CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

O.A No.74/2005 and O.A.145/2006

Friday, this the 25th day of January, 2008.

CORAM

HON'BLE MR. GEORGE PARACKEN, JUDICIAL MEMBER
HON'BLE MRS O.P.SOSAMMA, ADMINISTRATIVE MEMBER

O.A.74/2005

P.S.Seenath,
Office Superintend Gr.I,
O/o the Senior Divisional Personnel Officer,
Southern Railway,
Palakkad. ....Applicants

(By Advocate Mr K.A.Abraham)

1. Union of India represented by the
Secretary,
Ministry of Railways,
Rail[illegible] Bhavan,
New Delhi.

2. The General Manager,
Southern Railway,
Chennai.

3. The Chief Personnel Officer,
Southern Railway,
Chennai.

4. The Divisional Railway Manager,
Southern Railway,
Palakkad Division,
Palakkad. ....Respondents

(By Advocate Mr. Sunil Jose)

O.A.145/2006

K.Vijayachandran Thambi,
Retired Station Master Gr.I,
Southern Railway,
Trivandrum Division,
R/o CC 60/1413, 'Sreevihar',
Kaloor.P.O., Kochi-17. - Applicant

(By Advocate Mr Martin G Thottan)

v.

1. Union of India represented by
Secretary,
Government of India,
Ministry of Railways,
Rail Bhavan, New Delhi.

2. The General Manager,
Southern Railway,
Chennai-3.

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

4. The Divisional Railway Manager,
Southern Railway,
Trivandrum Division,
Trivandrum. ....Respondents

(By Advocate Mr Sunil Jose)

This application having been finally heard on 15.1.2008, the Tribunal on 25.1.2008 delivered the following:

ORDER

HON'BLE MR. GEORGE PARACKEN, JUDICIAL MEMBER

The issue raised in these two O.As is regarding the application of the principles of reservation settled by the Apex Court through its various judgments from time to time. The same issue was extensively considered by this Tribunal earlier in O.A.289/2000 and connected cases and have passed a common order on 1.5.2007. Subsequently also two more O.As, viz, O.A.1057/2000 and 1243/2000 have also been disposed of on the same line on 17.7.2007. These two O.As are also, therefore, disposed of on same lines.

O.A.74/2005

2. The applicant in this case is working as Office Superintendent Grade-I in the scale of Rs.6500-10500 in the Personnel Branch (Ministerial) in Palakkad Division under the respondents. In the hierarchical line of promotion, the next

post available for him for promotion is the post of Chief Office Superintendent in the scale of Rs.7450-11500. According to the applicants, the Railway Administration has also erroneously applied the principles of reservation in the matter of upgradation of grade on cadre restructuring in the cadre of Ministerial staff in Establishments/Units of the Southern Railway and the reservation category employees were given promotion in excess of their quota reserved against the cadre strength, applying reservation on arising vacancies and claimed seniority over the excess promotees of reserved community employees. .

3. In all similar cases, this Tribunal directed the respondents to review the provisional seniority lists and to draw up the final seniority list, maintaining a balance in respect of both reserved and unreserved categories of the employees following the principles enunciated by the Apex Court in the cases of R.K.Sabharwal and Ajith Singh II's case and make promotions from that list to the next higher grade.

O.A. 145/2006

4. In this case, the applicant was a Station Master Grade-I of Trivandrum Division of Southern Railway in the scale of Rs.6500-10500. As per the hierarchical line of promotion, the next grade of promotion was as Station Manager/Superintendent in the scale of Rs.7450-11500. He took voluntary retirement from service on 31.3.1999. He has filed the present O.A seeking the following reliefs:

i) To declare that the 85th amendment of the Constitution of India shall not protect excess promotions given to the SC/ST category candidates in excess of the cadre strength on arising vacancies on roster point promotions.

ii) To declare that the roster point promotees are not entitled for protection seniority who have been promoted in excess of cadre strength before 1.4.97 except that it will be treated as ad hoc promotions and that promoted after 1.4.97 cannot claim protection either for seniority or for ad hoc promotions.

iii) To declare that the 8th amendment only protest the SC/ST category candidates promoted after 17.6.95 to retain consequential seniority in the promoted grade but does not protect any excess promotions.

iv) To declare that action of the respondents in applying the reservation in favour of SC/ST candidates to the upgraded posts by cadre restructuring was illegal and to direct the respondent to grant consequential benefits.

v) To issue direction to the respondents to review and readjust the seniority in all the grades of the Station Masters in Trivandrum Division of the southern Railway implementing the directions of this Tribunal in the judgment dated 6.9.94 in O.A.552/90 and other connected cases in accordance with the law laid down by the Hon'ble Supreme Court in Ajith Singh II 1999 (7) SCC 209). M.G.Badappanavar's case (2001(2) SCC 666) and the orders in Sathyanasan's case (C.A.No.5329/97) and promote the applicants retrospectively from the effective dates of their promotions making available the resultant benefits to the applicant.To declare that the 85th amendment of the Constitution of India shall not protect excess promotions given to the SC/ST category candidates in excess of the cadre strength on arising vacancies on roster point promotions.

5. This O.A is covered by the order of this Tribunal in O.A.11/2005 which was based on a common order in O.A.289/2000 and connected cases decided on 1.5.2007. The applicants in O.A.11/2005 were also retied Station Masters of Trivandrum Division. In the said O.A, we have permitted the applicants to make representations/objections against the relevant seniority list within a period of one month from the date of receipt of of copy of the order clearly indicting the violation of the law laid down by the Apex Court in its judgments on the issue.

The respondent-Railways was also directed to consider the representations/objections so received in accordance with law and dispose of the same within a period of two months from the date of receipt by a speaking order. The respondents were also restrained to act upon the seniority list till such time a decision is taken by them in this regard.

6. In the above facts and circumstances of the case, O.A.74/2005 is disposed of with the following directions:

i) The respondents are directed to review the seniority list of Senior Clerks onwards to that of Office Superintendent;

ii) Draw up the final seniority lists maintaining the balance in representation of both reserved and unreserved categories of employees following the principles of enunciated by the Apex Court in R.K.Sabharwal and Ajith Singh II's case and make promotion from that seniority list of Office Superintend Grade-I to the category of Chief Office Superintend;

and the O.A.145/2006 is disposed of with liberty to the applicant to make representation/objection to the seniority list of Station Masters/Traffic Inspector Grade-III in the scale of pay Rs.5000-8000 to the Station Master/Traffic Inspector Grade II in the scale of Rs.5500-9000, Station Master Traffic Inspector Grade I in the scale of Rs.6500-10500 and Station Manager/Superintendent in the scale of Rs.7450-11500 within two months from the date of receipt of this order. On receiving such a representation, the respondent-Railways shall consider the same in accordance with the law laid down by the Apex Court in the matter and the directions given by this Tribunal in the order dated 1.5.2007 in O.A.289/2000 and connected cases and dispose of it with a speaking order. Till such time, the existing provisional seniority list of the aforesaid grades of Station Master/Traffic

Assistants shall not be acted upon for any further promotions.

8. Both the above directions shall be complied with within a period of two months from the date of receipt of this order. There shall be no order to costs.

Dated, the 25th January, 2008.

O.P.SOSAMMA
ADMINISTRATIVE MEMBER

GEORGE PARACKEN
JUDICIAL MEMBER

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