CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

OA Nos. 289/2000, 888/2000, 1288/2000, 1331/2000,1334/2000, 18/01, 232/01, 305/01, 388/01, 457/01, 463/01, 568/01, 579/01, 640/01, 664/01, 698/01, 992/01, 1022/01, 1048/01, 304/02, 306/02, 375/02, 604/03, 807/04, 808/04, 857/04, 787/04, 10/05, 11/05, 12/05, 21/05, 26/05, 34/05, 96/05, 97/05, 114/05, 291/05, 292/05, 329/05, 381/05,384/05, 570/05, 771/05, 777/05, 890/05, 892/05, 50/06 & 52/06

Tuesday this the Ist day of May, 2007

CORAM

HON'BLE MRS. SATHI NAIR, VICE CHAIRMAN
HON'BLE MR. GEORGE PARACKEN, JUDICIAL MEMBER

O.A. 289/2000:

V.P.Narayanankutty,
Chief Commercial Clerk Grade III
Southern Railway, Thrissur.

(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 The Divisional Manager, Southern Railway, Thiruvananthapuram.

4 Senior Divisional Personnel Officer, Southern Railway, Thiruvananthapuram.

5 T.K.Sasi,
Chief Commercial Clerk Grade III
Southern Railway, Angamali. ....Respondents

(By Advocate Mrs.Sumati Dandapani (Senior) with
Ms.P.K.Nandini for respondents 1 to 4
Mr.K.V.Kumaran for R5 (not present)

O.A.888/2000:

1 K.V.Mohammed Kutty,
Chief Health Inspector (Division)
Southern Railway,
Palakkad.

2 S.Narayanan,
Chief Health Inspector (Colony)
Southern Railway,
Palakkad. ..Applicants

(By Advocate M/s Santhosh and Rajan)
V.

1 Union of India, represented by the
General Manager, Southern Railway,
Chennai.3.

2 The Chief Personnel Officer,
Southern Railway, Chennai.

3 K.Velayudhan, Chief Health Inspector,
Integral Coach Factory,
Southern Railway, Chennai.

2 S.Babu, Chief Health inspector,
Southern Railway, Madurai.

5 S.Thankaraj, Chief Health Inspector,
Southern Railway,
Thiruchirapally.

6 S.Santhagopal,
Chief Health Inspector,
Southern Railway,Permbur. ....Respondents

(By Advocate Mrs.Sumati Dandapani (Senior) along with
Ms.P.K.Nandini for R 1&2
Mr.OV Radhakrishnan (Senior) for R6.

O.A. 1288/2000:

1 Jose Xavier
Office Superintendent Grade I,
Southern Railway,
Senior Section Engineers Office
Ernakulam Marshelling Yard,
Kochi.32.

2 Indira S.Pillai,
Office Superintendent Grade I
Mechanical Branch, Divisional Office,
Southern Railway, Thiruvananthapruam...Applicants

(By Advocate Mr. K.A.Abraham)

V.

1 Union of India, represented by
Chairman, Railway Board,
Railway Board, Rail Bhavan,
New Delhi-110 001.

2 Railway Board represented by
Secretary, Rail Bhavan, New Delhi.1.

3 General Manager,
Southern Railway, Madras.3.

4 Chief Personnel Officer,
Southern Railway, Madras.3.

5 Divisional Railway Manager,
Southern Railway, Thiruvananthapuram.

6 P.K.Gopalakrishnan,
Chief Office Superintendent,
Chief Mechanical Engineer's Office,
Southern Railway Headquarters,Madras.3.

7 P.Vijayakumar,
Chief Office Superintendent,
Divisional Mechanical Engineer's Office,
Southern Railway, Madras.

8 R.Vedamurthy,
Chief Office Superintendent,
Divisional Mechanical Engineer's Office,
Southern Railway, Mysore.

9 Smt.Sophy Thomas,
Chief Office Superintendent,
Divisional Mechanical Engineer's Office
Southern Railway, Trivandrum.

10 Gudappa Bhimmappa Naik,
Chief Office Superintendent
Divisional Mechanical Engineer's Office,
Southern Railway, Bangalore.

11 Salomy Johnson,
Chief Office Superintendent,
Southern Railway, Diesel Loco Shed
Ernakulam Jn.

12 G.Chellam,
Chief Office Superintendent,
Divisional Mechanical Engineer's Office,
Southern Railway, Madurai.

13 V.Loganathan,
Chief Office Superintendent,
Divisional Mechanical Engineer's Office,
Southern Railway, Palakkad.

14 M.Vasanthi,
Chief Office Superintendent,
Divisional Mechanical Engineer's Office,
Southern Railway, Madras.

15 K.Muralidharan
Chief Office Superintendent,
Divisional Mechanical Engineer's Office,
Southern Railway, Tiruchirapally.

16 P.K.Pechimuthu,
Chief Office Superintendent,
Chief Mechanical Engineer's Office,
Southern Railway, Madras.3.

17 M.N.Muraleedaran,
Chief Office Superintendent,
Divisional Mechanical Engineers Office,
Southern Railway,
Palakkad.

18 Malle Narasimhan,
Chief Office Superintendent,
Divisional Mechanical Engineer's Office,
Southern Railway, Madras. .....Respondents

(By Advocate Mrs.Sumathi Dandapani (Senior) with
Ms.P.K.Nandini for R.1to5)

O.A.1331/2000:

1 K.K.Antony,
Chief Parcel Supervisor,
Southern Railway, Thrissur.

2 E.A.Satyanesam,
Chief Goods Superintendent,
Southern Railway,
Ernakulam Goods,Kochi.14.

3 C.K.Damodara Pisharady,
Chief Parcel Supervisor,
Cochin Harbour Terminus,
Kochi.

4 V.J.Joseph,
Chief Parcel Supervisor,
Southern Railway
Kottayam.

5 P.D.Thankachan,
Deputy Station Manager (Commercial)
Southern Railway, Ernakulam
Junction. ..Applicants

(By Advocate Mr.K.A.Abraham)

V.

1 Union of India, represented by Chairman,
Railway Board, Rail Bhavan,
New Delhi-11 0 001.

2 General Manager,
Southern Railway, Madras.3.

3 Chief Personnel Officer,
Southern Railway,Madras.3.

4 Divisional Railway Manager,
Southern Railway,
Thiruvananthapuram. ...Respondents

(By Advocate Mrs.Sumati Dandapani (Senior) with
Ms.P.K.Nandini)

O.A.1334/2000:

1 P.S.Sivaramakrishnan
Commercial Supervisor,
Southern Railway,
Badagara.

2 M.P.Sreedharan
Chief Goods Supervisor,
Southern Railway,Cannanore. ...Applicants

(By Advocate Mr. K.A.Abraham)

V.

1 Union of India, represented by Chairman,
Railway Board, Rail Bhavan,
New Delhi-110 001.

2 General Manager,
Southern Railway
Madras.3.

3 Chief Personnel Officer,
Southern Railway
Madras.3.

4 Divisional Railway Manager,
Southern Railway
Palakkad. ...Respondents

(By Advocate Mrs.Sumati Dandapani (Senior) with
Ms.P.K.Nandini)

O.A.18/2001:

1 K.M.Geevarghese,
Chief Travelling Ticket Inspector,
Grade I, Southern Railway,
Ernakulam Junction.

2 P.A.Mathai,
Chief Travelling Ticket Inspector,
Grade I, Southern Railway,
Ernakulam Junction. ...Applicants

(By Advocate Mr.M.P.Varkey)

V.

1 Union of India, represented by
General Manager,
Southern Railway, Channei.3.

2 Senior Divisional Personnel officer,
Southern Railway,Trivandrum.14.

3 K.B.Ramanjaneyalu,
Chief Travelling Ticket Inspector,
Grade I working in Headquarters squad,
Chennai (through 2nd respondent).

