

**CENTRAL ADMINISTRATIVE TRIBUAL
ERNAKULAM BENCH**

O.A.No.23/10

Thursday, this the 13th day of October 2011

C O R A M :

**HON'BLE Mr.JUSTICE P.R.RAMAN, JUDICIAL MEMBER
HON'BLE Mr.K.GEORGE JOSEPH, ADMINISTRATIVE MEMBER**

1. P.S.Unnikrishnan,
S/o.V.K.Sankunny,
Section Engineer, Permanent Way,
Southern Railway, Alwaye.
Residing at Railway Quarters, Alwaye.
2. T.K.Chandran,
S/o.T.R.Krishnan,
Section Engineer, Permanent Way,
Southern Railway, Trichur.
Residing at Railway Quarters, Trichur.Applicants

(By Advocate Mr.T.C.Govindaswamy)

V e r s u s

1. Union of India represented by the Secretary
to the Government of India, Ministry of Railways,
New Delhi.
2. The General Manager, Southern Railway,
Head Quarters Office, Park Town P.O.,
Chennai – 3.
3. The Chief Personnel Officer, Southern Railway,
Head Quarters Office, Park Town P.O.,
Chennai – 3.Respondents

(By Advocate Mr.Thomas Mathew Nellimoottil)

This application having been heard on 23rd September 2011 this
Tribunal on 13th October 2011 delivered the following :-

O R D E R

HON'BLE Mr.K.GEORGE JOSEPH, ADMINISTRATIVE MEMBER

This Original Application has been filed by the applicants for the
following reliefs :-

[Signature]

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(i) Call for the records leading to the issue of Annexure A-1 and quash the same;

(ii) Direct the respondents to prepare the inter-se seniority list of the Section Engineers working in the Civil Engineering Department with reference to the length of service in the Pay Band of Rs.9300-34800 with the Grade Pay of Rs.4200/- (erstwhile scale of pay of Rs.6500-10500) and direct further to conduct the selection for promotion to Group 'B' service on that basis;

(iii) Award cost of and incidental to this application;

(iv) Pass such other orders or directions as deemed just fit and necessary in the facts and circumstances of the case.

2. To state the facts in brief, there are six technical supervisor cadres in the civil engineering department of the Railways, namely, Junior Engineer Bridges, Junior Engineer Drawing, Junior Engineer Works, Junior Engineer Track-Machine, Junior Engineer Engineering Shop and Junior Engineer Permanent Way. The recruitment to these cadres were almost together with one common application and one final select list. According to the applicants, the top most rank holders would be appointed as Junior Engineer Permanent Way and thereafter Junior Engineer Works etc. The cadre of Junior Engineer P.W is much larger than other cadres and in the matter of promotion it lags behind the other cadres by about 10 years. The applicants who were recruited as Junior Engineer P.W in the year 1983 are presently working as Section Engineers, Permanent Way in the Pay Band of Rs.9300-34800 with the Grade Pay of Rs.4600/- in the Trivandrum Division of Southern Railway. According to the cadre structure as it stood prior to the implementation of the recommendations of the VI CPC, a Junior Engineer would progress further as Junior Engineer Grade-I, Section Engineer, Senior Section Engineer (all in Group-C service) and thereafter as Assistant Divisional Engineer/Assistant Executive Engineer

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(ADEN/AXEN). There is no ratio fixed for promotion to the post of ADEN/AXEN from the six different cadres. As a result, most of the vacancies are filled up by promotion of those who belong to the cadres like JE/SEs Works, Drawing, Bridges etc. Their grievance is against the proposed selection for promotion from Group-C to Group-B against 70% quota in the Civil Engineering Department for the years 2009-2012 vide Notification dated 28.10.2009 at Annexure A-1. They are aggrieved in particular by the integrated seniority list of Senior Section/Section Engineers of the Civil Engineering department, enclosed alongwith the notification excluding the applicants from the zone of consideration.

