

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM

O. A. No. 170/89
XXXXXX 199

DATE OF DECISION 30.7.90

N.Ravindran

Applicant (s)

Shri V.Ramachandran

Advocate for the Applicant (s)

Versus

Union of India (General) Respondent (s)

Manager, Southern Railway, Madras) &
3 others.

Smt.Sumathi Dandapani Advocate for the Respondent (s)
(for R-1 & 2)

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

(Shri S.P.Mukerji, Vice Chairman)

In this application dated 7.3.89 filed under section 19 of the Administrative Tribunals Act, the applicant who is working as a Chief Travelling Ticket Inspector, Southern Railway, has challenged the seniority list (Annexure-C) of Chief Travelling Ticket Inspectors as on 1.2.89 and prayed that respondents 1 and 2 should be directed to give him seniority above respondents 3 and 4 on the basis of length of service in the lower category and to promote him to the next higher post of Chief Travelling Ticket Inspector in the scale of Rs 2000-3200.

The brief facts of the case are as follows.

2. The applicant entered service of the Railways on 4.9.52 as Travelling Ticket Examiner. While he was regularised in the scale of Rs. 550-750 from 2.11.84, the 3rd respondent was regularised in that grade with effect from 6.11.84. When the 3rd respondent was promoted to the next higher grade of Rs. 700-900 on 16.8.88, the applicant protested by a telegram and represented on 8.9.88 contending that the reservation for SC/ST in the grade of Rs. 700-900 of Ticket Examiner in Trivandrum Division had already exhausted the permissible limit. Without disposing of his representation the impugned seniority list at Annexure-C was issued placing respondent 3 at Sl. No. 7 while the applicant was placed at Sl. No. 18. He has also indicated that the 3rd respondent is wrongly shown to have entered (old scale Rs 550-750) the grade of Rs. 1600-2660 with effect from 26.11.76. He has also indicated that respondent 4 at Sl. No. 13 is also shown to have entered the grade of Rs. 1600-2660 with effect from 1.1.84 even though he entered the grade of Rs 550-750 later than the applicant. The applicant has felt aggrieved by the seniority given to respondents 3 and 4 as ~~being~~ the members of the reserved community or by extending the benefit of the decision of the Madras Bench of the Tribunal in OAK 141/86 at Annexure-E. He has prayed that in the impugned seniority list he should have been ranked above respondents 3 and 4 on the basis of his length of service in that grade.

3. According to the respondents, in the grade of Ticket Checking Staff of Trivandrum Division in the scale of Rs.330-560, respondent 3 had been shown senior to the applicant and respondent 4 junior to him. Subsequently, they were considered for promotion to the next higher grade of Rs. 425-640 and Rs. 550-750. The 4th respondent belongs to the SC and he was promoted to the scale of Rs. 425-640 on an adhoc basis against a reserved vacancy on 16.5.80 while the applicant was so promoted on 2.12.83. The 3rd respondent ^{who} was senior to the applicant in the scale of Rs. 330-560 was promoted to the scale of Rs. 425-640 on 29.9.80. All the three were regularised in the scale of Rs 425-640 with effect from 1.1.84. The 4th respondent again was promoted against a reserved vacancy in the scale of Rs. 550-750 on 1.1.84 and the 3rd respondent and the applicant were promoted and joined the higher grade of Rs. 550-750 on 6.11.84 and 2.11.84 respectively. Since the applicant was junior to the 3rd respondent in the substantive grade of Rs 330-560, he was shown above the applicant in the grade of Rs 550-750. The seniority of the 3rd respondent had to be revised in consequence of the directions of the Madras Bench of the Tribunal in OA 141/86. He belonged to the Madurai Division while the 4th respondent and the applicant belonged to the ^{the newly formed} Palghat Division. All the three came over to ^{the} Trivandrum Division on their option with effect from 2.10.79.

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Since their inter se position in the old Division had to be maintained in the new Division and Madurai Division promoted the 3rd respondent to the grade of Rs. 425-640 and Rs. 550-750 with retrospective effect from 29.6.76 and 26.11.76 respectively, he had to be shown above the applicant in the new Division. The respondents have denied that there has been any over representation of SC/ST and have argued that respondent 4 was promoted earlier to the grade of Rs. 550-750 because of his seniority in the lower grade of Rs. 425-640. They have argued that the representation of the applicant at Annexure-B dated 8.9.88 was not against the impugned seniority list at Annexure-C which was published later on 8.2.89. Since the applicant had not challenged the provisional seniority list at Annexure-C, he cannot question his seniority now. Since respondent 4 entered the grade of Rs. 550-750/Rs.1600-2660 earlier than the applicant, the latter cannot become senior to respondent 4. Likewise, respondent 3 having been promoted with retrospective effect from 26.11.76 to the grade of Rs. 550-750 has to be placed above the applicant.

4. We have heard the arguments of the learned counsel for the respondent. We have gone through the documents also carefully and we find that since respondent 4 as a member of the SC had been promoted to the scale of Rs. 425-640 on 16th May, 1980 much earlier than the

applicant who was promoted on 2.12.83, he was senior to the applicant on the basis of length of continuous service in that grade. Accordingly when respondent 4 was promoted to the grade of Rs 550-750/Rs1600-2660 on 1.1.84 while the applicant was promoted to that grade on 2.11.84, the applicant should have no grievance. On the basis of the date of promotion to the grade of Rs 550-750/1600-2660, respondent 4 has rightly been shown above the applicant in the impugned seniority list. As regards respondent 3, it is true that he was promoted to the scale of Rs 550-750 on 6.11.84, i.e. 4 days later than the applicant, but since he was subsequently promoted to that grade with retrospective effect in Madurai Division with effect from 26.11.76, he has to be shown as senior to the applicant. There is nothing to show that the applicant had represented against the impugned seniority list which was published on 8.2.89.

5. In the facts and circumstances, we see no merit in the application and dismiss the same without any order as to costs.


(N. Dharmadan)
Judicial Member

30.7.90


(S.P. Mukerji)
Vice Chairman

30.7.90