

CENTRAL ADMINISTRATIVE TRIBUNAL, ERNAKULAM BENCH

O.A. No. 548 of 1997.

Friday this the 12th day of November, 1999.

CORAM:

HON'BLE MR. A.M. SIVADAS, JUDICIAL MEMBER

HON'BLE MR. G.RAMAKRISHNAN, ADMINISTRATIVE MEMBER

Sebastian Daniel,
S/o B.L. Daniel,
Retired Superintendent,
(Typist Section)
Office of the Divisional
Personnel Officer,
Southern Railway,
Trivandrum Division,
residing at: Veluvil House,
House No. 10/1389,
Amaravathi,
Fort Kochi - 682 001.

.. Applicant

(By Advocate Shri T.C. Govindaswamy)

Vs.

1. 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 Divisional Personnel
Officer, Southern Railway,
Trivandrum Division,
Trivandrum - 14.

.. Respondents

(By Advocate Shri Mathews J Nedumpara)

The application having been heard on 12th November, 1999,
the Tribunal on the same day delivered the following:

O R D E R

HON'BLE SHRI A.M.SIVADAS, JUDICIAL MEMBER

Applicant seeks to quash A8 and to direct the respondents to grant him the benefit of promotion in the scale of Rs.425-640 on par with effect from the date of promotion of his junior one Shri Reghuraman Potti.

2. The applicant while working as Senior Typist was promoted as Head Typist as per order dated 18.1.80. He was informed that he was posted to Divisional Railway Manager's Office, Trivandrum on promotion. The applicant was not relieved of his duties in order to enable him to carry out his duties in the promoted post. Only on 22.7.80 he was relieved. There was substantial and recurring loss to him in the monthly pay even in the subsequent promotions ordered. His representations were rejected. He was further promoted to the higher scale of Rs. 650-750 with effect from 17.11.83 and to the still higher grade of Rs. 2000-3200 on 26.2.98. He retired from service on 31.3.88. Applicant's junior Shri Reghuraman Potti had the benefit of promotion to the scale of Rs. 425-700 with effect from 28.1.80 for the reason that he was working in the office of the Chief Operating Superintendent, Madras, at the material time and he was promoted and posted to the higher post of the adjacent office lying in the same complex. Annexure A8 is arbitrary and illegal.

3. In the reply statement filed by the respondents, it is contended that the applicant raised the same issue on 14.1.85 and was examined by the Chief Personnel Officer and reply was communicated as per letter dated 28.2.85 making it

....3/-



clear that his claim for re-fixation of pay from 18.1.80 cannot be agreed to. Again during in December 1993, the Divisional Railway Manager, Trivandrum disposed of a representation of the applicant in the Pension Adalat 1993, when the applicant raised the same issue.

4. In compliance with the directions contained in the order in O.A. 256/96, the impugned order was passed. Shri Reghuraman Potti's pay was fixed in the scale of Rs. 425-700 as Head Typist with effect from the date of his shouldering higher responsibilities.

5. After the issuance of the order of promotion till the applicant relieved, he has not submitted any representation raising any grievance as to the non-relieving from Ernakulam. The applicant tried to get to be retained in the same office.

6. It is the admitted case of the applicant that he was promoted to the post of Head Clerk in January 1980. There is no dispute as to the fact that the applicant was relieved only in the month of July and he could join in the higher post only in July. According to the applicant, it was due to the fault of the respondents that the delay has occurred in relieving him. The respondents have stated categorically that the applicant tried to get himself retained at Ernakulam. That has not been denied by filing a rejoinder. We find force in the stand of the respondents that the applicant wanted to remain at Ernakulam, if not he would have submitted a representation to the authorities concerned stating that though he was promoted he was not relieved. He has not done it. So the applicant cannot attribute any wrong on the part of the respondents.

7. Learned counsel for the applicant relying on A4 submitted that "the staff who have lost promotion on account of administrative errors should on promotion be assigned correct seniority vis-a-vis their juniors already promoted, irrespective of the date of promotion." What is the administrative error here has not stated by the applicant. We do not find any administrative error.

8. Respondents have stated that the applicant's junior, Shri Reghuraman Potti was given a scale of Rs.425-700 only from the date on which he joined in the promoted post of Head Typist.

9. The applicant's cause of action in fact has arisen as early as in 1980. He approached this Tribunal for the first time only in 1996 by filing O.A. 256/96. It is in pursuance of the directions in that O.A. the impugned order was issued.

10. The respondents have specifically stated in the reply statement that the very same issue was considered and rejected by the Chief Personnel Officer in 1985 and again by the Divisional Railway Manager, Trivandrum in the Pension Adalat. It is mentioned in the impugned order also. When the Chief Personnel Officer has rejected the claim of the applicant in the year 1985, if the applicant was aggrieved, he should have challenged that order within the time prescribed. From A7, the copy of the order in O.A. 256/96 filed by the applicant it is not known whether he has mentioned the fact that the request was already turned down by the CPO as early as in the year 1985. In all probability the fact would not have been stated in the said O.A. for the reason that, if that was stated, there could not have been a submission by the learned counsel for the respondents that the representation will be considered and disposed of by a

speaking order. Absolutely no reason is stated by the applicant why he felt more happy and convenient not to challenge the order issued by the CPO in the year 1985 rejecting his request.

11. The matter has been considered and after a due application of mind A8 order has been issued by the first respondent. He has stated the reasons clearly for rejecting the request of the applicant. We do not find any reason to quash A8.

12. One of the grounds raised in this O.A. is that since the Divisional Railway Manager has issued an order as earlier indicated in A8, it cannot be said that the issue has become final and the same cannot be raised at any later point of time, particularly when Rule 25 vests in the General Manager with abundant power of revision without any limitation of time. Rule 25 mentioned as Rule 25 of Railway Servants' (Discipline & Appeal) Rules 1968. The said rule does not apply here. The said rule cannot help the applicant in any way. We do not find any merit in this O.A.

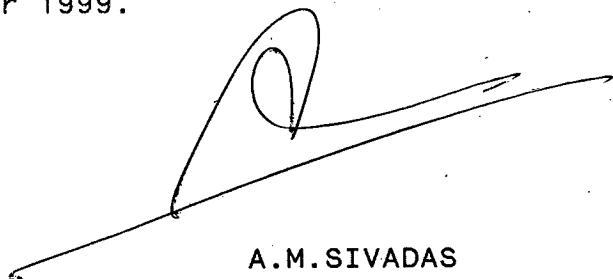
13. Accordingly, O.A. is dismissed. No costs.

Dated the 12th November 1999.



G. RAMAKRISHNAN

ADMINISTRATIVE MEMBER



A.M. SIVADAS

JUDICIAL MEMBER

List of Annexures referred to in the order:

- Annexure A7:** A true copy of the judgement in O.A.No. 256/96 dated 28.2.96 passed by this Hon'ble Tribunal.
- Annexure A8:** A true copy of the letter bearing No.P(GS)433/XIII/Typist/Court Case dated. 26.4.96 issued by the first respondent.
- Annexure A4:** A true copy of the Railway Board letter No. E(NG) 63/PN-1 92 dated 17.9.64 issued by the Railway Board.