

CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

O.A .No. 276 OF 2006

Thursday, this the 22nd day of November, 2007.

CORAM

HON'BLE MRS SATHI NAIR, VICE CHAIRMAN

HON'BLE MR. GEORGE PARACKEN, JUDICIAL MEMBER

1. K.Mohanakumaran Nair,
Head Clerk (adhoc),
O/o the Divisional Personnel Office,
Personnel Branch,
Personnel Branch,
Southern Railway, Trivandrum.
2. KK Koshy Tharakan,
Senior Clerk,
O/o the Divisional Personnel Office,
Personnel Branch,
Personnel Branch,
Southern Railway, Trivandrum.
3. Mariamma George,
Head Clerk (adhoc),
O/o the Divisional Personnel Office,
Personnel Branch,
Personnel Branch,
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. C.S.Vijayarajan,
Head Clerk,
O/o the Divisional Personnel Office,

Personnel Branch,
Personnel Branch,
Southern Railway, Trivandrum. - Respondents

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

(By Advocate Mr MP Varkey, for R. 4&5)

The applications having been heard on 14.11.2007, the Tribunal on 22.11.2007 delivered the following:

ORDER

HON'BLE MR. GEORGE PARACKEN, JUDICIAL MEMBER

The issue in this case is regarding the applicability of 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 issue has already been settled by this Tribunal in the decision rendered in O.A.601/2004 and connected cases on 21.11.2006, wherein the respondent-Railways were restrained 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 Hon'ble High Court of Kerala has also dismissed the Writ Petitions filed by the respondents challenging the said order.
3. Recently also this Tribunal has considered the very same issue in O.A.155/2006 and connected cases and reiterated the above position.
4. While Shri K.A.Abraham, counsel for the applicants have submitted that this case is also exactly similar to the earlier cases, Shri KM Anthru, counsel for

the respondent-Railways submitted that in the present case, the cadre strength has actually reduced from 98 to 92 by the restructuring of the cadres as all the earlier cases the cadre strength remained the same even after restructuring. He has also contended that even if the reservation is not applied in the present case, the applicants would not become eligible for promotion in view of the seniority position in the cadre.

5. Shri M.P.Varkey, counsel for respondents 4 & 5 has mainly raised the issue of delay and laches in filing the present O.A. by the applicants.

6. We have heard the counsel on both sides and have perused the records. Merely because the cadre strength has come down due to restructuring, it will not alter the nature of this case. On the other hand, only if there is an increase in the cadre strength, the reservation is to be applied for the additional posts. Since the question of limitation raised by Shri M.P.Varkey also been considered in earlier cases and rejected it, it is not necessary to go into that aspect any further.

7. In the above facts and circumstances of the case, we reiterate our earlier order that Clause 14 of the Railways dated 9.10.2003 will not apply in the case of restructuring of cadres. We accordingly set aside Annexure A-3 order No.V/P.535/XII/Office Clerks/PB/Vol.IX dated 10.9.2004 to the extent that the respondents 4 & 5 have been given accelerated promotion to the post of Head Clerk. Consequently, we direct the respondents to consider the applicants for promotion to the post of Head Clerk according to the seniority and retain their seniority against respondents 4&5 and consider them for selection to the next higher post. If the applicants are found eligible for such promotions, they shall be granted promotion from the same date, the respondents 4 & 5 have been



promoted by Annexure A-3 order.

8. 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, 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 case of the applicants within the time stipulated 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 22nd November, 2007.


GEORGE PARACKEN
JUDICIAL MEMBER


SATHI NAIR
VICE CHAIRMAN

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