3. The applicants contended that the seniority list enclosed with Annexure A-1 notification is not based on the principle enunciated by the Railway Board in its letter dated 22.07.2004 at Annexure A-6. Even the persons appointed as Junior Engineers/Works during 1984 and thereafter having been placed in the seniority list above those who were appointed much earlier in Permanent Way cadre, including the applicants. They further contended that the inter-se seniority of the persons belonging to different seniority units is to be determined based on the length of service in the initial recruitment grade of Rs.6500-10500 (Rs.9300-34800 with the Grade Pay of Rs.4200) as per Annexure A-6. The relative seniority of Group-C employees in the grade of Rs.6500-10500 and Rs.7450-11500 coming from different streams for the purpose of selection to Group-B should be determined on the basis of total length of non-fortuitous service rendered in any or both of these grades.



4. The respondents contested the O.A and submitted that though one common application was invited in which preference is being called for with reference to the streams in which the candidates prefer to be posted. Based on the option and availability of the vacancies, streams are allotted to the successful candidates. Therefore, the top ranking candidates do not necessarily go to the Permanent Way stream. After accepting the streams for the purpose of employment at the initial stage, comparing themselves with the other persons who are appointed in other streams at a later date are not in order. The six different streams have separate seniority and avenues of promotion within the cadres itself. The scale of pay of Rs.6500-10500 is equated to Pay Band of Rs.9300-34800 with the Grade Pay of Rs.4600/- only and not Rs.4200/- as cited by the applicants. The provisional integrated seniority list for promotion to Group-B selection was published on 14.08.2009 and the representations received from the applicants were considered and they were replied vide letter dated 20.01.2010 as at Annexure R-10. The pay scales of Junior Engineer Gr.I and Gr.II were combined together and a common Pay Band of Rs.9300-34800 with the Grade Pay of Rs.4200/- was introduced. The pay scale of Rs.6500-10500 and Rs.7450-11500 were merged in the common Pay Band of Rs.9300-34800 with the Grade Pay of Rs.4600/-. The non-fortuitous service rendered in Pay band of Rs.9300-34800 with the Grade Pay of Rs.4600/- has been taken into account for the purpose of integrated seniority for promotion to the post of Group-B in Civil Engineering Department. The integrated seniority list was prepared based on the guidelines of the Railway Board vide letter RBE No. 146/2004 dated 22.07.2004 and, therefore, the same is in order.

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5. In the rejoinder statement the applicants submitted that the pay scales of Rs.5000-8000, Rs.5500-9000 and Rs.6500-10500 were en bloc revised to Rs.9300-34800 with Grade Pay of Rs.4200 on the recommendation of the 6th CPC. Consequently the inter-se seniority of those in the feeder cadre has to be determined with reference to the length of service in the pay band of Rs.9300-34800 with Grade Pay of Rs.4200. All those who were selected and appointed on the same date/from the same panel are treated in a discriminatory manner. Those Junior Engineers who are posted to certain sections get accelerated promotion and were treated at par with those who are having less scope of promotion.

6. In the reply statement to the rejoinder the respondents have reiterated that the three grades of Rs.5000-8000, Rs.5500-9000 and Rs.6500-10500 are not merged into one. The pay scales of Rs.5000-8000 and Rs.5500-9000 were combined together and a common pay band of Rs.9300-34800 with Grade Pay of Rs.4200 has been introduced. Similarly for the pay scale of Rs.6500-10500 and Rs.7450-11500 a common pay band of Rs.9300-34800 with Grade Pay of Rs.4600 has been introduced. The non fortutious service rendered in pay band of Rs.9300-34800 with Grade Pay of Rs.4600 has been taken into account for the purpose of integrated seniority for promotion to the post of Group B in Civil Engineering Department based on the existing instructions as per Annexure R-1 and Annexure R-6. The applicants are not considered for selection as per the integrated seniority list dated 28.10.2009 because of the limitations in calling number of volunteers in accordance with Para 203.4 of the IREM Vol.1 (1989 Edition).



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7. We have heard Shri.T.C.Govindaswamy, counsel for the applicant and Shri.Varghese John on behalf of Shri.Thomas Mathew Nellimoottil, counsel for the respondents. We have also perused the materials on record.