4 U.R.Balakrishnan,
Chief Travelling Ticket Inspector,
Grade I,Southern Railway
Trivandrum.14.

5 K.Ramachandran
Chief Travelling Ticket Inspector,
Grade I, Southern Railway,
Ernakulam Town,Kochi-18.

6 K.S.Gopalan,
Chief Travelling Ticket Inspector,
Grade I, Southern Railway,
Ernakulam Town, Kochi.18.

7 R.Hariharan
Chief Travelling Ticket Inspector,
Grade I, Southern Railway,
Trivandrum.14.

8 Sethupathi Devaprasad,
Chief Travelling Ticket Inspector,
Grade I, Southern Railway,
Ernakulam Junction. Kochi.18.

9 R.Balraj,
Chief Travelling Ticket Inspector,
Grade I, Southern Railway,
Trivandrum.14.

10 M.J.Joseph,
Chief Travelling Ticket Inspector,
Grade I, Southern Railway,
Trivandrum.14. ....Respondents

(By Advocate Mrs. Sumathi Dandapani (Senior)
with Ms.P.K.Nandini for R.1&2
Mr.K.Thankappan (for R.4) (not present)

O.A.232/2001:

1 E.Balan,Station Master Grade I
Southern Railway, Kayamkulam.

2 K.Gopalakrishna Pillai
Traffic Inspector,
Southern Railway, Quilon.

3 K.Madhavankutty Nair,
Station Master Grade I
Southern Railway,Ochira. ...Applicants

(By Advocate Mr. K.A. Abraham)

V.

1 The Union of India, represented by
Chairman, Railway Board,
Rail Bhavan, New Delhi.1.

2 General Manager,
Southern Railway,
Chennai.3.

3 Chief Personnel Officer,
Southern Railway,Chennai.3.

4 Divisional Railway Manager,
Southern Railway,
Thiruvananthapruam. ...Respondents

(By Advocate Mrs.Sumati Dandapani (Senior) with
Ms.P.K.Nandini)

O.A. 305/2001:

1 P.Prabhakaran, Chief Goods Supervisor,
S.Railway, Madukkarai.

2 K.Palani, Chief Goods Supervisor,
S.Raiwlay, Methoordam.

3 A.Jeeva, Deputy Commercial Manager,
S.Raiwlay, Coimbatore.

4 M.V.Mohandas, Chief Goods Supervisor,
S.Railway, Southern Railway,
Coimbatore North. ...Applicants

(By Advocate Mr. MK Chandramohandas)

V.

1 The Union of India, represented by the
Secretary to Government,
Ministry of Railways, New Delhi.

2 The General Manager,
Southern Railway, Madras.

3 The Senior Divisional Personnel Officer,
Southern Railway, Palakkad. .....Respondents

(By Advocate Mrs. Sumati Dandapani (Senior)
with Ms.P.K.Nandini)

O.A.388/2001:

1 R.Jayaprakasam
Chief Reservation Supervisor,
Southern Railway, Erode.

2 P.Balachandran,
Chief Reservation Supervisor,
Southern Railway, Calicut.

3 K.Parameswaran
Enquiry & Reservation Supervisor,
Southern Railway, Coimbatore.

4 T.Chandrasekahran
Enquiry & Reservation Supervisor,
Erode.

5 N.Abdul Rasheeth,
Enquiry Cum Reservation Clerk Grade I
Southern Railway, Selam.

6 O.V.Sudheer
Enquiry Cum Reservation Clerk Gr.I
Southern Railway, Calicut. ..Applicants

(By Advocate Mr.K.A.Abraham)

V.

1 Union of India, represented by the Chairman,
Railway Board, Rail Bhavan,
New Delhi.1.

2 General Manager,
Southern Railway,
Chennai.

3 Chief Personnel Officer,
Southern Railway, Chennai.

4 Divisional Railway Manager,
Southern Railway, Palakkad. ...Respondents

(By Advocate Mr. P.Haridas)

O.A.457/2001:

R.Maruthen, Chief Commercial Clerk,
Tirupur Good Shed, Southern Railway,
Tirupur, residing at 234,
Anna Nagar, Velandipalayam,
Coimbatore. ....Applicant

(By Advocate Mr. M.K.Chandramohan Das)

V.

1 Union of India, represented by the
Secretary, Ministry of Railways,
New Delhi.

2 Divisional Railway Manager,
Southern Railway, Palakkad.

3 The Senior Divisional Personnel
Officer, Southern Railway,
Palakkad. ....Respondents

(By Advocate Mr.Thomas Mathew Nellimootil)

O.A. 463/2001:

1 K.V.Pramod Kumar,
Chief Parcel Supervisor,
Southern Railway, Kerala, Tirur
Station.

2 Somasundaram A.P.
Chief Commercial Clerk,
Southern Railway, Palakkad,
Kerala,Calicut Station. ....Applicants

(By Advocate Mr.C.S.Manilal)

V.

1 Union of India, represented by the
Secretary to Government,
Ministry of Railways, New Delhi.

2 The General Manager,
Southern Railway, Madras.

3 The Senior Divisional Personnel
Officer, Southern Railway,
Palakkad. ....Respondents

(By Advocate Mr.Thomas Mathew Nellimootil)

O.A 568/2001:

1 Dr.Ambedkar Railway Employees Scheduled
Castes and Scheduled Tribes Welfare Association
Regn.No.54/97, Central Office, No.4, Strahans Road,
2nd Lane, Chennai rep.by the General Secretary
Shri Ravichandran S/o A.S.Natarajan,
working as Chief Health Inspector,
Egmore,Chennai Division.

2 K.Ravindran, Station Manager,
Podanur Raiwlay Station, Palakkad Divn
residing at 432/A, Railway Quarters,
Manthope Area, Podanur,
Coimbatore.

3 V.Rajan S/o Vellaikutty, Station Manager,
Tiruppur Railway Station,
Palakkad Division residing at
No.21B, Railway Colony
Tirupur. ....Applicants

(By Advocate Mr.MK Chandramohandas)

V.

1 The Union of India, represented by the
Secretary to Government, Ministry of
Railways, Rail Bhavan, New Delhi.1.

2 The General Manager,
Southern Railway, Park Town,
Chennai.3.

3 The Chief Personnel Officer
Southern Railway, Park Town,Chennai.3.

4 The Senior Divisional Personnel Officer,
Southern Railway, Palakkad. ....Respondents

(By Advocate Mr. Thomas Mathew Nellimootil)

O.A.579/2001:

1 K.Pavithran,
Chief Travelling Ticket Inspector Gr.II
Southern Railway, Ernakulam Jn.

2 K.V.Joseph, S/o Varghese
residing at Danimount,
Melukavu Mattom PO,
Kottayam District.

3 K.Sethu Namburaj, Chief Travelling
Ticket Inspector Gr.II
Southen Railway, Ernakulam Jn.

4 N.Saseendran,
Chief Travelling Ticket Inspector Gr.II
Southern Railway,
Ernakulam Town Railway Station. ...Applicants

(By Advocate Mr.TCG Swamy)

V.

