

O.A. Nos. 155, 274, 275, 407 and 794 OF 2006, O.A. 21 and 145 OF 2007.

CORAM

HON'BLE MR. GEORGE PARACKEN, JUDICIAL MEMBER

K.Sudheer,
S/o KK Nair,
Kadalundy Post, Kozhikode Dist.
Junior Engineer Grade I,
Electric Loco Shed,
Southern Railway, Erode. - Applicant

(By Advocate Mr PV Mohanan)

y.

1. Union of India represented by
the Secretary,
Railway Board, Rail Bhavan,
New Delhi.
2. Chief Personnel Officer,
Southern Railway,
Park Town, Chennai-3.
3. The Senior Divisional Personnel Officer,
Palakkad Division, Southern Railway.
4. D.Raja(I),
Section Engineer,
Electric Loco Shed, Erode,
Southern Railway.
5. L.Ramulu,
Section Engineer,
Electric Loco Shed, Erode,
Southern Railway,
Arakkonam..
6. N.Kesavan,
Section Engineer,
Electric Loco Shed, Erode,
Southern Railway,
Arakkonam.

7. S.Rajabather,
Section Engineer,
Electric Loco Shed, Erode,
Southern Railway,
Erode.
8. D.Raja(II),
Section Engineer,
Electric Loco Shed, Erode,
Southern Railway,
Erode.

(By Advocate Mr KM Anthru for R.1 to 3)

O.A.274/2006

1. V.Sasikala,
Head Clerk now working as
Office Supdt. Gr.II(Adhoc)
DPO's Office, Personnel Branch,
Southern Railway Division,
Trivandrum.
2. P.Sethumadavan,
Head Clerk now working as
Office Supdt. Gr.II(Adhoc)
SE/P.Way, Alleppey,
Southern Railway Division,
Trivandrum.
3. V.S.Padmavathy,
Head Clerk,
Personnel Branch, Divisional Office,
Southern Railway Division,
Trivandrum.
4. P.Ganapathy,
Head Clerk now working as
Office Supdt. Gr.II(Adhoc).
Sr. DPO's Office, Personnel Branch,
Southern Railway Division,
Trivandrum.
5. T.H.Vijayakumari,
Head Clerk,
Sr. DPO/TVC now working as
Deputy Chief Engineer's Office on deputation,
Southern Railway Division,
Trivandrum.
6. George Kurian,
Head Clerk now working in the o/o the Senior
Section Engineer(P.Way), Alwaye.

7. K.Latha,
Head Clerk,
Personnel Branch, Divisional Office,
Southern Railway,
Trivandrum.

- Applicants

(By Advocate Mr K.A.Abraham)

v.

1. Union of India represented by
the Secretary,
Railway Board, Rail Bhavan,
New Delhi.
2. General Manager,
Southern Railway,
Chennai-3.
3. The Senior Divisional Personnel Officer,
Trivandrum Division, Southern Railway,
Trivandrum.
4. K.Sudhalatha,
Office Superintendent Gr.II,
Personnel Branch,
Southern Railway Division Office,
Trivandrum.
5. K.Muraleedharan,
Office Superintendent Gr.II,
Personnel Branch,
Southern Railway Division Office,
Trivandrum.
6. Sebastian Geroage,
Office Superintendent Gr.II,
Personnel Branch,
Southern Railway Division Office,
Trivandrum.
7. Suja Abraham,
Head Clerk, DPO's Office,
Personnel Branch,
Southern Railway Division Office,
Trivandrum.
8. K.R.Anitha,
Head Clerk, DPO's Office,
Personnel Branch,
Southern Railway Division Office,
Trivandrum.
9. D.Omana,

Head Clerk, DPO's Office,
Personnel Branch,
Southern Railway Division Office,
Trivandrum.

10. P.Sunil,
Head Clerk, DPO's Office,
Personnel Branch,
Southern Railway Division Office,
Trivandrum.

11. R.Velayudha Prasad,
Head Clerk, DPO's Office,
Personnel Branch,
Southern Railway Division Office,
Trivandrum.

- Respondents

(By Advocate Mrs Sumathi Dandapani, Senior with Ms PK Nandini)

(By Advocate Mr MP Varkey for R.4 to 6)

O.A.275/2006

Leela Rajan,
Office Superintendent Gr.I(Adhoc),
Personnel Branch,
Southern Railway Division,
Trivandrum.

