

CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

OA No. 88 of 1997

Monday, this the 14th day of February, 2000

CORAM

HON'BLE MR. A.M. SIVADAS, JUDICIAL MEMBER
HON'BLE MR. G. RAMAKRISHNAN, ADMINISTRATIVE MEMBER

1. C.D. Rajagopalan,
S/o C. Damodharan,
(Retired Chief Travelling Ticket Inspector,
Southern Railway, Trivandrum Division)
Residing at: No. 1/1504,
Pattalam Market Road, Fort Kochi,
Kochi-1

.. Applicant

By Advocate Mr. T.C. Govindaswamy

Vs.

1. Union of India through
the General Manager,
Southern Railway,
Park Town PO, Madras-3
2. The Chief Personnel Officer,
Southern Railway,
Headquarters Office,
Park Town PO, Madras-3
3. The Divisional Railway Manager,
Southern Railway,
Trivandrum Division,
Trivandrum-14
4. The Divisional Personnel Officer,
Southern Railway,
Trivandrum Division,
Trivandrum-14

.. Respondents

By Advocate Mrs Sumathi Dandapani

The application having been heard on 14th February 2000,
the Tribunal on the same day delivered the following:

O R D E R

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

The applicant seeks to quash A8 and to declare that he is eligible to be considered and promoted on par with his junior Sreenivasan Potti Ramadass to the scales of pay of Rs.425-640, Rs.550-750 and Rs.700-900 with effect from

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29.6.1976, 26.11.1976 and 1.8.1979 respectively, with consequential benefits.

2. The applicant is a retired Chief Travelling Ticket Inspector. His grievance relates to the revision of his pension and other retiral benefits, duly fixing his pay on proforma basis in the scale of Rs.425-640 with effect from 29.6.1976, in the scale of Rs.550-750 with effect from 26.11.1976 and finally in the scale of Rs.700-900 with effect from 1.8.1979 on par with his junior Sreenivasan Potti Ramadass who was granted the above benefits. The applicant was initially appointed on 25.10.1948 as Probationary Travelling Ticket Examiner in the scale of Rs.60-150. It was later revised to Rs.130-212. His pay was again revised in the scale of Rs.330-560 with effect from 1.1.1973 and thereafter he was promoted to the scale of Rs.425-640 with effect from 7.5.1980, to the next higher scale of Rs.550-700 with effect from 1.1.1984 and to the still higher grade of Rs.700-900 with effect from 1.11.1984. He retired from service on 28.2.1986. He says that non-consideration for promotion to him in the scales of Rs.425-640, Rs.550-750 and Rs.700-900 on par with his junior Sreenivasan Potti Ramadass is violative of Articles 14, 16 and 21, and that in the light of A1 seniority list it is clear that the applicant is senior to Sreenivasan Potti Ramadass and is thus entitled to be considered for promotion on par with his junior. The applicant continued to be senior even as on 1.7.1983 is clear from A4.

3. Respondents contend that in the light of the judgment in OA No. 141/1986 and the decision taken by the Headquarters Office, 21 employees of the erstwhile Madurai Division

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including Sreenivasan Potti Ramadass, who were later on transferred to Trivandrum Division on its formation on 2.10.1979, were granted the benefit of promotion and consequential fixation benefits of pay fixation as per office order dated 29.2.1988. At the time of formation of the Trivandrum Division, the applicant belonged to the Palghat Division and not Madurai Division like Sreenivasan Potti Ramadass. The benefits of proforma promotion and consequential fixation on par with Sivasubramaniam were extended only to those employees who belonged to Madurai Division and not to employees like the applicant working in other Divisions. Sreenivasan Potti Ramadass was working in the erstwhile Madurai Division and was subsequently transferred to Trivandrum Division on its formation. Since the applicant was working in a Division other than Madurai Division at the material time, there cannot be any question of any claim for proforma promotion, fixation of pay etc. on par with Sreenivasan Potti Ramadass.

4. Learned counsel appearing for the applicant submitted that the common order passed in OA Nos. 99, 741 and 742 of 1995 by the Bangalore Bench of the Central Administrative Tribunal squarely applies to the facts of this case and hence, the OA is to be allowed.