1 Union of India, represented by
the Secretary to the Govt. of India,
Ministry of Railways,
New Delhi.

2 The General Manager,
Southern Railway, Headquarters Office,
Park Town PO,Chennai.3.

3 The Chief Personnel Officer,
Southern Railway, Headquarters Office,
Park Town PO, Chennai.3.

4 The Senior Divisional Personnel Officer,
Southern Railway,Trivandrum Divisional
Trivandrum.

5 T.Sugathakumar,
Chief Ticket Inspector Grade I
Southern Railway, Trivandrum
Central Railway Station,Trivandrum.

6 K.Gokulnath
Chief Travelling Ticket Inspector Gr.II
Southern Railway,Quilon Railway Station
Quilon.

7 K.Ravindran,
Chief Travelling Ticket Inspector Gr.II
Southern Railway,Ernakulam
Town Railway Station,Ernakulam.

8 E.V.Varghese Mathew,
Chief Travelling Ticket Inspector Gr.II
Southern Railway, Kottayam.

9 S.Ahamed Kunju
Chief Travelling Ticket Inspector Gr.II
Southern Railway,Quilon R.S.&PO.

10 M.Shanmughasundaram,
Chief Travelling Ticket Inspector Gr.II
Southern Railway,Nagercoil Junction
R.S. And PO.

11 K.Navneethakrishnan
Chief Travelling Ticket Inspector Gr.II
Southern Railway,Trivandrum Central
Railway Station PO.

12 P.Khaseem Khan
Chief Travelling Ticket Inspector Gr.II
Southern Railway, Nagercoil Junction RS&PO.

13 T.K.Ponnappan,
Chief Travelling Ticket Inspector Gr.II
Southern Railway,Ernakulam Town
Railway Station and PO.

14 B.Gopinatha Pillai,
Chief Travelling Ticket Inspector Gr.II
Southern Railway,Ernakulam Town
Railway Station PO.

15 K.Thomas Kurian,
Chief Travelling Ticket Inspector Gr.II
Southern Railway,
Kottayam Railway Station PO.

16 M.Sreekumaran,
Chief Travelling Ticket Inspector Gr.II
Southern Railway,
Ernakulam Jn and PO.

17 P.T.Chandran,
Chief Travelling Ticket Inspector Gr.II
Southern Railway,Ernakulam
Town Railway Station and PO.

18 K.P.Jose
Chief Travelling Ticket Inspector Gr.II
Southern Railway, Ernakualm Jn.RS&PO.

19 S.Madhavdas
Chief Travelling Ticket Inspector Gr.II
Southern Railway, Nagercoil Jn. RS&PO.

20 K.O.Antony,
Chief Travelling Ticket Inspector Gr.II
Southern Railway,Ernakulam Jn RS&PO.

21 S.Sadamani,
Chief Travelling Ticket Inspector Gr.II
Southern Railway,Quilon R.S.&PO.

22 V.Balasubramanian
Chief Travelling Ticket Inspector Gr.II
Southern Railway,Quilon R.S & PO.

23 N.Sasidharan
Chief Travelling Ticket Inspector Gr.II
Southern Railway,Quilon R.S & PO.

24 K.Perumal,
Chief Travelling Ticket Inspector Gr.II
Southern Railway,Trivandrum Central
Railway Station and PO.

25 G.Pushparandan,
Chief Travelling Ticket Inspector Gr.II
Southern Railway,Trivandrum Central
Railway Station and PO.

26 C.P.Fernandez
Chief Travelling Ticket Inspector Gr.II
Southern Railway,Ernakualm Jun.RS&PO.

27 P.Chockalingam,
Chief Travelling Ticket Inspector Gr.II
Southern Railway,Nagercoil JnRS&PO.

28 D.Yohannan,
Chief Travelling Ticket Inspector Gr.II
Southern Railway,Ernakulam Jn RS&PO.

29 V.S.Viswanatha Pilli,
Chief Travelling Ticket Inspector Gr.II
Southern Railway,Quilon RS&PO.

30 G.Kesavankutty
Chief Travelling Ticket Inspector Gr.II
Southern Railway, Ernakulam Junction
Railway station and PO.

31 Kurian K.Kuriakose,
Chief Travelling Ticket Inspector Gr.II
Southern Railway, Ernakulam Junction
Railway Station and PO.

32 K.V.Radhakrishnan Nair,
Chief Travelling Ticket Inspector Gr.II
Southern Railway, Ernakulam Junction
Railway Station and PO.

33 K.N.Venugopal,
Chief Travelling Ticket Inspector Gr.II
Southern Railway, Ernakulam Junction
RS & PO.

34 K.Surendran
Chief Travelling Ticket Inspector Gr.II
Southern Railway, Ernakulam Town
RS & PO.

35 S.Ananthanarayanan,
Chief Travelling Ticket Inspector Gr.II
Southern Railway, Trivandrum Central
Railway Station and PO.

36 Bose K.Varghese,
Chief Travelling Ticket Inspector Gr.II
Southern Railway, Kottayam Railway Station and PO.

37 Jose T.Kuttikattu
Chief Travelling Ticket Inspector Gr.II
Southern Railway,Kottayam and PO.

38 P.Thulaseedharan Pillai
Chief Travelling Ticket Inspector Gr.II
Southern Railway, Ernakulam Junction
RS & PO.

39 C.M.Joseph,
Chief Travelling Ticket Inspector Gr.II
Southern Railway, Trivandrum
Central Railway Station and PO. .....Respondents

(By Advocate Mr. P.Haridas for R.1to4
Advocate Mr. M.P.Varkey for R.5 to 39)

O.A. 640/2001:

1 V.C.Radha, Chief Goods Supervisor,
Southern Railway, Palakkad.

2 M.Pasupathy, chief Parcel Clerk,
Southern Railway, Salem Junction,
Salem.

3 C.T.Mohanan, Chief Goods Clerk
Southern Railway, Salem Junction,
Salem.

4 P.R.Muthu, Chief Booking Clerk,
Southern Railway, Palakkad Junction,
Palakkad.

5 K.Sukumaran, Chief Booking Clerk
Southern Railway, Salem. .....Applicants

(By Advocate Mr. M.K.Chandramohan Das)

V.

1 Union of India, represented by
the Secretary, Ministry of Railway,
New Delhi.

2 Divisional Railway Manager,
Southern Railway, Palakkad.

3 The Senior Divisional Personnel Officer,
Southern Railway, Palakkad. ...Respondents

(By Advocate Mrs.Sumati Dandapani (Senior)
with Ms. P.K.Nandini)

O.A.664/2001:

1 Suresh Pallot
Enquiry cum Reservation Clerk Gr.II
Southern Railway,
Palakkad Division.

2 C.Chinnaswamy
Enquiry cum Reservation Clerk Gr.II
Southern Railway,
Palakkad Division. ....Applicants

(By Advocate Mr.K.A.Abraham)

V.

1 Union of India, represented by the Chairman,
Railway Board, Rail Bhavan, New Delhi.1.

2 General Manager,
Southern Railway, Chennai.

3 Chief Personnel Officer,
Southern Railway, Chennai.

4 Divisional Railway Manager,
Southern Railway, Palakkad.

(By Advocate Mr.Thomas Mathew Nellimootil)

O.A.698/2001:

1 P.Moideenkutty, Travelling Ticket Inspector,
Coimbatore Junction,Southern Railway,
Palakkad.

2 A.Victor,
Staff No.T/W6, Chief Travelling Ticket
Inspector Gr.I, Sleeper Section,
Coimbatore Junction, Southern Railway,
Palakkad.

3 A.K.Suresh,
Travelling Ticket Examiner,
Southern Railway, Sleeper Section,
Coimbatore. ...Applicants

(By Advocate Mr. P.V.Mohanan)

V.

1 The Union of India, represented by the Secretary,
Ministry of Railways,
New Delhi.

2 The Divisional Personnel Officer,
Divisional office (Personnel Branch)
Southern Railway, Palakkad.

3 K.Kannan,
Travelling Ticket Inspector
Southern Railway, Coimbatore Junction,
Shoranur.

4 K.Velayudhan,
Chief Travelling Ticket Inspector
Gr.I, Headquarters Palghat Division.

5 N.Devasundaram,
Travelling Ticket Inspector,
Erode,Southern Railway. .....Respondents

(By Advocate Mr.Thomas Mathew Nellimootil (R1&2)
Advocte Mr. M.K.Chandramohan Das (R.4)
Mr.Siby J Monipally (R.5) (not present)

O.A.992/2001:

1 Sudhir M.Das
Senior Data Entry Operator,
Computer Centre,Divisional Office,
Southern Railway, Palakkad. ....Applicant

(By Advocate M/s Santhosh & Rajan)

V.

