

FINAL ORDER

CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

Dated thursday the thirteenth day of April, one thousand
nine hundred and eighty nine.

PRESENT

HON'BLE SHRI S. P. MUKERJI, VICE CHAIRMAN

&

HON'BLE SHRI G. SREEDHARAN NAIR, JUDICIAL MEMBER

O.A. No. 447/86

S. Kannan

Applicant

Vs.

1. The Chief Personnel Officer,
Southern Railway, Madras

&

2. The Union of India represented
by the General Manager, Southern
Railway, Madras

Respondents

M/s. Asok M. Cherian

Counsel for
applicant

M/s. M. C. Cherian &
T. A. Rajan

Counsel for
respondents

ORDER

Hon'ble Shri S. P. Mukerji

In this application dated 7.3.1986 filed under
Section 19 of the Administrative Tribunals Act, the
applicant who is a retired Chief Travelling Ticket
Inspector, has prayed that the impugned order dated
17.8.1983 ^{revoking} ~~promoting~~ him to the scale of Rs. 550-750
with effect from 30.11.1978 and repromoting him to the
scale of Rs. 700-900 with effect from the date he joined

the post after the issue of that letter, should be set aside and he should be declared to be entitled to promotion to the grade of Rs. 700-900 with effect from 16.2.1981 with consequential benefits of pay fixation, arrears of pay, etc. The material facts of the case are as follows. Having joined the Southern Railway as Clerk on 8.9.1945, he was posted as Travelling Ticket Examiner (TTE) on 9.9.1948. He was medically de-categorised and posted as a Clerk on 5.5.1959. Subsequently, he was declared medically fit and posted as TTE on 9.3.1961 with loss of seniority. Because of loss of seniority, he was not allowed to appear in the selection for the post of Travelling Ticket Inspector in 1976. He moved the High Court of Kerala for restoration of his seniority as TTE and the respondents, during the pendency of the Writ Petition restored his seniority in the TTE's cadre and decided to promote him to the higher scale to which he was eligible consequent on the revision of seniority. Accordingly, he was promoted as Travelling Ticket Inspector (Rs. 425- 640) by the order dated 29.10.1980 and he took over as such on 7.11.1980. Since in the meantime one of his juniors Shri P. Balakurup had been promoted to the still higher post of Chief Travelling Ticket Inspector in the scale of Rs. 700-900, the applicant represented that he should

be placed above Shri Balakurup. After considering his representation, he was promoted as Chief Travelling Ticket Inspector by the order dated 11.2.1981 on an ad hoc basis for a period of three months which was extended from time to time. The respondents passed orders of his reversion on 9.7.1982 but the order could not be served on the applicant as he went on sick leave from 10.7.1982 and remained so till 25.5.1983. While he was on sick leave, by the impugned order dated 17.8.1983, he was given the pay scale of Rs. 550-750 with effect from 30.11.1978 and promotion to the scale of Rs. 700-900 from the date he joined the post at Mysore. According to the applicant, since he has been working as CTTI in the scale of Rs. 700-900, since 16.5.1981, the impugned order showing him in the lower scale of Rs. 550-750 between 30.11.1978 till he joined as CTTI on 29.8.1983 was illegal as the same was issued without any notice to him and was not warranted by his seniority. His representations did not evoke any response till he retired on 30.6.1985.

2. The respondents have explained that the applicant's posting as Chief Travelling Ticket Inspector in the scale of Rs. 700-900 was a local arrangement till the vacancies were filled up regularly by selection. They have indicated that Shri Balakurup was not junior to the applicant in the grade of TTI (Rs. 425-640) as he had been graded as "outstanding." The petitioner was informed

accordingly by the letter dated 9.4.1985 at ext. R-I. The applicant was reverted to the scale of Rs. 550-750 and transferred by the order dated 9.7.1982 (ext. R-II) and posted to another Division. But the applicant instead of carrying out the order went on sick leave. On his representation, he was posted to Headquarters Flying Squad as CTTI in the scale of Rs. 550-750. He represented against this posting also on 25.10.82 (ext. R-V) indicating that since he was on sick leave at that time, he ^{would} ~~carries~~ out the order on resumption of duties. The applicant was regularised in the scale of Rs. 700-900 with effect from 1.1.1984 and granted increment in the scale by taking into account his earlier ^{official} ~~scale of pay~~ in that grade from 16.2.1981 to 8.7.1982 (ext. RVI). His ^{junior} ~~pay~~ was fixed on the basis of the revised pay.


3. We have heard the arguments of the learned counsel for both the parties and gone through the documents carefully. The applicant's averment at ground 'B' of his application that no order of reversion to the scale of Rs. 550-750 had been served on him, is nothing but a tissue of lie. The respondents have produced his representation dated 25th August, 1982 ^{in which} (at ext. R-V) ^{he} ~~even~~ acquiesced to the reversion by stating that " since I am on sick leave now, I will carry out the order on resumption." The order referred

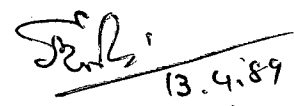
to was the order of reversion to the scale of Rs. 550-750 in the Flying Squad, Madras.

4. Having acquiesced to the reversion as far ~~back~~^{back as} in 1982, he cannot challenge the same by this application dated 7.3.1986.

5. The respondents have amply clarified that even though he was senior to Shri Balakurup in the lower scale of Rs. 330-560, on promotion to the next higher scale of Rs. 425-640 as TTI, Shri Balakurup became senior to him having been graded 'Outstanding.' Thus, the applicant cannot claim regular promotion as CTTI on the basis of the date of promotion of Shri Balakurup. The applicant has been given the benefit of his earlier ad hoc officiation as CTTI in the scale of Rs. 700-900 for the purpose of increment and pay fixation when he was regularly appointed to that scale on 1.1.1984. His pension also has been calculated on that basis. The applicant ^{has} thus received what was due to him in ample measure. There is no merit in the application and we reject the same.

6. There will be no order as to costs.


(G. Sreedharan Nair)
Judicial Member


(S. P. Mukerji)
Vice Chairman

13.4.1989