

CENTRAL ADMINISTRATIVE TRIBUNAL  
ERNAKULAM BENCH

O.A.No.479/2002

Monday this the 15th day of July, 2002

CORAM

HON'BLE MR. A.V. HARIDASAN, VICE CHAIRMAN

HON'BLE MR. T.N.T. NAYAR, ADMINISTRATIVE MEMBER

1. K.Nachimuthu, Diesel Shunter,  
Southern Railway, Erode.
2. K.Dharmarajan, Diesel Shunter,  
Southern Railway, Erode.
3. P.Shanmugham,  
Diesel Shunter,  
Southern Railway, Erode. ....Applicants  
(By Advocate M/s Santhosh & Rajan (rep. by Mathai Joseph)

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1. Union of India, represented by  
the General Manager,  
Southern Railway, Chennai.3.
2. The General Manager,  
Southern Railway,  
Park Town PO,  
Chennai.3.
3. The Senior Divisional Personnel Officer,  
Southern Railway,  
Palakkad. ....Respondents

(By Advocate Mrs.Rajeswari Krishnan (rep.))

The application having been heard on 15.7.2002, the  
Tribunal on the same day delivered the following:

O R D E R

HON'BLE MR. A.V. HARIDASAN, VICE CHAIRMAN

The applicants alongwith five others had filed  
OA 801/93 for restoration of seniority in Palakkad  
Division in the category of Diesel Assistant over their  
alleged juniors. On the basis of the orders in OA 801/93  
an order dated 23.9.93 (Al) was issued revising seniority  
of the eight applicants in OA 801/93. The applicant No.1  
figures at Sl.No.8. Applicant No.2 figures at Sl.No.5 and

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applicant No.3 at Sl.No.7 of the order Annexure.A1. Applicant No.3 was placed below A.Raju and above V.Palaniswamy, Item No.228, applicant No.1 was placed just below the third applicant and the second applicant Shri K.Dharmarajan placed below Item No.195 R.Thangavelu and above Item No.196 R.Venkataraj in the seniority list dated 27.5.1991. The present applicants alongwith four others filed OA 906/95 claiming stepping up of pay on par with their juniors. The above Original Application was disposed of with a direction to the Chief Personnel Officer to dispose of the representation. Thereupon a show cause notice was issued to the applicants and others proposing to revise their seniority position on the ground that in revising the seniority as per order dated 23.9.93 (A1) a mistake was committed. Considering their replies the order dated 5.7.96 (A2) was passed revising their seniority and taking way the higher seniority erroneously assigned to them under Annexure.A1 order. A consequential order Annexure.A3 dated 14.8.96 was also issued. The applicants did not take any steps to have the orders Annexure.A2 and A3 set aside nor did they prefer any appeal to any competent higher authority against these two orders. More than four years thereafter, the second applicant made Annexure.A4 representation on 20.6.2001. It is stated that the remaining applicants had also made similar representations claiming seniority as per Annexure.A1. Finding no response to these, the applicants

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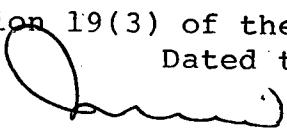
.3.

have filed this application for a declaration that they are entitled for seniority as has been given to them in Annexure.A1 order dated 23.9.93 and for a direction to the respondents to consider Annexure.A4 representation and similar representations filed by the other applicants and to give them appropriate replies.

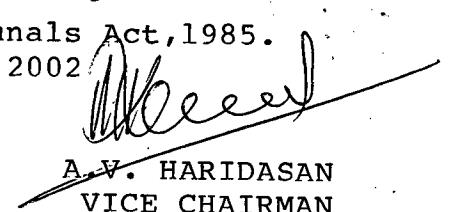
2. We have heard Shri Mathai Joseph, learned counsel appearing for the applicant and Smt.Rajeswari Krishnan, learned counsel appearing for the respondents. We do not find any valid or subsisting cause of action of the applicants to invoke the jurisdiction of this Tribunal for a prayer as made in paragraph 8(i) of the Original Application. The seniority assigned to the applicants in Annexure.A1 was found to be erroneous and it has been set aside and proper seniority was assigned to them as per Annexures.A2 and A3 orders. These Annexures.A2 and A3 orders were issued on 5.7.96 and 14.8.96 respectively. If the applicants were aggrieved by these two orders of revision of seniority, they should have challenged these orders within a period of one year from the date of those orders. An application beyond that period is barred by the provisions of Section 21 of the Administrative Tribunals' Act, 1985. The representation submitted by the second applicant was about five years after the issue of the orders Annexures.A2 and A3. After such a long lapse of time, the applicants have no right to seek any relief especially when the seniority of the applicants was altered with due notice to them.

3. The application is therefore, rejected under Section 19(3) of the Administrative Tribunals Act,1985.

Dated the 15th day of July, 2002

  
T.N.T. NAYAR  
ADMINISTRATIVE MEMBER

(s)

  
A.V. HARIDASAN  
VICE CHAIRMAN

A P P E N D I X

Applicants' Annexures:

1. A-1: True copy of Memorandum No.J/P 612/V/3 dated 23.9.93 of the 3rd respondent.
2. A-2: True copy of order No.P(S) 535/II/Court Case dated 5.7.1996 of the Chief Personnel Officer, Southern Railway, Personnel Branch, Madras-3.
3. A-3: True copy of memorandum No.J/P 612/V/3 dated 14.8.96 of the Divisional Railway Manager, Southern Railway, Palghat.
4. A-4: True copy of 2nd applicant's representation dated 20.6.2001 addressed to the 2nd respondent.

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29.7.02