1 Union of India, represented by
the General Manager,
Southern Railway, Chennai.3.

2 The Chief Personnel Officer,
Southern Railway, Chennai.3.

3 The Senior Divisional Personnel Officer,
Southern Railway, Palakkad.

4 Shri K.Ramakrishnan,
Office Superintendent Grade II,
Commercial Branch,
Divisional office,
Southern Railway, Palakkad. ...Respondents

(By Advocate Mr.Thomas Mathew Nellimootil)

O.A. 1022/2001:

T.K.Sivadasan
Office Superintendent Grade II
Office of the Divisional Personnel Officer,
Southern Railway, Palghat Division,
Palghat. ...Applicant

(By Advocate Mr.T.C.Govindaswamy)

V.

1 Union of India, represented by
the General Manager,
Southern Railway, Headquarters Office,
Park Town PO,Chennai.3.

2 The Chief Personnel Officer,
Southern Railway, Headquarters Office,
Park Town PO, Chennai.3.

3 The Divisional Railway Manager,
Southern Railway, Palghat Division,
Palghat.

4 The Senior Divisional Personnel Officer,
Southern Railway, Palghat Division,
Palghat. ....Respondents

(By Advocate Mr. P.Haridas)

O.A. 1048/2001:

K.Sreenivasan,
Office Superintendent Grade II
Personnel Branch,
Divisional Office, Southern Railway,
Palakkad. ...Applicant

(By Advocate M/s Santhosh & Rajan)

V.

1 Union of India, represented by
the General Manager,
Southern Railway,Chennai.3.

2 The Chief Personnel Officer,
Southern Railway, Chennai.3.

3 The Senior Divisional Personnel Officer,
Southern Railway, Palakkad. .....Respondents

(By Advocate Mr.P. Haridas)

O.A.304/2002:

1 Mary Mercy, Chief Goods Clerk,
Southern Railway, Ernakulam
Marshelling Yard.

2 Ms. Andrey B.Fernandez,
Chief Commercial Clerk,
Southern Railway,Cochin Harbour.

3 Melvile Paul Fereiro,
Chief Commercial Clerk,
Southern Railway,Ernakulam Town.

4 M.C.STanislavos,Chief Commercial Clerk,
Southern Railway, Ernakulam Town.

5 K.V. Leela,Chief Commercial Clerk,
Southern Railway, Ernakulam Town.

6 Sheelakumari S.
Chief Commercial Clerk, Southern Railway,
Ernakulam.

7 K.N.Rajagopalan Nair,
Chief Commercial Clerk,
Southern Railway, Aluva.

8 B.Radhakrishnan,
Chief Parcel Clerk, Aluva. ...Applicants

(By Advocate Mr.K.A.Abraham)

V.

1 Union of India, represented by
General Manager,
Southern Railway,Chennai.

2 Chief Personnel Officer,
Southern Railway,
Chennai.3.

3 Divisional Railway Manager,
Southern Railway,
Trivandrum.14.

4 Senior Personnel Officer,
Southern Railway,Trivandrum.14. ...Respondents

(By Advocate Mrs.Sumati Dandapani (Senior) with
Ms.P.K.Nandini)

OA 306/2002:

1 P.Ramakrishnan,
Chief General Clerk Grade II
Southern Railway, Kanjangad.

2 T.G.Chandramohan,
Chief Booking Clerk, Southern Railway,
Salem Junction.

3 I.Pyarajan, Chief Parcel Clerk
Southern Railway,Salem Jn.

4 N.Balakrishnan, Chief Goods Clerks,
Southern Railway, Salem Market.

5 K.M.Arunachalam,Chief Parcel Clerk,
Southern Railway, Erode Jn.

6 A.Kulothungan, Chief Booking Clerk Gr.II
Southern Railway, Salem Jn.

7 S.Venketswara Sarma,
Chief Parcel Clerk Grade II
Southern Railway, Tiruppur.

8 E.A.D'Costa, Chief Booking Clerk Gr.II
Southern Railway, Podanur.

9 M.V.Vasu, Chief Booking Clerk Gr.II
Southern Railway, Coimbatore.

10 K.Vayyapuri, Chief Booking Cerk Gr.II
Southern Railway, Palakkad

11 K.Ramanathan, chief Goods Clerk Gr.II
Southern Railway, Palakkad.

12 K.K.Gopi, Chief Goods Clerk Grade II
Southern Railway, Palakkad

13 Parameswaran, Head Goods Clerk
Grade III, Southern Railway, Palakkad.3.

14 S.Balasubramanyan, Head Parcel Clerk,
Southern Railway, Erode.

14 L.Palani Samy, Head Parcel Clerk,
Southern Railway, Erode.

16 J.K.Lakshmanraj, Head General Clerk,
Southern Railway, Coimbatore.

17 P.S.Ashok, Head Parcel Clerk,
Southern Railway, Palakkad PO

18 M.E.Jayaraman, Head Commercial Clerk,
Southern Railway, Shoranur.

...Applicants

(By Advocate Mr.K.A.Abraham)

V.

1 Union of India represented by
General Manager, Southern Railway,
Chennai.3.

2 Chief Personnel Officer, Southern
Railway,Chennai.3.

3 Divisional Railway Manager,
Southern Railway, Palakakd.2.

4 Senior Personnel Officer,
Southern Railway, Palakakd.2. ....Respondents

(By Advocate Mrs.Sumati Dandapani (Senior) with
Ms.P.K.Nandini)

O.A.375/2002:

A.Palaniswamy,
Retired Chief Commercial Clerk
Southern Railway, Erode Junction
residing at Shanmugha Nilam,
Vinayakarkoil Street,
Nadarmedu,Erode.

...Applicant

(By Advocate Mr. K.A.Abraham)
V.

1 Union of India represented by
General Manager, Southern Railway,
Chennai.3.

2 Chief Personnel Officer, Southern
Railway,Chennai.3.

3 Divisional Railway Manager,
Southern Railway, Palakakd.2.

4 Senior Personnel Officer,
Southern Railway, Palakakd.2. ...Respondents

(By Advocate Mr. P.Haridas)

O.A.604/2003:

1 K.M.Arunachalam,
Chief Goods Clerk,
Southern Railway,Salem.

2 M.Vijayakumar
Chief Commercial Clerk,
Southern Railway, Kallayi.

3 V.Vayyapuri,
Chief Parcel Clerk,Southern Railway
Coimbatore.

4 T.V.Sureshkumar
Chief Commercial Clerk
Southern Railway, Mangalore.

5 K.Ramanathan
Chief Goods Clerk,
Southern Railway, Palakkad.

6 Ramakrishnan N.V.
Chief Commercial Clerk,
Southern Railway,Kasargod. ....Applicants

(By Advocate Mr. K.A.Abraham)

V.