- Applicant

(By Advocate Mr K.A.Abraham)

v.

1. Union of India represented by
the Secretary,
Railway Board, Rail Bhavan,
New Delhi.
2. General Manager,
Southern Railway,
Chennai-3.
3. The Senior Divisional Personnel Officer,
Trivandrum Division, Southern Railway,
Trivandrum.
4. T.K.Subhashini,
Office Superintendent Gr.I,
Personnel Branch,
Southern Railway Division,
Trivandrum

- Respondents

(By Advocate Mr Sunil Jose for R.1 to 3)

(By Advocate Mr MP Varkey for R-4)

O.A.407/2006

1. G.Lakshmi Narayanan,
Working as Travelling Ticket Examiner,
Chief Travelling Ticket Inspector's Office,
Sleeper Section, Coimbatore Jn,
Southern Railway, Palakkad Division.
2. S.Prabhakaran,
Working as Travelling Ticket Examiner,
Chief Travelling Ticket Inspector's Office,
Sleeper Section, Coimbatore Jn,
Southern Railway, Palakkad Division. - Applicants

(By Advocate Mr K.A.Abraham)

v.

1. Union of India represented by
the Secretary,
Railway Board, Rail Bhavan,
New Delhi.
2. General Manager,
Southern Railway,
Chennai-3.
3. The Divisional Railway Manager,
Palakkad Division, Palakkad.
4. The Senior Divisional Personnel Officer,
Palakkad Division, Palakkad.
5. A.Rajendran,
Travelling Ticket Inspector,
Southern Railway,
Palakkad.
6. M.Damodaran,
Travelling Ticket Inspector,
Southern Railway,
Coimbatore.
7. K.Bhaskaran,
Travelling Ticket Inspector,
Southern Railway,
Cannanore.
8. C.Sivadasan,
Travelling Ticket Inspector,
Southern Railway,
Cannanore.
9. C.K.Sadananda,

Travelling Ticket Inspector,
Southern Railway,
Shornur.

10. T.S.Sajeevan,
Travelling Ticket Inspector,
Southern Railway,
Shornur.
11. K.V.Anilkumar,
Travelling Ticket Inspector,
Southern Railway,
Palakkad.
12. T.Balan,
Travelling Ticket Inspector,
Southern Railway,
Coimbatore.
13. Kalaimany,
Travelling Ticket Inspector,
Southern Railway,
Erode.
14. K.Palanisamy,
Travelling Ticket Inspector,
Southern Railway,
Erode.
15. C.Sureshkumar,
Travelling Ticket Inspector,
Southern Railway,
Erode.
16. V.Unnikrishnan,
Travelling Ticket Inspector,
Southern Railway,
Palakkad.
17. S.Prabhu,
Travelling Ticket Inspector,
Southern Railway,
Coimbatore.

- Respondents

(By Advocate Mr Sunil Jose for R.1 to 4)

(By Advocate Mr CS Manilal for R.5, 10, 11, 16 and 8)

O.A.794/2006

1. G.Ramachandran Nair,
Travelling Ticket Inspector Gr.III,
Southern Railway,
Trivandrum.

2. T.N.Jayan,
Travelling Ticket Inspector Gr.III,
Chief Travelling Ticket Inspector Office,
Southern Railway,
Ernakulam. - Applicants

(By Advocate Mr KA Abhraham)

v.

1. Union of India represented by
the Secretary,
Railway Board, Rail Bhavan,
New Delhi.
2. The Divisional Railway Manager,
Trivandrum Railway Division,
Trivandrum.
3. The Divisional Personnel Officer,
Trivandrum Railway Division,
Trivandrum-4.
4. K.D.Joseph,
Chief Travelling Ticket Inspector Gr.II(Sleeper),
Ernakulam.
5. G.Saju Tom,
Chief Travelling Ticket Inspector Gr.II(Sleeper),
Trivandrum.
6. P.K.Jayachandran,
Chief Travelling Ticket Inspector Gr.II(Sleeper),
Trivandrum.
7. P.M.Ambika,
Chief Travelling Ticket Inspector Gr.II(Sleeper),
Trivandrum.
8. Joseph George,
Chief Travelling Ticket Inspector Gr.II(Sleeper),
Ernakulam.
9. K.V.Manikuttan,
Chief Travelling Ticket Inspector Gr.II(General),
Thrissur.
10. K.N.Venugopal,
Chief Travelling Ticket Inspector Gr.II(Sleeper),
Trivandrum.
11. N.Kumaraswamy Pillai,
Chief Travelling Ticket Inspector Gr.II(Sleeper),
Nagarcoil.