5. At this juncture, it will be profitable to quote the relevant portion from the said common order:

".. We would like to make it clear at the outset that it is only if the applicants are able to establish that they became seniors to Shivasubramaniam in the scale of

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Rs.330-560 or in the scale of Rs.425-640 on account of revision of seniority in pursuance of the judgment of the Karnataka High Court, they can on the strength of the letter dated 22-9-1992 and on the basis of the order in Raman's case and other similar cases, seek the benefit of higher scales given to Shivasubramaniam from the dates he got them. We would also like to point out that as promotion upto and inclusive of the scale of Rs.330-560 (TPC) was on the basis of divisionwise seniority, those who were working in the Divisions other than Madurai where Shivasubramaniam was working, must show that they came to the scale of Rs.150-240 (SPC) prior to 16-5-1968 on which date Shivasubramaniam came to that scale. We may note that prior to the Third Pay Commission recommendations, the post having the scale of Rs.150-240 was higher to the post with the scale of Rs.130-212 (SPC) and though both these scales were given the common scale of Rs.330-560 by the Third Pay Commission, those who had come to the scale of Rs.150-240 would naturally be seniors to those who were in the scale of Rs.130-212 and who also came to the scale of Rs.330-560 by virtue of the Third Pay Commission recommendations. As such, if as on 16-5-1968 the applicant had not entered the scale of Rs.150-240 he would naturally be junior to Shivasubramaniam and he cannot claim the benefit of the further promotions Shivasubramaniam got. Another point that must be borne in mind is that if any of the applicants were seniors to Shivasubramaniam when he got the higher scales of Rs.425-640 and two other scales and if they had not become such seniors by virtue of the revision of

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seniority list, then they would not be entitled to higher scales from the date Shivasubramaniam got it. The reason for this is that this Tribunal will have no jurisdiction to go into the question as to why such applicants, who though seniors to Shivasubramaniam were not given the promotions which Shivasubramaniam got between 1976 and 1979. That apart, a claim for promotion from the date Shivasubramaniam got those promotions would be patently barred by time. Though cause of action for fixation of pay may be a recurring cause of action, the cause of action for seeking promotion retrospectively from the date the applicants' junior was promoted would not be a recurring cause. As such, the investigation in these cases will have to be restricted to the limited question mentioned above."

6. Viewed in the light of what is stated in the said order, the applicant should show that he was in the scale of Rs.150-240 prior to 16-5-1968. There is absolutely no material to show that the applicant has reached that stage. A4 is the provisional seniority list of Travelling Ticket Examiners in the scale of Rs.330-560 of Trivandrum Division as on 1.7.1983. Serial No.12 is the applicant, in A4. In the column 'Date of entry as TTE'A' in Grade 150-240' only two dots are put against the applicant's name. In the remarks column, it is clearly stated that "Officiating as Hd.TC (Ad-hoc). Declined promotion as TTE/A on 8.10.71 & 9.3.73". So, it is clear that the applicant did not reach the scale of Rs.150-240 at the relevant point of time. That being so, the applicant cannot be heard to submit that on the basis of the said common order passed by the Bangalore Bench of the Tribunal, he is entitled to the reliefs sought for.

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7. Learned counsel appearing for the respondents drew our attention to the common order passed in OA Nos. 231 and 734 to 740 of 1995 by the Bangalore Bench of the Tribunal. We have carefully gone through the same and it is seen that the facts are identical. As per the common order all those OAs were dismissed.

8. Ramadass was working in Madurai Division and he came to Trivandrum Division. The applicant was working in Palghat Division and subsequently came to Trivandrum Division. Ramadass's case was considered on the basis that he was in Madurai Division. The applicant, admittedly, was not in Madurai Division.

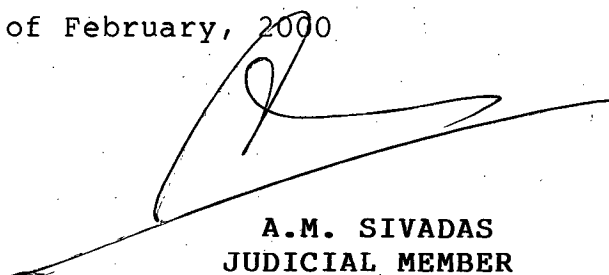
9. The common order in OA Nos. 231 and 734 to 740 of 1995 of the Central Administrative Tribunal, Bangalore Bench applies to the facts of the case at hand.

10. Following the said ruling, this OA is only to be dismissed.

11. Accordingly, the Original Application is dismissed. No costs.

Monday, this the 14th day of February, 2000


G. RAMAKRISHNAN
ADMINISTRATIVE MEMBER


A.M. SIVADAS
JUDICIAL MEMBER

ak.

List of Annexures referred to:

1. Annexure A8 - True copy of the letter No.V/P 626/PA/95/5 dated 18.1.96 issued by the 3rd respondent.
2. Annexure A4 - A true extract of the letter No.V/P 612/III/TTEs dated 8.7.83 issued by the 4th respondent.