1 Union of India represented by Chairman,
Railway Board, Rail Bhavan, New Delhi.1.

2 General Manager, Southern Railway,
Chennai.3.

3 Divisional Railway Manager,
Southern Railway, Palakkad.3

4 Divisional Personnel Officer,
Southern Railway, Palakakd.

5 R.Ravindran, Chief Booking Clerk Gr.II
Southern Railway, Coimbatore.

6 K.Ashokan, Chief Commercial Clerk Gr.II
Southern Railway, Thalassery.

7 R.Maruthan, Chief Commercial Clerk Gr.II
Southern Railway, Thiripur.

8 Carol Joseph, Chief Commercial Clerk Gr.II
Southern Railway, Kuttipuram.

9 T.G.Sudha, Chief Commercial Clerk Gr.II
Southern Railway, Palakkad Jn.

10 E.V.Raghavan, Chief Commercial Clerk Gr.II
Southern Railway, Mangalore.

11 A.P. Somasundaram, Chief Commercial Clerk
Gr.II,Southern Railway, Westhill. ....Respondents

(By Advocate Mr. K.M.Anthru for R.1to4
Advocate Mr.M.KChandramohandas for R.8,9&11)

O.A. 787/2004:

1 Mohanakrishnan,
Chief Commercial Clerk Gr.II
Parcel Office, Southern Railway
Thrissur.

2 N.Krishnankutty, Chief Commercial Clerk Gr.III
Booking Office, Southern Railway,
Thrissur.

3 K.A.Antony,
Senior Commercial Clerk,
Booking Office, Southern Railway,
Thrissur.

4 M.Sudalai,
Chief Commercial Clerk Gr.II
Booking Office, Southern Railway,
Trivandrum.

5 P.D.Thankachan,
Chief Booking Supervisor (CCG.10 Dy.SMR/C/CW2)
Southern Railway,
Chengannur. ....Applicants

(By Advocate Mr. K.A.Abraham)

V.

1 Union of India, represented by
the Secretary, Ministry of Railways, Rail
Bhavan, New Delhi.

2 The General Manager,
Southern Railway, Chennai.

3 The Chief Personnel Officer,
Southern Railway, Chennai.

4 The Senior Divisional Railway Manager,
Southern Railway, Trivandrum.

5 V.Bharathan,Chief Commercial Clerk Gr.I
Southern Railway, Kalamassery
Railway Station, Kalamassry.

6 S.Murali, Chief Booking Clerk Gr.II
in scale 5500-9000, Southern Railway,
Ernakulam Junction, Kochi.

7 V.S.Shajikumar, Head Commercial Clerk Gr.III
in scale 5500-8000, Southern Railways
Chengannur Railway Station.

8 G.S.Gireshkumar, Senior Commercial Clerk in
scale Rs. 4000-7000, Southern Railway,
Nellayi Railway Station,
Trichur District. .....Respondents

(By Advocates Mrs.Sumati Dandapani (Senior) with
Ms.P.K.Nandini for R.1to4
Advocate C.S.Manilal for R.5&6)

O.A.807/2004:

