

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE P.R.RAMACHANDRA MENON

&

THE HONOURABLE MR. JUSTICE SUNIL THOMAS

MONDAY, THE 22ND DAY OF JUNE 2015/1ST ASHADHA, 1937

WP (C) .No. 29998 of 2007 (S)

AGAINST THE ORDER/JUDGMENT IN OA 866/2006 of CENTRAL ADMINISTRATIVE
TRIBUNAL,ERNAKULAM BENCH DATED 06-06-2007

PETITIONER(S) :

1. UNION OF INDIA
REPRESENTED BY THE GENERAL MANAGER, SOUTHERN RAILWAY
HEADQUARTERS OFFICE, CHENNAI - 3.

2. THE SENIOR DIVISIONAL PERSONNEL OFFICER
SOUTHERN RAILWAY, PALGHAT DIVISION, PALGHAT.

BY ADVS.SRI.JAMES KURIAN, SC, RAILWAYS

RESPONDENT(S) :

1. V.A.CHANDRAN, LTI No. 499
EX-CASUAL LABOURER, SOUTHERN RAILWAY, PALGHAT DIVISION
RESIDING AT VILLUVANCAD, KINAVALLLOOR, PARLI
PALGHAT.

2. C.M.LAKSHMANAN, LTI NO.481, EX-CASUAL
LABOURER, SOUTHERN RAILWAY, PALGHAT DIVISION
RESIDING AT CHOORAKKAD HOUSE, P.O.VALIYAKUNNU
KUTTIPPURAM, MALAPPURAM.

3. M.C.MANI, LTI NO.329, EX-CASUAL LABOURER
SOUTHERN RAILWAY, PALGHAT DIVISION RESIDING
AT PALAIKAPARAMBIL, MANAKKAMPATTU, KINAVALLLOOR
PARLI, PALGHAT.

4. M.R.LAKSHMANAN, LTI NO.448, EX-CASUAL
LABOURER, SOUTHERN RAILWAY, PALGHAT DIVISION
RESIDING AT MANAKKAMPATTU, KINAVALLLOOR, PARLI
PALGHAT.

5. M.B.RAMANKUTTY, LTI NO.342, EX-CASUAL
LABOURER, SOUTHERN RAILWAY, PALGHAT DIVISION
RESIDING AT MANAKKAMPATTU, KINAVALLLOOR, PARLI
PALGHAT.

6. K.K.KAMALAM, LTI NO.562, EX-CASUAL LABOURER, SOUTHERN RAILWAY, PALGHAT DIVISION RESIDING AT KALLIMPARAMBU, KINAVALLLOOR, PARLI PALGHAT.

7. PONNU, LTI NO.540, EX-CASUAL LABOURER, SOUTHERN RAILWAY, PALGHAT DIVISION RESIDING AT KUNDUPARAMBIL PO. KINAVALLLOOR, PARLI, PALGHAT.

8. K.K.THATHA, LTI NO.561, EX-CASUAL LABOURER, SOUTHERN RAILWAY, PALGHAT DIVISION, RESIDING AT KUNDUMARI P.O., THEVOOR PARLI, PALGHAT.

9. C.C.AMMUKUTTY, LTI NO.560, EX-CASUAL LABOURER, SOUTHERN RAILWAY, PALGHAT DIVISION RESIDING AT CHERUNKAL, THEVOOR, PARLI PALGHAT.

10. KALYANI, LTI NO.550, EX-CASUAL LABOURER SOUTHERN RAILWAY, PALGHAT DIVISION, RESIDING AT PULLEPARAMBIL, THEVOOR, PARLI PALGHAT.

11. B.KUNHILAKSHMI, LTI.NO.556, EX-CASUAL LABOURER, SOUTHERN RAILWAY, PALGHAT DIVISION RESIDING AT KURUMKAD, THEVOOR, PARLI PALGHAT.

12. K.C.SUBRAMANIYAN, LTI NO.336, EX-CASUAL LABOURER, SOUTHERN RAILWAY PALGHAT DIVISION RESIDING AT KUNNATHUVEEDU MANAKKAMPATTU, KINAVALLLOOR, PARLI PALGHAT.

13. K.SUNDARAM, LTI NO.IOW/OJA/49, EX-CASUAL LABOURER, SOUTHERN RAILWAY PALGHAT DIVISION RESIDING AT MOOTHANPURA KINAVALLLOOR, PARLI, PALGHAT.

14. V.RATHINAM, LTI NO.IOW/OJA/58, EX-CASUAL LABOURER, SOUTHERN RAILWAY PALGHAT DIVISION RESIDING AT VADUKATHARA KINAVALLLOOR, PARLI, PALGHAT.

15. E.C.KAMALAM, LTI NO.1OW/OJA/59, EX-CASUAL LABOURER SOUTHERN RAILWAY PALGHAT DIVISION, RESIDING AT ERAVUMPARA, PARLI PALGHAT.

16. M.M.THANKAPPAN, LTI NO.1519, EX-CASUAL LABOURER, SOUTHERN RAILWAY PALGHAT DIVISION RESIDING AT MACHATH, KINAVALLLOOR PARLI, PALGHAT.

17. M.C.GOPALAKRISHNAN, LTI NO.371,
EX-CASUAL LABOURER, SOUTHERN RAILWAY
PALGHAT DIVISION RESIDING AT MELETHIL HOUSE, THEVOOR
PARLI, PALGHAT.

18. T.K.LAKSHMI, LTI NO.547, EX-CASUAL
LABOURER, SOUTHERN RAILWAY, PALGHAT DIVISION
RESIDING AT THENGATHODI HOUSE, KINAVALLLOOR, PARLI
PALGHAT.

