

CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

.....
O.A. No. 537 of 1994.

Thursday this the 10th day of August, 1995.

CORAM:

HON'BLE MR. PV VENKATAKRISHNAN, ADMINISTRATIVE MEMBER
HON'BLE MR. P. SURYAPRAKASAM, JUDICIAL MEMBER

1. K. Ramanathan,
Head Goods Clerk,
Southern Railway, Palghat Jn.,
Palghat.
2. M. Parameswaran,
Head Parcel Clerk,
Southern Railway, Palghat Jn.,
Palghat. .. Applicants

(By Advocate Shri Majnu Komath)

Vs.

1. Union of India represented by
the Chairman,
Railway Board, New Delhi.
2. General Manager,
Southern Railway, Madras.
3. Divisional Railway Manager,
Southern Railway,
Palghat Division,
Palghat.
4. Senior Divisional Personal Officer,
Southern Railway, Palghat Divn.,
Palghat. .. Respondents

(By Advocate Shri K. Karthikeya Panicker)

The application having been heard on the 10th day of August, 1995 the Tribunal on the same day delivered the following:

O R D E R

PV VENKATAKRISHNAN, ADMINISTRATIVE MEMBER

Applicants are Head Goods Clerk and Head Parcel Clerk in the Southern Railway. They contend that according

to the Allahabad Bench of the Central Administrative Tribunal, the reservation and 40 point roster should be with respect to posts in the cadre and not vacancies, and that this direction was not implemented by the respondents. According to applicants, persons who were junior to them in the entry cadre after promotion were placed above them by virtue of reservation. They contend that according to the decisions of the Tribunal in spite of the accelerated promotion, such juniors should have been continued to be shown as juniors to them in the promotional grade also. Applicants have a further contention that a reduction of percentage for Scheduled Tribe candidates from 7½% to 4% with effect from 1.7.1988 has not been reflected in a corresponding reduction in the Scheduled Caste reserved quota, and they pray for a direction that such reduction may be effected.

2. According to respondents, a Full Bench of the Tribunal has held that:

"from whatever source an employee has been recruited or promoted, he occupies the place with the seniority normally available along with the others irrespective of whether he got the benefit of reservation or otherwise and he cannot be later qualified on the basis of his Original appointment or promotion and deny further promotions if he is fully qualified otherwise on the ground that he acquired posting or promotion on the basis of reservation quota. There is nothing like accelerated seniority or normal seniority in service jurisprudence."

Respondents state that they have only followed this decision.

3. Applicants contend that by A-4, the Railway Board had communicated the various decisions relating to this matter to the various Railways and the Southern Railway should have also received these judgements. They contend that the Southern Railway is not following these decisions.

4. On the basis of the pleadings before us, a direction to the Southern Railway to follow certain decisions of the Courts or Tribunals and grant applicants seniority in accordance with such decisions is too broad to allow of any adjudication. A decision to reduce the percentage of reservation or to retain it at the present level is a matter of policy to be decided by the respondents. If the applicants feel that they have any grievance in this regard, they may make a representation to 1st respondent. It is for the 1st respondent to consider whether the Southern Railway is following its directions or not and take appropriate action in the matter. A representation may be made within one month to 1st respondent who shall consider it and pass appropriate orders within three months of the receipt of the representation.

5. Application is disposed of accordingly. No costs.

Thursday this the 10th day of August, 1995.



P SURYAPRAKASAM
JUDICIAL MEMBER



PV VENKATAKRISHNAN
ADMINISTRATIVE MEMBER

List of Annexure

Annexure A4: True copy of the letter No.85-E (SCT)/49/2
dated 26-2-85 issued by the Railway Board.