1 V.K.Divakaran,
Chief Commercial Clerk Gr.I
Booking Office, Southern Railway,
Trissur.

2 Abraham Daniel,
Chief Commercial Clerk Gr.III
Booking Office, Southern Railway,
Trissur.

3 K.K.Sankaran
Senior Commercial Clerk Gr.I
Booking Office, Southern Railway,
Trissur.

4 P.P.Abdul Rahiman
Chief Commercial Clerk Gr.II
Parcel Office, Southern Railway,
Trissur.

5 K.A.Joseph,
Senior Commercial Clerk,
Parcel Office, Southern Railway,
Alwaye.

6 Thomas Jacob,
Chief Commercial Clerk Gr.III
Parcel Office, Southern Railway,
Trissur.

7 P.Radhakrishnan
Chief Commercial Clerk Gr.III
Booking Office, Southern Railway,
Trissur.

8 P.Damodarankutty
Senior Commercial Clerk,
Southern Railway, Thrissur.

9 Vijayan N.Warrier,
Senior Commercial Clerk,
Booking Office,
Southern Railway,Thrissur.

10 K.Chandran
Chief Commercial Clerk Gr.II
Good Office, Southern Railway,
Angamali (for Kaladi)
Angamali.

11 T.P.Sankaranarayana Pillai,
Chief Commercial Clerk Gr.II
Booking Office,
Southern Railway,
Angamali for Kaladi.

12 K.I. George
Senior Commercial Clerk,
Booking Office, Southern Railway
Angamaly.

13 N.Jyothi Swaroop
Chief Commercial Clerk Gr.I
Goods Office, Southern Railway,
Angamali.

14 M.Sethumadhavan,
Chief Commercial Clerk Gr.III
Goods Office, Southern Railway,
Ollur.

15 Vijayachandran T.G.
Senior Commercial Clerk,
Southern Railway, Allepey
Trivandrum Divisio.

16 Najumunisa A
Senior Commercial Clerk,
Southern Railway,
Alleppey,Trivandrum Divn.

17 G.Raveendranath
Senior Commercial Clerk,
Booking Office, Southern Railway
Alleppey,Trivandrum Division.

18 P.L.XCavier,
Senior Commercial Clerk,
Southern Railway, Sherthalai,
Trivandrum Division.

19 P.A.Surendranath,
Chief Commercial Clerk Grade II
Southern Railway,Ernakulam Junction.

20 S.Madhusoodananan Nair,
Chief Booking Supervisor,
Southern Railway, Alleppey.

21 I.Mohankumar,
Chief Commercial Clerk Gr.II
Parcel Office, Southern Railways Alwaye.

22 Sasidharan P.M.
Parcel Supervisor Gr.II
Parcel Office,
Southern Railway, Ernakulam Jn.
Kochi.

23 John Jacob
Chief Commercial Clerk Gr.II
Goods Office, Southern Railway,
Aluva.

24 P.V.Sathya Chandran
Chief Commercial Clerk Gr.II
Goods Office,
Southern Railway,Ernakulam Goods.

25 A.Boomi
Booking Supervisor Gr.II
Booking Office, Southern Railway,
Ernakulam Town.

26 T.V.Poulose
Chief Commercial Clerk Gr.II
Southern Railway, Ernakulam Town.

27 P.J.Raphel,
Senior Commercial Clerk,
Southern Railway, Ernakulam Junction.

28 K.G.Ponnappan
Chief Commercial Clerk Gr.III
Southern Railway, Kottayam.

29 A.Cleatus,
Chief Commercial Clerk Gr.III,Southern Railway
Ernakulam Jn.

30 M.Vijayakrishnan,
Senior Commercial Clerk, Sr.DCM Office
Southern Railway, Trivandrum.

31 Smt.Achu Chacko
Chief Commercial Clerk Gr.II
Booking Supervisor,
Southern Railway,Kottayam.

32 Raju M.M.
Deputy Station Manager (Commercial)
Southern Railway,Ernakulam Jn.

33 M.P.Ramachandran
Chief Booking Supervisor,
Southern Railway,Alwaye.

34 Rajendran.T
Senior Commercial Clerk,
Booking Office, Southern Railway
Alleppey.

35 Mrs.Soly Jayakumar
Senior Commercial Clerk,
Booking Office, S. Railway,Irinjalakuda.

36 K.C.Mathew,
Chief Commercial Clerk Gr.III
S.Railway, Irinjalakuda.

37 K.A Joseph
Senior Commercial Clerk, S.Railway,Irinjalakuda.

38 N.Savithri Devi,
Chief Commercial Clerk III S.Railway, Alwaye.

39 C.Valsarajan
Chief Commercial Clerk Gr.III
Southern Railway, BPCL Siding
Ernakulam.

40 Beena S.Prakash,
Senior Commercial Clerk,
Ernakulam Town Booking Office,
Southern Railway, Ernakulam.

41 R.Bhaskaran Nair
Chief Commercial Clerk Gr.II
Booking Office,Southern Railway,
Quilon.

42 T.T.Thomas,
Chief Commercial Clerk Gr.II S.Railway
Quilon.

43 K.Thankappan Pillai,
Chief Commercial Clerk Gr.II
Booking Office, Southern Railway
Trivandrum.

44 T.Vidhyadharan
Chief Commercial Clerk Gr.III
Southern Railway, Kottayam.

45 Kunjumon Thomas
Chief Commercial Clerk Gr.III,
Southern Railway, Kottayam.

46 M.V.Ravikumar
Chief Commercial Clerk Gr.III
Southern Railway, Chengannur Railway
Station.

47 P.Sasidharan Pillai
Chief Commercial clerk GrII
Southern Railway, Chengannur.

48 B.Janardhanan Pillai
Chief Commercial Clerk Gr.II
Booking Office,Southern Railway,
Quilon.

49 S.Kumaraswamy
Chief Commercial Clerk Gr.III
Booking Office,S.Rly, Quilon.

50 P.Gopinathan
Chief Commercial Clerk Gr.III
Booking Office, Southern Railway,Quilon.

51 V.G.Krishnankutty
Chief Commercial Clerk Gr.III
Southern Railway, Parcel office,Quilon.

52 Padmakumariamma P
Chief Commercial Clerk Gr.III
Booking Office, Southern Railway,
Quilon.

53 K.P.Gopinathan Nair
Chief Commercial Clerk Gr.III
Southern Railway,Changanacherri.

54 T.A.Rahmathulla
Chief Commercial Clerk Gr.III
S.Railway,Kottayam.

55 C.M.Mathew
Chief Commercial Clerk Gr.II
Southern Railway, Parcel Office
Quilon.

56 G.Jayapal,
Chief Commercial Clerk Gr.III Parcel office
S.Railway,Quilon.

57 B.Prasannakumar
Chief Parcel Supervisor (CCCI)
Parcel Office, Southern Railway,Quilon.

58 L.Jhyothiraj
Chief Goods Clerk Gr.III
Southern Railway, Chengannur.

59 Satheeshkumar
Commercial Clerk Gr.III
Southern Railway,Alleppey.

60 K.Sooria DevanThampi
Chief Commercial Clerk Gr.II Parcel Office,
Southern Railway, Trivandrum.

61 J.Muhammed Hassan Khan,
Chief Commercial Clerk Gr.III
Parcel Office, Southern Railway,
Trivadnrum.

62 Aysha C.S.
Commercial Clerk, Parcel office
Southern Railway,Trivandrum.

63 S.Rajalakshmi
Commercial Clerk, Parcel Office
Southern Railway,Trivandrum.

64 S.Sasidharan
Chief Commercial Clerk Gr.III
Parcel office, Southern Railway,
Kollam.

65 Smt. K.Bright
Chief Commercial Clerk Gr.III
Kochuveli Goods
S.Rly,Kochuveli.

66 T.Sobhanakumari
Sr. Commercial Clerk,Goods Office
S.Rly, Angamali(for Kaladi).

67 Gracy Jacob,
Chief Commercial Clerk Gr.II
Southern Railway,Trivandrum.

68 P.K.Syamala Kumari
Senior Commercial Clerk
Booking Office,S.Rly.Trivandrum.

69 Saraswathy Amma.D
Senior Commercial Clerk,
Booking Office, S.Rly,Trivandrum Central.

70 S.Chorimuthu
Senior Commercial Clerk
Southern Railway,Trivandrum.

71 T.Jeevanand
Senior Commercial Clerk,
Booking Office, S.Rly Quilon.

72 P.Girija
Senior Commercial Clerk, Booking Office
S.Rly,Trivandrum.

73 Lekha L
Sr.Commercial Clerk, Booking Office,
S.Rly,Trivandrum Central.

74 George Olickel
Chief Commercial Clerk Gr.III
Booking Office,Southern Railway,
Trivandrum Central.

75 N.Vijayan, Chief Commercial Clerk Gr.II
Parcel Office,Southern Railway,Trivandrum Central.

76 Remadevi S
Chief Commercial Clerk Gr.III Booking Officer
Southern Railway, Varkala.

77 Jayakumar K
Chief Commercial Clerk Gr.III
Booking Office, Southern Railway
Trivandrum Central.

78 A.Hilary
Chief Commercial Clerk Gr.III
Parcel Office, Trivandrum Central.

79 G.Francis
Chief Commercial Clerk Gr.I Booking Officer
Southern Railway,Trivandrum Central.

80 T.Prasannan Nair
Chief Commercial Clerk Gr.II, Booking Office
Trivandrum Central Railway Station.

81 M.Anila Devi,
chief Commercial Clerkgr.III Booking Officer
Trivandrum Central Rly.Station.

82 K.Vijayan
Senior Commercial Clerk
Trivandrum Central Rly.Station.

83 K.B.Rajeevkumar
Senior Commercial Clerk Booking Office
Trivandrum Central Rly.Station.

84 Kala M.Nair
Senior Commercial Clerk, Booking Office
Trivandrum Central Rly.Station

85 T.Usharani
Chief Commercial Clerk Gr.II
Booking Office. Southern Railway
Quilon Rly.Station.

86 Jansamma Joseph
Senior Commercial Clerk,
Southern Railway,Ernakulam Jn.

87 K.O.Aley
Senior Commercial Clerk, Southern Railway
Southern Railway,Shertallai.

88 B.Narayanan, Chief Commercial Clerk Gr.II
Southern Railway,Goods Shed,Quilon
Junction,Kollam.

89 Prasannakumari AmmaPC
Senior Commercial Clerk
Neyyattinkara SM Office.S.Rly.Trivandrum.

90 C.Jeya Chandran II, Parcel Supervisor,
Gr.II,Parcel Office, S.Rly Nagercoil.

91 R.Carmal Rajkumar Booking Supervisor Gr.II
Southern Railway,Kanyakumari

92 Subbiah, Chief Commercial Clerk
Gr,.II Booking Office,Nagercoil Jn
Southern Railway.

93 B.Athinarayanan
Chief Commercial Clerk Gr.II
Parcel Office,S.Rly.Nagercoil Jn.

94 Victor Manoharan
CheifCommercial Clerk Gr.II
Station Master Office,Kulitturai
Southern Railway.

95 N.Krishna Moorthi
Chief Commercial Clerk Gr.I
Station Manager's Booking Office
S.Rly,TrivandrumDivn. Nagercoil.

96 K.Subash Chandran, Chief Goods Supervisor
Gr.II, Southern Railway, Kollam.

97 Devadas Moses, Chief Goods Supervisor Gr.II
Southern Railway, Kollam.

98 N.K.Suraj, Chief Commercial Clerk Gr.III S.Rly
Quilon.

99 V.Sivakuamr,Chief Commercial Clerk Gr.II
Booking Office,Southern Railway,Varkala.

...Applicants

(By Advocate Mr.K.A.Abraham)

V.

1 Union of India, represented by the Secretary,
Ministry of Railways, Rail Bhavan, New Delhi.

2 The General Manager,Southern Railway,
Chennai.

3 The Chief Personnel Officer,
Southern Railway,Chennai.

4 The Divisional Railway Manager,
Southern Railway,Trivandrum Division
Trivandrum.

5 V.Bharathan, Chief Commercial Clerk Gr.I
(Rs.6500-10500) Southern Railway
Kalamassery.

6 S.Murali, Chief Booking Clerk Gr.II (5500-9000)
Southern Railway, Ernakulam Jn.Kochi.

7 V.S.Shajikumar, Head Commercial Clerk Gr.III
(5000-8000) Southern Railway,Changanacherry.

8 G.S.Gireshkumar, Senior Commercial Clerk
(4000-7000) Southern Railway, Nellayi R.Station
Trichur District. ...Respondents

(By Advocate Mrs. Sumati Dandapani with
Ms.P.K.Nandini for R.1to 4)

O.A.808/2004:

