

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM

O.A. No. 114 of 1991
Exxxtex

DATE OF DECISION 25-01-1991

Ms. C.S. Anantha Lakshmi Applicant (s)

Mr P. Sivan Pillai Advocate for the Applicant (s)

Versus

The Secretary, Ministry of Respondent (s)
Railways, New Delhi represents the Union of India
and 3 others.

Mr. M.C. Cherian Advocate for the Respondent (s)

CORAM:

The Hon'ble Mr. S.P. Mukerji, Vice Chairman

The Hon'ble Mr. N. Dharmadan, Judicial Member

1. Whether Reporters of local papers may be allowed to see the Judgement? *Yes*
2. To be referred to the Reporter or not? *No*
3. Whether their Lordships wish to see the fair copy of the Judgement? *No*
4. To be circulated to all Benches of the Tribunal? *No*

JUDGEMENT

N. Dharmadan, Judicial Member

Today when the case came up for admission, we heard the learned counsel for the applicant as also the learned counsel representing the respondents who received a copy of the application on 18-1-1991.

2. The applicant, who was initially appointed as Teacher Gr.IV on 16-6-1958, was later promoted as Teacher Gr.II in the Malayalam medium. She is now drawing a selection Grade salary of Rs.1640-2900. She has a teaching experience for 32 years. She is claiming to be promoted as Headmistress of the Railway High School at

Palghat in a retirement vacancy which is likely to arise on 31-1-1989. She has also submitted Annexure-II representation requesting to consider her candidature for selection as Headmistress even though she was not promoted to Teacher Gr.I and worked in the grade at any time.

3. According to the applicant, as per the existing rules Teacher Gr.I alone could be eligible for consideration for the post of Headmaster/mistress and the claim of the Teachers Gr.II would be considered only in the absence of Teacher Gr.I. Further, the applicant also submits that she cannot get further chance of becoming Grade-I in the near future or before her retirement as per the existing rules. The chance of becoming Headmistress will be permanently deprived to the applicant if she is not considered at present.

4. The representation submitted by the applicant on 11-5-90 was rejected as per Annexure A-3 order which reads as follows:

"...Your above quoted representation has been considered.

As per Recruitment Rules, Grade-II Teachers are to be considered for promotion to Group-B as Headmasters only when Grade-I Teachers are not available for promotion to Group-B. As there are sufficient number of Grade-I Teachers available, it will not be possible to consider you for promotion to Group-B service as Headmaster at this stage.

N/

...../

It is also advised that as per Railway Rules, a qualified Grade-II Teacher is eligible to be considered for selection for the post of Grade-I in scale Rs.1640-2900 as and when vacancy arises in the particular discipline in which he/she possesses a post-graduate degree, even if he/she is presently working in High Schools...."

5. The applicant is challenging this order.

↳ Notes The order at Annexure A-4 issued by the Chief Personnel Officer, promoting Shri Ramalingam, Teacher/Gr-I/ RMHSS/PER who has been empanelled for promotion as Group-B, for the post of Head Master in the Railway Mixed High School (Malayalam), Palghat against the existing vacancy.

The prayers in the application are as follows:

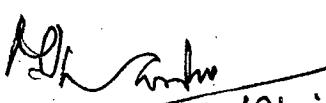
- "(a) To call for the records leading to the issue of Annexure A-5 and strike off the words 'failing(1) above' appearing in para(ii) of Column 12 of the schedule attached thereto.
- (b) To call for the records leading to Annexure A-3 and A-4 and quash the same.
- (c) To direct the respondents to hold a fresh selection for the post of Head Masters, High Schools giving opportunity to the applicant on par with Grade-I teachers for the vacancies that arose from 1983 till date..."

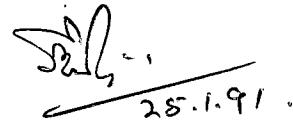
6. Having heard the counsel on both sides, we are of the view that the applicant's chance for becoming Headmistress has not been permanently barred under the existing rules as contended by her. At present, she is not eligible to be considered for promotion as Headmistress

because, Teachers-Gr.I are available and the applicant's turn has not matured. The present appointment to the post of Head Master had been made considering the eligibility of Grade-I Teachers, since such Teachers are available. The applicant can put forward her claim whenever Teachers in Grade-I are not available for consideration. This avenue, available to her has not been completely blocked to her under the rules as indicated above. The applicant also not furnished any materials to come to the conclusion that she will never get a chance to become Teacher Grade-I in future as contended by the counsel. The challenge of Annexure A-5 is mainly on the ground that at the time of issue of the Annexure A-5 Rules there were middle schools in all the mediums in the Southern Railway and Teachers of Grade-II had equal opportunity of becoming High School Masters at par with Teacher Grade-I without acquiring any higher qualifications. But in the course of time due to progressive upgradation of schools there are at present no middle schools in Malayalam medium. Thus the opportunity of Grade-II Malayalam medium Teachers to become Head Masters of Middle schools and then Head Masters of High School has been completely vanished by 1981-82. This argument based on facts and progressive developments in the education field and fortuitous circumstances thereof cannot be entertained

for testing the validity of statutory rules as contained in Annexure A-5, which are in force from 25-2-1980. The applicant has not raised any legal ground to attack the vires of the rules framed under Article 309 of the Constitution of India. There is no merits in the contentions of the applicant. We reject the same.

7. In the light of the facts and circumstances of the case, we are of the view that there is no substance in the application and it is liable to be dismissed. Accordingly, we do so. There will be no order as to costs.


(N. Dharmadani) 25.1.91
Judicial Member


25.1.91
(S.P. Mukerji)
Vice Chairman

25-1-1991