

CENTRAL ADMINISTRATIVE TRIBUNAL  
ERNAKULAM BENCH

O.A. No. 483/98

Wednesday, this the 20th day of December, 2000.

CORAM:

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

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

T.Paul,  
Ayeravanpatti,  
Parivillikotta Post,  
Via Kodambur,  
Chidambaranar District,  
Tamil Nadu. - Applicant

By Advocate Mr TC Govindaswamy

1. Union of India through  
the General Manager,  
Southern Railway,  
Headquarters Office,  
Park Town.P.O.  
Madras-3.
2. The Chief Personnel Officer,  
Southern Railway,  
Headquarters Office,  
Park Town.P.O.  
Madras-3.
3. The Senior Divisional Personnel Officer,  
Southern Railway,  
Madurai Division,  
Madurai.
4. The Senior Divisional Personnel Officer,  
Southern Railway,  
Trivandrum Division,  
Trivandrum-14.
5. The Senior Divisional Mechanical Engineer,  
Southern Railway,  
Trivandrum Division,  
Trivandrum-14. - Respondents

By Advocate Mrs Sumathi Dandapani

The application having been heard on 20.12.2000, the Tribunal  
on the same day delivered the following:

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ORDER

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

The applicant while working as Driver-B in the scale of Rs.425-640, was empanelled for promotion to the post of Driver-A in the scale of Rs.550-750 in the panel published on 24.10.83. Unfortunately for him, before he could be promoted basing on the panel position, proceedings for imposition of a major penalty was initiated against him. Initially the penalty of reversion for a period of 12 months was imposed, however, ultimately the appellate authority reduced the penalty to one of withholding of increment for a period of 12 months non-recurring. After the penalty had run its course, the applicant was promoted as a Driver-A. Later, the applicant's seniority according to the panel dated 24.10.83 was restored by order dated 14.6.88 and he was given promotion as Mail Driver on the basis of that seniority. The grievance of the applicant is that though his panel seniority was restored and he was given promotion as Mail Driver in his turn, he was not given promotion as Driver-A in the scale of Rs.550-750(1600-2660) with effect from the date on which Shri PP Chacko and Shri Krishna who were juniors to the applicant, were promoted. Projecting this grievance, the applicant made a representation. Finding that his representation did not evince any response, the applicant filed O.A.1159/96 before this Tribunal which was disposed of directing the competent authority to consider the representation and to give him an appropriate reply. In obedience to the above order of the Tribunal, the Chief Personnel Officer considered the

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representation of the applicant and by an order dated 16.12.96, rejected his claim, on the ground that he having been under suspension from 22.5.83 and having been found guilty of the misconduct though a minor penalty alone was imposed on him, he was not entitled to promotion with effect from the date on which his juniors were promoted. The applicant challenged this order in this O.A. on the ground that in accordance with the provisions contained in Rule 1324 of the Indian Railway Establishment Code as also in the Railway Board's Circular No.30/72, the applicant is entitled to be promoted with effect from the date on which his juniors were promoted as Driver-A.

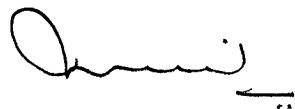
2. Respondents resist the claim of the applicant. They have filed a reply statement.

3. We have gone through the pleadings and other materials placed on record and the rules on the subject and have heard the learned counsel on either side. The claim of the applicant that he should have been promoted as Driver-A with effect from the date on which his juniors were promoted basing on the Railway Board's Circular No.30/72 is absolutely misplaced because this circular relates to the procedure to be followed for promotion of Railway Servants who are under suspension and whose conduct is under investigation to a non-selection post. In this case we are concerned with the promotion to the post of Driver-A which is a selection post. Further, as the applicant has been given seniority on the

basis of his position in the panel prepared on 24.10.83. At the time when the applicant's juniors were promoted, he was under a cloud of misconduct. Therefore, the action of the respondents in not promoting him on the date on which his juniors were promoted cannot be faulted. He could not have been promoted during the currency of the penalty also. In fact the applicant has not suffered any supersession in seniority as the respondents themselves have by the order A-5 restored his panel position of seniority.

4. In the light of what is stated above, we find no merit in the application which is dismissed without any order as to costs.

Dated, the 20th of December, 2000.



T.N.T. NAYAR  
ADMINISTRATIVE MEMBER



A.V. HARIDASAN  
VICE CHAIRMAN

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LIST OF ANNEXURES REFERRED TO IN THE ORDER:

A-5: True copy of office order No. 76/88(Mech1) dated 14.6.88 issued by the 4th respondent.