1 T.V.Vidhyadharan,
Retd. Chief Goods Supervisor Gr.I
Southern Railway,Thrissur Goods.
Thrissur.

2 K.Damodara Pisharady
Retd.Dy.SMCR/C/ER (Chief Commercial Clerk Gr.I)
S.Rly,Ernakulam Jn.

3 N.T.Antony
Retd. Chief Parcel Supervisor Gr.I
S.Rly, Alwaye Parcel.

4 C.Gopalakrishna Pillai
Retd. Chief Commercial Clerk Gr.I
Southern Railway, Kayamkulam.

5 P.N.Sudhakaran
Retd.Chief Booking Supervisor Gr.I
Southern Railway, Trivandrum Central.

6 P.D.Sukumarn
Retd. Chief Commercial Clerk Gr.III
S.Railway, Chengannur.

7 Paulose C.Varghese
Retd. Chief Commercial Clerk III
Southern Railway, Irimpanam Yard,
Fact Siding.

8 P.C.John
Retd. Chief Booking Supervisor Gr.I
Southern Railway, Alwaye.

9 G.Sudhakara Panicker
Retd. Senior Commercial Clerk
Booking Office,S.Rly.Trivandrum Central.

10 M.Somasundaran Pillai
Retd.Chief Booking Supervisor Gr.I
residing at Rohini Bhavan,PuliamthPO
Kilimanoor.

11 K.Ramachandran Unnithan
retd. Chef Commercial Clerk Gr.I
Chengannur Railway Station,
S.Rly. Chengannur.

12 M.E.Mathunny
Retd.Chief Commercial Clerk Gr.I
Trivandrum Parcel Office, S.Rly.Trivandrum.

13 V.Subash
Retd.Senior Commercial Clerk Booking Office
Southern Railway,Quilon.

14 P.K.Sasidharan
Retd. Commercial Clerk Gr.II,
Cochin HTS Goods, Southern Railway,
Kochi.

15 R.Sadasivan Nair,
Retd.Chief Commercial Clerk Gr.II
Southern Railway,Trivandrum Central.....Applicants

(By Advocate Mr. K.A.Abraham)

V.

1 Union of India, represented by the
Secretary, Ministry of Railways,
Rail Bhavan, New Delhi.

2 The General Manager,
Southern Railway, Chennai.

3 The Chief Personnel Officer
Southern Railway,Chennai.

4 The Divisional Railway Manager,
Southern Railway,Trivandrum
Division, Trivandrum. .....Respondents

(By Advocate Mr.K.M.Anthru)

O.A 857/2004:

1 G.Ramachandran Nair,
Travelling Ticket Inspector,
Southern Railway, Kottayam.

2 S.Anantha Narayanan,
Chief Travelling Ticket Inspector,
Gr.I, General Section,
Southern Railway,Quilon Jn.

3 Martin John Poothullil
Travelling Ticket Inspector,
Southern Railway, Thrissur.

4 Bose K.Varghese
Chief Travelling Ticket Inspector Gr.I
General Section, Southern Railway
Kottayam.

5 K.R.Shibu
Travelling Ticket Inspector Gr.I
Chief Travelling Ticket Inspector Office
Southern Railway, Ernakulam.

6 M.V.Rajendran
Head Ticket Collector,
Southern Railway, Thrissur.

7 S.Jayakumar
Chief Travelling Ticket Inspector Gr.II
Southern Railway, Trivandrum Central.

8 Jayachandran Nair P
Travelling Ticket Inspector,
Southern Railway, Trivandrum Central.

9 K.S.Sukumaran
Travelling Ticket Inspector,
Southern Railway, Ernakulam.

10 Mathew Jacob,
Head Ticket Collector,
Southern Railway, Chengannur.

11 V.Mohanan,
Travelling Ticket Inspector,
Southern Railway, Ernakulam Junction.

12 R.S.Mani,
Travelling Ticket Inspector,
Southern Railway, Trivandrum.

13 Joseph Baker Fenn
Travelling Ticket Examiner,
Ernakulam.

14 V.Rajendran
Travelling Ticket Inspector,
Southern Railway, Ernakulam.

15 P.V.Varghese
Travelling Ticket Inspector,
Southern Railway, Ernakulam Junction.

16 K.M.Geevarghese,
Chief Travelling Ticket Inspector,
Southern Railway, Ernakulam.

17 P.A.Mathai,
Chief Travelling Ticket Inspector,
Southern Railway,
Kottayam.

18 S.Premanad, Chief Travelling Ticket
Inspector, Southern Railway,
Trivandrum.

19 R.Devarajan, Travelling Ticket Inspector
Southern Railway,Ernakulam.

20 C.M.Venukumaran Nair,
Travelling Ticket Inspector,
Southern Railway, Trivandrum.

21 S.B.Anto John,
Chief Travelling Ticket Inspector,
Southern Railway, Trivandrum.

22 S.R.Suresh,
Travelling Ticket Inspector,
Southern Railway, Trivndrum.

23 T.K.Vasu,
Chief Travelling Ticket Inspector,
Southern Railway, Trivandrum Sleeper Dept.

24 Louis Chareleston Carvalho
Travelling Ticket Inspector,
Southern Railway, Trivandrum.

25 K.Sivaramakrishnan,
Chief Travelling Ticket Inspctor,
Southern Railway, Quilon.

26 M.A.Hussan Kunju
Chief Travellin Ticket Inspector,
Southern Railway, Quilon.

27 Laji J Issac, Travelling Ticket Inspector,
Southern Railway,Trivandrum.

28 V.S.Viswanatha Pillai,
Chief Travelling Ticket Inspector,
Southern Railway, Trivandrum.

29 K.G.Unnikrishnan,
Travelling Ticket Inspector,
Southern Railway, Trivandrum.

30 K.Navaneetha Krishnan,
Travelling Ticket Inspector
Southern Railway,
Quilon.

31 T.M. Balakrishna Pillai,
Chief Travelling Ticket Inspector,
Southern Railway,
Quilon.

32 V.Balasubramanian,
Chief Travelling Ticket Inspector,
Southern Railway, Quilon. ..... Applicants

(By Advocate Mr. K.A.Abraham)

V.

1 Union of India, represented by the
Secretary, Ministry of Railways,
Rail Bahvan, New Delhi.

2 The General Manager, Southern Railway,
Chennai.

3 The Chief Personnel Officer,
Southern Railway, Chennai.

4 The Divisional Railway Manager,
Southern Railway, Trivandrum Division,
Trivadnrum.

5 M.J.Joseph, Chief Travelling Ticket Examiner,
Gr.I. Southern Railway, Trivandrum Railway
Station.

6 A.N.Vijayan, Chief Travelling Ticket Examiner,
Gr.I. Southern Railway, Ernakulam Town
Railway Station.

7 P.G.Georgekutty, chief Travelling Ticket Examiner,
Gr.I Southern Railway, Ernakulam Town Railway
Station.

8 K.Shibu, Travelling Ticket Examiner Gr.I
Southern Railway,Quilon Railway Station.

....Respondents

(By Advocate Mr.Sunil Jose (R.1 to4)
Advocate Mr. TCG Swamy (for R.5,6&8)

OA No.10/2005

1. R.Govindan,
Station Master,
Station Master's Office,
Salem Market.

2 J.Mahaboob Ali,
Station Master,
Station Master's Office,
Salem Junction

3 E.S.Subramanian,
Station Master,
Office of the Station Master's Office,
Sankari Durg, Erode.

4 N.Thangaraju,
Station Master,
Station Master's Office,
Salem Junction

5 K.R.Janardhanan
Station Master,
Office of the Station Master,
Tirur.

6 E.J.Joy,
Station Master,
Tirur Railway Station.

7 P.Gangadharan,
Station Master,
Office of the Station Master
Parapanangadi Railway Station.

8 P.Sasidharan
Station Master,
Parapanangadi Railway Station.

9 Joy J Vellara
Station Master,
Elattur Railway Station

10 K.Ramachandran,
Station Master,
Kallayi Railway Station.

11 C.H.Ibrahim,
Station Master
Ullal Railway Station.

12 M.Jayarajan
Station Master Office
Valapattanam Railway Station.

13 N Raghunatha Prabhu,
Station Master's offce,
Nileshwar Railway Station,

14 M.K.Shylendran
Station Master,
Kasaragod Railway Station.

15 C.T.Rajeev,
Station Master,
Station Master's Office,
Kasaragod Railway Station.

16 N.M.Mohanan,
Station Master,
Kannapuram Railway Station

17 K.V.Genesan,
Station Master,
Kozhikode

18 P.M.Ramakrishnan
Station Master,
Cannanore South Railway Station. ... Applicants

By Advocate Mr.K.A.Abraham

V/s.