12. M.A.Hussankunju,
Chief Travelling Ticket Inspector Gr.II(Sleeper),
Trivandrum.
 13. Felix A Mattapalli,
Chief Travelling Ticket Inspector Gr.II(Sleeper),
Ernakulam.
 14. MM Peer Mohammed,
Chief Travelling Ticket Inspector Gr.II(Sleeper),
Nagarcoil.
 15. C.F.Petson,
Chief Travelling Ticket Inspector Gr.II(Sleeper),
Ernakulam.
 16. Joseph Pinherio,
Chief Travelling Ticket Inspector Gr.II(Sleeper),
Ernakulam.
 17. AA Devassy,
Chief Travelling Ticket Inspector Gr.II(Sleeper),
Ernakulam.
 18. Jose Augustin,
Chief Travelling Ticket Inspector Gr.II(Sleeper),
Ernakulam.
 19. G.Johnson,
Chief Travelling Ticket Inspector Gr.II(Sleeper),
Nagarcoil.
 20. V.A.Joseph,
Chief Travelling Ticket Inspector Gr.II(Sleeper),
Ernakulam.
 21. Thomas Sebastian,
Chief Travelling Ticket Inspector Gr.II(Sleeper),
Quilon.
- Respondents

(By Advocate Mr KM Anthru for R.1 to 3)

O.A.21/2007

A.Thankamany,
Head Telephone Operator,
Southern Railway, Trivandrum.

-

Applicant

(By Advocate Mr K.A.Abraham)

1. Union of India represented by
the Secretary,
Railway Board, Rail Bhavan,
New Delhi.
2. General Manager,
Southern Railway,
Chennai-3.
3. Chief Personnel Officer,
Southern Railway,
Chennai-3.
4. The Senior Divisional Personnel Officer,
Trivandrum Division, Southern Railway,
Trivandrum.
5. N.V.Subramani,
H.TPO/Trunk Exch/Pgt,
Southern Railway, Railway Divisional Office,
Erode.
6. R.Kalairasi Mary,
H.TPO/Trunk Exch/MDU,
Southern Railway, Railway Divisional Office,
Madurai.
7. K.Krishnankumari,
H.TPO/Trunk Exch/TVL,
Southern Railway, Railway Divisional Office,
Trivandrum.
8. S.Jayashree,
H.TPO/Trunk Exch/Park Town,
Southern Railway, Chennai.
9. G.Renuja,
H.TPO/Trunk Exch/Park Town,
Southern Railway, Chennai.
10. K.J.Thressiamma,
H.TPO/Trunk Exch/Pgt,
Southern Railway, Railway Divisional Office,
Palghat.
11. K.P.Chathunni,
H.TPO/Trunk Exch/Pgt,
Southern Railway, Railway Divisional Office,
Palghat.
12. S.Udayakumar,
H.TPO/Trunk Exch/Park Town,
Southern Railway, Chennai.

13. V.Gopalan,
H.TPO/Trunk Exch/Pgt,
Southern Railway, Railway Divisional Office,
Palghat.
14. T.Ezirsarvi,
H.TPO/Trunk Exch/Park Town,
Southern Railway, Chennai.
15. N.Chandrasekharan,
H.TPO/Trunk Exch/Park Town,
Southern Railway, Chennai.
16. A.Colletta Beena,
Southern Railway, Railway Divisional Office,
Trivandrum.
17. T.Chandramohan Nair,
Southern Railway, Railway Divisional Office,
Trivandrum.
18. M.Pugalandi,
H.TPO/Trunk Exch/Park Town,
Southern Railway, Chennai.
19. T.Lakshmi Narayan,
H.TPO/Trunk Exch/ Park Town,
Southern Railway, Chennai.
20. T.Nagarajan,
H.TPO/Trunk Exch/MDU,
Southern Railway, Railway Divisional Office,
Madurai.
21. R.Sridhar,
H.TPO/Trunk Exch/TPJ Railway Divisional Office,
Trichy.
- ..- Respondents

(By Advocate Mr Thomas Mathew Nellimoottil (for R. 1 to 4)

(By Advocate M/s Jayaraj for R.5, 10, 11 & 13)

O.A.145/2007

1. KK Prakasan,
Travelling Ticket Examiner,
Southern Railway,
Emakulam South, Emakulam.
2. K.J.Philip,

Travelling Ticket Examiner,
Southern Railway,
Ernakulam South, Ernakulam. - Applicants

(Advocate Mr K.A.Abraham)

v.

