

CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

OA No. 236 of 1996

Friday, this the 23rd day of February, 1996

CORAM:

HON'BLE MR JUSTICE CHETTUR SANKARAN NAIR, VICE CHAIRMAN
HON'BLE MR S.P. BISWAS, ADMINISTRATIVE MEMBER

M.C. Varghese,
Assistant Commercial Manager,
Southern Railways,
Palghat.

.. Applicant

By Advocate Mr. Siby Monippally

Versus

1. Chairman,
Railway Board,
New Delhi.
2. General Manager,
Southern Railway,
Madras.

.. Respondents

By Advocate Mrs Sumathi Dandapani

The application having been heard on 23rd February, 1996, the Tribunal on the same day delivered the following:

O R D E R

CHETTUR SANKARAN NAIR(J), VICE CHAIRMAN:

Applicant an Assistant Commercial Manager in the Southern Railway, seeks a declaration that he is:

"entitled to get out of turn promotion"

with effect from 8-11-1982. Applicant approached this Tribunal thrice earlier, and the Tribunal directed the authorities to consider his request.

2. By the impugned order (A8) the Chairman, Railway Board found that applicant does not satisfy in full the eligibility conditions, that no specific relaxation of stipulations were made by the General Manager, and that the

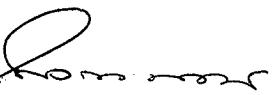
claim for additional increments would not lie in respect of the period in question.

3. According to learned Counsel for applicant, the Chairman of the Railway Board missed the nuances of A5 and passed A4. In exercising judicial review, a Court or Tribunal does not sit in judgment over the decision of the authority concerned. The jurisdiction is not appellate, nor is it a jurisdiction on facts. Even assuming that a mistake is made on facts, that will be no grounds to interfere. To our mind, the impugned order does not make even a mistake on facts. Certain eligibility conditions have to be satisfied for relaxation. The Chairman of Railway Board found that these have not been satisfied. Even A5 does not persuade us to hold that an error was committed by the Chairman. The very expression "out of turn" shows that what is sought is not a matter of entitlement. The authorities are enabled to grant an out of turn promotion in appropriate cases, subject to certain eligibility conditions. The authorities have considered the matter in detail and found that this is not a fit case to grant "out of turn promotion". The highest authority in the system has applied his mind and come to the conclusion evidenced in A4.

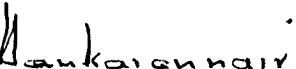
4. We see no error of law or error apparent on the face of record. We may also point out that granting a promotion with effect from 1982 (assuming it can be done) would upset the existing state of affairs, and this is not a fit case to exercise our discretionary jurisdiction in favour of applicant.

5. We dismiss the application. Parties will suffer their costs.

Dated the 23rd February, 1996



S.P. BISWAS
ADMINISTRATIVE MEMBER



CHETTUR SANKARAN NAIR(J)
VICE CHAIRMAN

LIST OF ANNEXURES

1. Annexure A4: Photocopy of the letter No.E(NG) II-82/RRI/36 dated 5.3.83 issued by Government of India, Ministry of Railways, Railway Board, New Delhi to the General Manager, Southern Railway, Madras (Respondent No.2)
2. Annexure A5 : True copy of letter No.E(NG)II/85/RR3/7 dated 8.3.85 issued by the Government of India, Ministry of Railways, New Delhi to the General Managers, All India Railways.
3. Annexure A8: Photostat copy of the order No.E(Sports) 94/Legal/2 dated 4.12.1995 issued by the Chairman, Railway Board, New Delhi (Respondent No.I) to the Applicant.

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