

**CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE BENCH, BENGALURU**

ORIGINAL APPLICATION NO.170/00345 AND 346/2014

DATED THIS THE 12TH DAY OF DECEMBER, 2019

**HON'BLE DR.K.B.SURESH
HON'BLE SHRI C.V. SANKAR**

**...MEMBER(J)
...MEMBER(A)**

1. Gaurav Singh Bhau,
S/o Shri B.S. Bhau,
Aged about 36 years,
Working as Junior Engineer,
SW Railway, Bangalore,
R/a Quarters No. 211,
Mahatma Gandhi Railway Colony,
Bangalore – 560 023.

2. Ratnesh Kumar Tripathi,
S/o Shri R.K. Tripathi,
Aged about 34 years,
Working as Junior Engineer Signal,
SW Railway, Tumkur,
R/a Quarter No. RK 48,
Railway Colony, Tumkur

...Applicants

(By Advocate Shri B. Venkatesh Kumar)

Vs.

1. Union of India represented by
General Manager,
South Western Railway,
Headquarters,
Gadag Road, Hubli – 580 020.

2. The Chief Personnel Officer,
Personnel Department,
South Western Railway,
Gadag Road, Hubli – 580 020.

3. Senior Divisional Personnel Officer,
South Western Railway,
Personnel Branch,
Divisional Office,
Bangalore – 560 023.

...Respondents

(By Shri J. Bhaskar Reddy, Railway Standing Counsel)

O R D E R (ORAL)**HON'BLE DR.K.B.SURESH ...MEMBER(J)**

Heard. In fact, in this matter we had passed an order to recast the seniority list in the Zonal level because of the seniority being cast Divisional level, so creating unnecessary issues in it. We quote from it:

"ORDER (ORAL)**HON'BLE DR K.B.SURESH, MEMBER (J)**

The matter is in a very small compass. It appears that because of the independence allowed in individual divisions by the railways for smoother administration, different railway divisions have adopted different methods regarding the implementation of 18 months training.

2. It is hereby declared that the seniority and merit of the selected candidate shall only be determined in accordance with the Railway Recruitment Board selection merit and on no other consideration. It shall be common to all the divisions universally and there cannot be any division-wise adjustments.

3. All such appointees shall be indicated to have undergone a training actually or notionally for 18 months but in this case if they had been given lesser amount of training this also shall be looked into. While we agree that sometimes practical decision had to be taken and training periods has to be curtailed, suitable arrangement must be made to impart further training in view of public safety.

4. Having said that, we quash the seniority list and direct the railways to recast it at the zonal level in terms of the merit of Railway Recruitment Board

list. The seniority list taking recourse to the merit obtained by each candidate under Railway Recruitment Board merit list and then adding 18 months training as having undergone from the respective date to arrive at the seniority. While doing so, no junior in the earlier railway recruitment select list should precede the senior in that list unless for his fault, the senior joined later. This shall be done within the next 3 months. It is made clear that 303 will be of crucial effect and not 302.

5. OA is disposed of. No order as to costs.”

2. It was challenged before the High Court of Karnataka, and the Hon'ble High Court felt that if the seniority list is to be recast, the persons who will be affected by it, should be given opportunity of being heard, as otherwise, the issue would be hit by non-joinder of parties. We quote from the High Court Judgment:

“IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 2ND DAY OF JULY, 2019

PRESENT

THE HON'BLE MR. JUSTICE L.NARAYANA SWAMY

AND

THE HON'BLE MR. JUSTICE R. DEVDAS

**WRIT PETITION NO.33260/2016 & WRIT
PETITION NO.39685/2016 (S-CAT)**

THESE WRIT PETITIONS ARE FILED UNDER ARTICLES 226 AND 227 OF THE CONSTITUTION OF INDIA PRAYING TO QUASH THE ORDER DATED:22.07.2015 PASSED IN O.A.345-346/2014 BY THE CENTRAL ADMINISTRATIVE TRIBUNAL, BANGALORE ANNEXURE – C AND CONSEQUENTLY DISMISS THE APPLICATION AND ETC.,

THESE WRIT PETITIONS COMING ON FOR PRELIMINARY HEARING in 'B' GROUP THIS DAY, DEVDAS J., MADE THE FOLLOWING:

ORDER

After arguing for substantial length of time, learned counsel for respondent No.1 would submit that, if an order is to be passed against some candidates, which may affect their position in the seniority lists the basic requirement under the principles of natural justice is that they should be impleaded as parties before the Tribunal.

2. Since, they were not impleaded before the Tribunal, we are of the opinion that these matters need to be remitted back to the Tribunal in order to enable the respondents/applicants to implead those candidates against whom they seek relief.

3. With these observation, writ petitions are disposed of and the impugned order dated 22.07.2015 passed in O.A.NO.245-346/2014 by the Central Administrative Tribunal, Bangalore, (Annexure-C) is set aside and the matter is remitted back to the Tribunal.

Parties to file necessary application to bring the other applicants on record before the Tribunal.

The petitions are accordingly disposed of."

3. The view taken by the High Court is perfectly correct. Without hearing the concerned persons in the party array, there cannot be a recast of seniority list. What we had intended in the earlier order is that the Railways itself will give notice to the persons and after hearing them only, pass appropriate orders. Since the Hon'ble High Court had held at the time of adjudication that such a notice is necessary, therefore, we had directed the learned counsel who was appearing earlier in the matter Shri B.S. Venkatesh Kumar to get instructions in the matter and do the needful.

4. Apparently, the notice sent to the party by speed post has returned back. Therefore, since there is no furtherance of service of notice under order 3 and 5 of Code of Civil Procedure and the parties have not taken any steps, OA is dismissed, but with liberty. No costs.

(C.V. SANKAR)
MEMBER(A)

(DR.K.B.SURESH)
MEMBER(J)

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Annexures referred to by the Applicant in O.A. No. 170/00345 & 346/2014

Annexure-A1: Copy of appointment order of 1st applicant.

Annexure-A2: Copy of appointment order of 2nd applicant.

Annexure-A3: Copy of provisional seniority list dated 10.6.2011.

Annexure-A4: Copy of application under RTI

Annexure-A5: Copy of information furnished by R-3.
Annexure-A6: Copy of information furnished by Mysore Division.
Annexure-A7: Copy of representation of 2nd applicant.
Annexure-A8 Copy of information under RTI by Hubli Division.
Annexure-A9: Copy of Impugned seniority list dated 24.1.2014.
Annexure-A10: Copy of representation dated 31.1.2014.
Annexure-A11: Copy of Railway Board letter dated 9.10.2013.
Annexure-A12: Copy of Chapter III of IREM Vol.1.
Annexure-A13: Copy of Rule 203 of IREM Vol.1.

Annexures with reply statement

Annexure-R1: Copy of Memorandum dated 19.09.2014.
Annexure-R2: Copy of Revised Combined Seniority list of Junior Engineer/
Signal dated 23.6.2014.