19. V.M.THANKAPPAN, LTI NO.609, EX-CASUAL
LABOURER, SOUTHERN RAILWAY, PALGHAT
DIVISION RESIDING AT VADAKKEVEEDU, ODANUR, PARLI
PALGHAT.

20. PARUKKUTTY, LTI NO.553, EX-CASUAL
LABOURER, SOUTHERN RAILWAY, PALGHAT DIVISION
RESIDING AT VADAKKEVEEDU, ODANUR, PARLI
PALGHAT.

21. K.GOPALAN, LTI NO.89,
EX-CASUAL LABOURER, SOUTHERN RAILWAY, PALGHAT DIVISION
RESIDING AT KUNDUKAD HOUSE, POOTHANUR PO., MUNDOOR
PALGHAT.

R, BY ADV. SRI.MARTIN G.THOTTAN

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 22-
06-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX

PETITIONERS' EXHIBITS :

- EXT. P1 : TRUE COPY OF ORDER DATED 27.01.2003 OF CPO/MADRAS
O.A. NO. 3/2006
- EXT. P2 : TRUE COPY OF LETTER/NOTICE DATED 12.3.2003 OF
DPO PALAKKAD
- EXT. P3 : TRUE COPY OF ORDER DATED 20.09.2001 OF RAILWAY BOARD
- EXT. P4 : TRUE COPY OF O.A. NO.866/2006 OF CATE/ERNAKULAM
FILED BY RESPONDENTS ALONG WITH ANNEXURES
- EXT. P5 : TRUE COPY OF REPLY STATEMENT IN O.A. NO. 866/2006
- EXT. P6 : TRUE COPY OF ORDER DATED 06.06.2007 OF
CAT/ERNAKULAM IN O.A. NO. 866/2006

/TRUE COPY/

P.A. TO JUDGE

**P.R. RAMACHANDRA MENON
&
SUNIL THOMAS, JJ.**

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W.P(C) No. 29998 of 2007  
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Dated, this the 22nd day of June, 2015

JUDGMENT

Ramachandra Menon, J.

Claim for regularization of service of the respondents in the Railways as 'Track man/Gang man' is the subject matter of consideration.

2. The respondents herein approached the Central Administrative Tribunal, Ernakulam by filing O.A. No. 866 of 2006 claiming absorption into regular employment in the Railways, contending that they were retrenched casual labourers of Palakkad division and are included in the retrenched casual labourers' list in the said division. It was contended by the applicants before the Tribunal that they were having different extents of casual service between 200 - 300 days. A Scheme was formulated by the Railways pursuant to the decision of the Apex Court in **Inder Pal Yadav and Ors Vs. Union of India [(1985) 2 SCC 648]** and the applicants claimed to have the benefit flowing therefrom. But in the meanwhile, the Railways came up with a Circular imposing some age restriction for absorption into the service, stipulating '40 years' as the maximum

age in the case of General category candidate, '43 years' in respect of OBC and '45 years' in respect of SC/ST candidates. The stipulation in this regard was sought to be challenged by filing O.A., also seeking for a positive direction to have their service regularized. The claim was sought to be opposed from the part of the Railways. After hearing both the sides, O.A. was virtually allowed by the Tribunal in following terms :

"7. The respondents are directed to consider all the applicants herein for absorption without applying the age restriction and to take final decision in their case and convey to them within three months from the date of receipt of this order. In the case of applicants 10 to 13, they shall be afforded all necessary opportunities to produce satisfactory proof regarding their date of birth. The dispute regarding the identity of the applicant No.1 raised by the respondents shall also be resolved on production of necessary proof by the applicants within the above stipulated period of three months and appropriate orders shall be issued to him also. In terms of the above directions O.A. is allowed. No order as to costs. "

The challenge is against the said verdict passed by the Tribunal.

3. Heard the learned standing counsel appearing for the petitioners and the learned counsel appearing for the party respondents.

4. During the course of hearing, it is brought to the notice of this Court that, exactly similar issue which was pending consideration before another Bench of this Court was considered and a verdict passed whereby the order passed by the Central Administrative Tribunal was modified, holding that the age limit prescribed vide Circular No. E(NG) II-99/CL/19 dated 28.02.2001 and E(NG)II 99/CL/19 dated 20.09.2001 shall have no application to the casual labourers who have completed 360 days of service, simultaneously making it clear that, eventhough the age limit is not applicable for absorption in such cases, the other stipulations in the Rules like medical fitness etc. can be insisted by the Railways, vide judgment dated 29.11.2007 in W.P.(C) No. 3246 of 2006 and connected cases. It is conceded by both the sides that there is no dispute with regard to the eligibility, except the respondents at serial Nos. 10 and 13, to have the benefit granted vide the verdict passed by the Division Bench as above. The case of the respondents 10 and 13 is mainly that they were well within the age limit when the original application was filed and hence they are

entitled for regularization in service. Adverse stipulation, if at all any, prescribed by the Railways will not be applicable to the said respondents, submits the learned counsel for the respondents.

5. In the above circumstances, this Court does not find it necessary to interfere with the direction given by the Tribunal in respect of the applicants 10 and 13, who are respondent 10 and 13 in the present writ petition. Eligibility and consequential benefits, if any, shall be considered and appropriate orders shall be passed by the second petitioner in respect of the respondents 10 and 13 as aforesaid, at any rate, within two months from the date of receipt of a copy of this judgment.

The direction given by the Tribunal in respect of others stands set aside, in terms of the verdict passed by the Division Bench of this Court in W.P.(C) No. 3246 of 2006 and connected cases.

sd/-

**P. R. RAMACHANDRA MENON,
(JUDGE)**

sd/-

**SUNIL THOMAS,
(JUDGE)**

kmd