8. The issue to be determined is whether the respondents have followed R.B.E.146/2004 dated 22.7.2004 in fixing the inter-se seniority of those who were working in different cadres for selection for promotion from Group C to Group B service for the post of ADEN/AXEN in pay band of Rs.9300-34800 with Grade Pay of Rs.4800 in Civil Engineering Department against regular selection under 70% quota. The applicants are aggrieved by the integrated seniority list of Senior Section/Section Engineers of the Civil Engineering Department enclosed along with Annexure A-1 Notification as it excludes them from the zone of consideration for promotion to Group B. The relevant part of Annexure A-6 is extracted as under :-

"(c). The relative seniority of Group C employees in grades Rs.6500-10500 and Rs.7450-11500 coming from different streams for the purpose of selection to Group B should be determined on the basis of the total length of non fortuitous service rendered in any or both these grades. The actual length of service in the corresponding pre-revised scales should be added to arrive at the total service for the purpose."

9. The contention of the applicants is that after the introduction of new pay bands with Grade Pays, merging various pay scales as per the recommendations of the 6th CPC there are only two Grade Pays as far as the cadre of Junior Engineer/Section Engineers are concerned. The initial recruitment pay band is Rs.9300-34800 with Grade Pay of Rs.4200/-,



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therefore, the inter-sey seniority is to be fixed going by Annexure A-6, as per the say of the applicants, with reference to the non fortuitous service in the pay band of Rs.9300-34800 with Grade Pay of Rs.4200/- As the seniority in Annexure A-1 is not determined on this basis it is arbitrary and discriminatory.

10. The stand of the respondents is that the non fortuitous service in pay band Rs.9300-34800 with Grade Pay of Rs.4600/- is to be taken into account for the purpose of integrated seniority for promotion to the post of Group B in the Civil Engineering Department because the pay scales of Rs.6500-10500 is equated to pay band of Rs.9300-34800 with Grade Pay of Rs.4600/- and not as Rs.4200/-, as averred by the applicants. The applicants are mistaken in assuming that on the implementation of the recommendations of the 6th CPC the pay scales of Rs.5000-8000, Rs.5500-9000 and Rs.6500-10500 are merged into one. The pay scales of Rs.5000-8000 and Rs.5500-9000 only are merged into the pay band of Rs.9300-34800 with Grade Pay of Rs.4200. The pay scales of Rs.6500-10500 and Rs.7450-11500 are merged into a common pay band of Rs.9300-34800 with Grade Pay of Rs.4600/-. R.B.E.46/10 dated 29.3.2010 also confirms the stand of the applicants. The relevant part from it is reproduced as under :-

"iii. In the integrated seniority of Group C employees eligible for Group B selections (70% quota), employees in Pay Band PB-2 (Rs.9300-34800) with Grade Pay of Rs.4600/- will be placed above those in Pay Band PB-2 (Rs.9300-34800) with Grade Pay of Rs.4200/-. In either category, the relative seniority of employees coming from different streams will be determined with reference to length of non fortuitous service in the scale of PB-2 + Rs.4600 or PB-2 + Rs.4200 as the case may be."



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11. It is quite clear that the respondents have followed the instructions in R.B.E.146/04 dated 22.7.2004 at Annexure A-6 in preparing the integrated seniority list for selection for promotion from Group C to Group B services. The respondents have followed a consistent policy, though the problem of unequal opportunities of promotion for various cadres in Group C services remains, in spite of having been selected from a common rank list of Junior Engineers based on a one common application.

12. We do not find any merit in the contentions of the applicants that the respondents have not followed the instructions at Annexure A-6 dated 22.7.2004.

13. The O.A is dismissed. However, it is made clear that the dismissal of the O.A will not stand in the way of the respondents taking any action if they so desire, to redress the grievance of the applicants which stems primarily from the limited scope of promotion for Junior Engineers/Permanent Way. No order as to costs.

(Dated this the 13th day of October 2011)



K.GEORGE JOSEPH
ADMINISTRATIVE MEMBER



JUSTICE P.R.RAMAN
JUDICIAL MEMBER

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