1. Union of India represented by
the Secretary,
Railway Board, Rail Bhavan,
New Delhi.
2. General Manager,
Southern Railway,
Chennai-3.
3. The Senior Divisional Personnel Officer,
Trivandrum Division, Southern Railway,
Trivandrum.
4. Sarish P Sankar,
Travelling Ticket Inspector,
Southern Railway, Ernakulam Town.
5. K.S.James,
Travelling Ticket Inspector,
Southern Railway, Kottayam.
6. P.H.Johnson,
Travelling Ticket Inspector,
Southern Railway, Ernakulam Town.
7. Sajimon Daniel,
Travelling Ticket Inspector,
Southern Railway, Ernakulam South.

(By Advocate Mr Thomas Mathew Nellimoottil for R. 1 to 3)

The applications having been heard on 6.11.2007, the Tribunal on the same day delivered the following:

ORDER

HON'BLE MR. GEORGE PARACKEN, JUDICIAL MEMBER

The applicants in these Original Applications have basically challenged Clause 14 of Railway Board's order No.PC-III/2003/CRC/6 dated 9.10.2003 which reads as under:

"The existing instructions with regard to reservation of SC/ST wherever

applicable will continue to apply."

2. The aforesaid instruction of the Railway Board was challenged earlier also by a number of employees of the Railways. The Apex Court had the occasion to consider this issue and held that reservation for SC/ST is not applicable in the upgradation of existing post. Again the Principal Bench and other Benches of this Tribunal have decided cases on the basis of above law laid down by the Apex Court. This Bench has also extensively considered this issue recently in O.A.601/2004 and connected cases and vide order dated 21.11.2006, the aforesaid Clause 14 set aside and restrained the respondent-Railways from extending reservation of SCs and STs against the posts which have arisen on account of upgradation of posts on restructuring of cadre strengths. The respondent-Railways, however, have carried the aforesaid order of this Tribunal to the Hon'ble High Court of Kerala in Union of India v. P.A. Surendranath & others [W.P.(C) No.8822/2006] which was dismissed. The Hon'ble High Court has also dismissed subsequent Writ Petition No.7970/2006 and connected cases which have arisen out of O.A.727/2004 and O.A.686/2004 were also dismissed by the judgment dated 24.9.2007 in W.P.(C).

3. We have perused the pleadings in all these cases and have also gone through the argument notes submitted by the learned counsel on both sides. During the course of the argument, both the counsel have agreed that the principles involved in all these cases are identical to those cases which have been allowed by this Tribunal earlier and unsuccessfully challenged by the respondents before the Hon'ble High Court of Kerala. It is, therefore, not necessary to go into the facts and merits of each of these cases. We, therefore, dispose of these O.As with the same directions as those in O.A.601/2004 and connected cases decided on 21.11.2005. Accordingly, all the O.As are allowed. The respondent-Railways are restrained from extending reservation against the

upgraded posts which have arisen on account of restructuring of different cadres in Southern Railway to which the applicants in these O.As belong. In cases where reservation has been granted against those posts arisen on account of restructuring of the cadre, the Railways shall pass appropriate orders withdrawing the reservation already given to the employees.

4. The following specific directions are also given to the respondents for the sake of clarity :

O.A.155/2006: Annexure A-3 Office Order No.EL/42/2004 dated 5.11.2004 is quashed and set aside so far as it promoted the respondents 4 to 8 to the post of Section Engineer in the scale of pay of Rs.6500-10,5000. Further the respondents 1 to 3 are directed to consider the applicant for promotion as Section Engineer in the scale of Rs.6500-10,500 with effect from 1.11.2003.

