hon'ble Supreme Court in **T.I.Madhavan and others v. Union of India and others** Commission Bearers/Vendors were progressively absorbed in catering units and other departments against the vacancies in Group D. The applicants were also absorbed in regular Group D services of the Railways with reference from various dates referred to in the OA. Their prayer in this OA is for adding 50% of the engagement of Commission Bearers' service to their regular service for all

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benefits such as grant of MACP, arrears and increments.

2. Learned Counsel for the applicant referred to a common order dated 04.06.2014 passed by this Tribunal in OA No.417/2013. In the said OA this Tribunal had issued a direction to the Railway Administration to count half of the service rendered by the applicants as Commission/Salaried Bearer before their regular absorption for the purpose of pension and other terminal benefits on the same lines as provided for in Indian Railway Establishment Code (IREC) allowing half the service rendered by the casual labourers who had joined on temporary status. In OA No.417/2013 and connected cases this Tribunal relied on the decision of this Tribunal in OA No.440/20103, 311/2010 and a decision of Madras Bench of this Tribunal in OA No.360/2011.

3. In OA No.934/2017, as per the orders dated 08.12.2017, this Tribunal had also followed the same line decreeing that the same benefits were to be made available to the applicants in that case who are also similarly placed and the authorities were directed to refix the pay taking into account the service benefits such as MACP, arrears etc. None of these orders have been interfered with by the Hon'ble High Court of Kerala.

4. The respondents in the reply statement have produced the copy of the order of the Hon'ble Apex Court in **T.I.Madhavan and others v. Union of India and others** (Annexure R2) wherein absorption of similarly situated employees

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were ordered entitlement of salary with effect from the date of absorption. The two orders are of 1987 and 1997 respectively (Annexure R2 and R3 respectively). The learned Counsel for the respondents submitted that the details relating to their engagement as Commission Bearers are invariably difficult to locate as their engagement took place several years ago and also their service cannot be clubbed with that of temporary employees as most of them were paid commission on the sales conducted.

5. We are inclined to follow the course taken in various OAs which have been referred to. The prayer is allowed; however, it shall be the duty of the applicants to produce all relevant details pertaining to their engagement as Commission Bearers before the concerned authorities. Each applicant will be required to produce the same before the respondents within one month from the date of receipt of a copy of this order in order to claim the benefit as sought. OA is disposed of. No costs.

(Dated this the 30th day of November 2018).

(ASHISH KALIA)
JUDICIAL MEMBER

(E.K.BHARAT BHUSHAN)
ADMINISTRATIVE MEMBER

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List of Annexures in O.A. No.180/00606/2018

1. **Annexure A1** – A photostat copy of the Judgment of Hon'ble CAT, Ernakulam in OA No.934/2017 dated 08.12.2017.
 2. **Annexure R1** – Proforma agreement executed by the Commission Bearers..
 3. **Annexure R2** – Orders of Hon'ble Supreme Court in WP No.191/86.
 4. **Annexure R3** – Judgment of Hon'ble Supreme Court in K.V.Baby's cases reported in (1998) 9 SCC 252.
 5. **Annexure R4** – Order No.2003/TG-III/639/13/SR passed by the Chairman/Railway Board.
 6. **Annexure R5** – Rules 14(xiv) 24 and 31 of the Railway Services (Pension) Rules, 1993.
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