

CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

OA No. 57 of 2003

Thursday, this the 30th day of January, 2003

CORAM

HON'BLE MR. A.V. HARIDASAN, VICE CHAIRMAN
HON'BLE MR. T.N.T. NAYAR, ADMINISTRATIVE MEMBER

1. M. Sasikumaran,
S/o N. Muthusamy Nadar,
Travelling Ticket Examiner/Sleeper,
Southern Railway, Nagercoil Junction,
Residing at Pulinga Vilakam Puthen Veedu,
Nalloor, Marthandom, Kanyakumari District.
2. K.P. Radhakrishnan,
S/o M. Parameswaran Nair,
Travelling Ticket Examiner/Sleeper,
Southern Railway, Ernakulam Town,
Residing at: 'Karthika Mandir',
Chuduvalathur Road, Shoranur.
3. K.V. Ratnakaran,
S/o Viswanathan,
Travelling Ticket Examiner/Sleeper,
Southern Railway, Ernakulam Town,
Residing at: Kariyil House,
Chettiparambu West, Irinjalakuda.
4. K.P. Paulson,
S/o Poulose,
Travelling Ticket Examiner,
Southern Railway, Ernakulam Town,
Residing at: Kottakkaran House,
Koratty South, Trichur District.Applicants

[By Advocate Mr. T.C. Govindaswamy]

Versus

1. Union of India, represented by the
Secretary to the Government of India,
Ministry of Railways (Railway Board),
New Delhi.
2. The General Manager,
Southern Railway, Head Quarters Office,
Park Town PO, Chennai-3
3. The Divisional Railway Manager,
Southern Railway, Trivandrum Division,
Trivandrum-14
4. The Senior Divisional Personnel Officer,
Southern Railway, Trivandrum Division,
Trivandrum-14

5. The Chief Personnel Officer,
Southern Railway, Headquarters Office,
Chennai-3
.... Respondents

[By Advocate Mrs. Sumathi Dandapani]

The application having been heard on 30-1-2003, the Tribunal on the same day delivered the following:

O R D E R

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

Applicants, 4 in number, who were initially engaged as casual labourers/substitutes, were empanelled and absorbed against Group D vacancies and were thereafter considered for promotion against 33 1/3 quota to the posts of Ticket Collector in the scale of Rs.950-1500, are aggrieved that the respondents did not assign to them the correct seniority position in the seniority list of Ticket Collectors in the scale of Rs.950-1500 (pre-revised) with reference to the date of occurrence of vacancies against which they were promoted and, therefore, they have filed this Original Application for a declaration that nonfeasance on the part of the respondents to assign proper seniority to the applicants in the cadre of Ticket Collectors in the scale of Rs.950-1500 with reference to the dates of occurrence of vacancies in that grade to them is arbitrary, discriminatory, contrary to law and unconstitutional and for a direction to the respondents to finalise Annexure A1 and Annexure A3 provisional seniority lists in the light of the said declaration and also to pass appropriate orders on Annexure A8 representation submitted by them in this regard.

2. Applicants were appointed as Ticket Collectors during the year 1990 against 33 1/3 quota of vacancies reserved for promotion and a provisional seniority list of Ticket Collectors in the scale of Rs.950-1500 as on 1-12-1993 was published on 13-1-1994 (Annexure A1). Thereafter, as a result of some Original Applications to which the applicants were not parties,

the panel for promotion to the grade of Ticket Collector in the scale of Rs.950-1500 against 33 1/3 quota was revised and the applicants were placed against the vacancies of the years 1985-86 and 1986-87. Alleging that the applicants had made representations against Annexure A1 provisional seniority list, that the respondents did not take any action on the representations, that the applicants also did not pursue the matter and that while the applicants were promoted to the scale of Rs.1200-2040, a gradation list of Travelling Ticket Examiner/Senior Ticket Collector as on 1-6-1997 was circulated vide letter dated 16-6-1997 (Annexure A3) to which the applicants represented stating that they had not been given seniority on the basis of Annexure A2 panel and that no action thereafter has been taken, the applicants have filed this Original Application. It is also alleged that seeking the same relief the applicants filed OA No.1092/99, which was dismissed as withdrawn without prejudice.

3. We have perused the Original Application and the annexures appended thereto and have heard Shri T.C. Govindaswamy, learned counsel of the applicants and Smt. Sumathi Dandapani, learned counsel of the respondents.

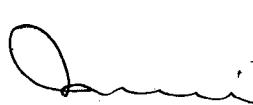
4. We find that there is no subsisting cause of action to challenge Annexure A1 seniority list because once the applicants have been promoted to the higher grade of Rs.1200-2040, the seniority list of the lower grade became redundant and their seniority position is to be reflected in the seniority list of the promoted grade. Annexure A3 is the seniority list of Travelling Ticket Examiner/Senior Ticket Collector in the scale of Rs.1200-2040. There is no case for the applicants that they have not been given the placement reckoning the date of their promotion to that grade. It is



well settled that in the absence of any rule contrary, the seniority in a grade would depend on the date of entry in the grade. Those who have been promoted earlier to the grade of Rs.1200-2040 are entitled to be placed higher in the seniority list. If the applicants had any grievance that the applicants had been overlooked in the matter of promotion and thereby their date of entry in the grade became later, they should have challenged the promotions of those persons at the appropriate time. The applicants have not agitated the issue at the appropriate time. Although the applicants filed OA No.1092/99, they withdrew the same without prejudice. It is not known 'without prejudice' as to what. In any case, since the seniority list in the grade of Travelling Ticket Examiner/Senior Ticket Collector in the scale of Rs.1200-2040 was prepared on the basis of dates of entry in that grade and as this point is not disputed by the applicants, we are of the considered view that at this distance of time the settled position of seniority cannot be unsettled at the instance of the applicants who have not taken appropriate steps to have their grievance, if any, redressed at the appropriate time.

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

Thursday; this the 30th day of January, 2003



T.N.T. NAYAR
ADMINISTRATIVE MEMBER



A.V. HARIDASAN
VICE CHAIRMAN

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