O.A.274/2006: Annexure A-3 order No.V/P.535/XII/Office Clerks/PB/Vol.IX dated 10.9.2004 is quashed and set aside to the extent the party respondents 4 to 6 are given accelerated promotion to the post of OS Grae-II. Annexure A-7 order No.V/P.608/XII/OS.II/Vol.I dated 24.10.2005 and A-8 order No.V/P.608/XII/OS-II/PB/Vol.III dated 17.4.2006 are also quashed and set aside as they have been issued without revising the promotions granted to the party respondents 4 to 6 by applying reservation vide the aforesaid Annexure A-3 order. They are also directed to revise the said A-3 order to the extent to the upgradation of post of Head Clerks to the post of OS Grade II made after granting reservation to SCs/STs. The respondents 1 to 3 are further directed to consider the applicants' promotion to the post of Office Superintendents Gr.II, retaining their seniority

against party respondents.

O.A.275/2006: Annexure A-3 order No.V/P.535/XII/Office Clerks P Vol.IX dated 10.9.2004 is quashed and set aside to the extent that the 4th respondent has been given accelerated promotion to the post of OS Grade-I by applying reservation and Annexure A-7 No.V/P.608/XII/Ch OS/Vol.I dated 24.10.2005 and A-8 order No.V/P.608/XII/Ch OS/Vol.I dated 17.4.2006 to the extent that the 4th respondent has been included therein without revising the promotion already granted to him. The respondents 1 to 3 are further directed to consider the applicant for promotion as Office Superintendents Gr.I and selection to the post of Chief Office Superintendent. They are also directed to revise the said A-3 order to the extent to the upgradation of post of O.S Gr.II to the post of OS Grade.I made applying reservation.

O.A.407/2006 : Annexure A-3 order No.J/P.535II/TCs/TTI/Vol.I dated 25.8.2004 and A-4 order No.J/P.535II/TCs/TTI/Vol.I dated 25.8.2004 quashed and set aside. Respondent-Railways are also directed to review and revise the aforesaid Annexure A-3 order No.J/P.535/II/TCs/TTI/Vol.I dated 25.8.2004 and Annexure A-4 order No.J/P.535/II/TCs/TTI/Vol.I dated 25.8.2004 to the extent the promotions are granted to respondents 5 to 17 to the Grade of TTI in scale Rs.5000-8000. The respondents are also directed to revise the cadre restructuring of the Ticket Checking staff without applying the principles of reservation strictly according to the seniority in the lower grade placing applicants in the cadre of TTI above respondents 5 to 17.

O.A.794/2006 : Annexure A-5 order No.V/P.608/III/TC/Vol.2

dated 9.10.2006 and A-6 order No.V/P.608/III/TC/Vol.2 dated 9.11.2006 proposing to conduct the test for selection to the post of CTTI Gr.I as they are issued without revising the promotions granted to the respondents 4 to 9 wrongly applying reservation vide Annexure A-2 dated 11.10.2004 are quashed and set aside. The respondents are also directed to pass appropriate orders withdrawing the reservation to the SC/ST candidates.

O.A.21/2007 : Annexure A-3 order No.P(s)608/IX/CTPO dated 21.12.2006 alerting 18 Head Telephone Operators for selection to the post of Chief Telephone Operators without complying with the directions of this Tribunal's order dated 21.11.2005 at Annexure A-2 is quashed and set aside. Respondents 1 to 4 are also directed not to proceed further with the selection to the post of Chief Telephone Operators in pursuance of the said A-3 letter till the aforesaid order in Annexure A-2 are complied with.

O.A.145/2007 : Annexure A-5 order No.V/pp.524/Resng/TC dated 11.10.2004 to the extent of promotion granted to the respondents 4 to 7 to Grade III in the scale of Rs.5000-8000 (Travelling Ticket Inspector Gr.III) is quashed and set aside. The respondents are also directed to revise the said Annexure A-5 order after withdrawing the reservation already granted to the SC/ST candidates.

5. The respondent-Railways shall pass necessary orders in implementation of the aforesaid directions within one month from the date of receipt of this order. The applicants in these O.As, on their promotion, are entitled for seniority in the respective posts from the dates the private respondents have been

promoted. In case the respondents fail to pass fresh orders after due consideration of the cases of the applicants in these O.As within the time stipulated and directed above, the applicants shall be entitled for arrears of pay and allowances attached to the higher post for from 1st January, 2008. No costs.

Dated, the 6th November, 2007.

GEORGE PARACKEN
JUDICIAL MEMBER

SATHI NAIR
VICE CHAIRMAN

trs