1. Union of India represented by
the Secretary,
Ministry of Railways, Rail Bhavan,
New Delhi.

2. The General Manager,
Southern Railway,
Chennai

3. The Chief Personnel Officer,
Southern Railway, Chennai

4. The Divisional Railway Manager,
Southern Railway,
Palakkad Division, Palakkad.

5. R.Jayabalan,
Transportation Inspector,
Railway Divisional Office,
Palakkad.

6. K.P.Divakaran, Station Master,
Tikkoti Railway Station,
Tikkoti.

7 Manojkumar, Station Master,
Baraik, Mettur Dam Railway Station,
Mettur Dam. ... Respondents

By Advocate Mr.K.M.Anthru (R 1 to 4)

OA No.11/2005

1 P.Prabhakaran Nair
retired Station Master Gr.I,
Southern Railway, Alwaye,
residing at Nalini Bhavan,
Poopani Road, Perumbavoor-683 542.

2 Mr.P.Prabhakaran Nair ,
retired Station Master Gr.I,
Southern Railway, Alwaye,
residing at VIII/437,"ROHINI"
Bank Road, Aluva 683 101.

3 G.Vikraman Nair,
retired Station Master Gr.I,
Southern Railway,
Trivandrum Division,
residing at Parekkattu House,
C.T.Road, Perumbavoor 688 528.

4 G.Gopinatha Panicker,
retired Station Master Gr.I,
Southern Railway,
Cherthala Railway Station,
residing at Vrindavanam,
Muhamma P.O.,
Alappuzha District.

5 M.T.Moses,
retired Station Master Gr.I,
Southern Railway,
Ettumanur Railway Station
residing at Muthukulam House,
N.W.Tirunakkara Temple, Kottayam 1. ... Applicants

By Advocate Mr.K.A.Abraham

V/s.

1. Union of India represented by
the Secretary,
Ministry of Railways, Rail Bhavan,
New Delhi.

2. The General Manager,
Southern Railway,
Chennai

3. The Chief Personnel Officer,
Southern Railway, Chennai

4. The Divisional Railway Manager,
Southern Railway,
Trivandrum Division, Trivandrum. ... Respondents.

By Advocate Mr.Sunil Jose

OA No.12/2005

1 T Hamsa
Retired Station Master Gr.III,
Southern Railway,
Kanhangad residing at Thottathil house,
Near Railway Station
P.O.Kanhangad, Kasaragod Dt.

2 C.M.Gopinathan,
Retired Station Master,
Station Master's Office,
Tellichery, residing at Gopa Nivas,
Nirmalagiri P.O.
Pin - 670 701.

3 K.P.Nanu Nair
retired Station Master Grade I,
Southern Rasilway,
Cannanore, residing at Vishakan,
Manal, Post Alavic Kannur-670 008

4 K.V.Gopalakrishnan,
retired Station Master Gr.I,
Station Master'sOffice,
Payyanur, residing at Aswathy,
Puthiyatheru P.O.Chirakkal,
Kannur.

5 N.K.Ummer,
retired Station Master,
Palakkad residing at Rose Villa,
Kulakkadavu P.O.,
Kuttipuram. ... Applicants

By Advocate Mr.K.A.Abraham

V/s.

1. Union of India represented by
the Secretary,
Ministry of Railways, Rail Bhavan,
New Delhi.

2. The General Manager,
Southern Railway,
Chennai

3. The Chief Personnel Officer,
Southern Railway, Chennai

4. The Divisional Railway Manager,
Southern Railway,
Trivandrum Division, Trivandrum. ... Respondents.

By Advocate Mrs.Sumathi Dandapani (Sr) with
Ms.P.K.Nandini

OA No.21/2005

1 A.D.Alexander
Station Master Grade I,
Southern Railway, Angamali.

2 Thomas Varghese
Deputy Chief Yard Master Gr.I,
Southern Railway,
Cochin Railway Yard,
Willington Island, Kochi. ... Applicants

By Advocate Mr.K.A.Abraham

V/s.

1. Union of India represented by
the Secretary,
Ministry of Railways, Rail Bhavan,
New Delhi.

2. The General Manager,
Southern Railway,
Chennai

3. The Chief Personnel Officer,
Southern Railway, Chennai

4. The Divisional Railway Manager,
Southern Railway,
Trivandrum Division, Trivandrum.

5 V.K.Ramachandran, Station Master Gr.I,
Southern Railway, Ettumanur

6 K.Mohanan, Station Master Gr.I,
Southern Railway, Alleppey. ... Respondents

By Advocate Mr.Sunil Jose (R 1 to 4)
Advocate Mr.C.S.Manilalfor R.5&6)

OA No.26/2005

1 K.V.George
Chief Booking Clerk, Gr.I,
Southern Railway, Shoranur Jn,
Palghat Division.

2 P.T.Joseph,
Chief Parcel Clerk Gr.II,
Southern Railway, Cannanore.

3 K.Vijaya Kumar Alva,
Head Booking Clerk Gr.III,
Southern Railway, Palghat Division.

4 T.K.Somasundaran
Heard Parcel Clerk Gr.III,
Southern Railway, Mangalore,
Palghat Division.

5 Sreenivasan B.M.,
Head Goods Clerk Gr.III,
Mangalore, Southern Railway,
Palghat Division.

6 C.Gopi Mohan,
Head Goods Clerk Gr.I,
Southern Railway, Palghat.

7 Velarian D'souza,
Head Booking Clerk Gr.III,
Southern Railway, Mangalore Division,

8 H.Neelakanda Pillai
Head Parcel Clerk, Southern Railway,
Palakkad Division,

9 O.Nabeesa,
Chief Commercial Clerk,
Southern Railway,
Parappanangadi.

10 P.Sreekumar
Chief Parcel Clerk,Southern Railway,
Coimbatore Jn.

11 N.Ravindranathan Nair,
Head Booking Clerk, Southern Railway,
Mangalore

12 P.K.Ramaswamy,
Head Booking Clerk,
Southern Railway, Mangalore.

13 Vasudevan Vilavil,
Senior Commercial Clerk,
(Sr.Booking Clerk),
Kuttipuram Railway Station,
Southern Railway,
Kuttipuram.

14 Kanakalatha U
Head Booking Clerk,
Kuttipuram Railway Station,
Southern Railway, Kuttipuram.

15 T.Ambujakshan,
Chief Parcel Clerk, Southern Railway,
Tirur Railway Station.

16 M.K.Aravindakshan
Chief Commercial Clerk,
Tirur Railway Station,
Southern Railway, P.O.Tirur.

17 K.R.Ramkumar,
Head Commercial Clerk,
Southern Railway, Tirur.

18 Purushothaman K,
Head Commercial Clerk,
Southern Railway, Tirur Station. ... Applicants

By Advocate Mr.K.A.Abraham

V/s.

1. Union of India represented by
the Secretary,
Ministry of Railways, Rail Bhavan,
New Delhi.

2. The General Manager,
Southern Railway,
Chennai

3. The Chief Personnel Officer,
Southern Railway, Chennai

4. The Divisional Railway Manager,
Southern Railway,
Palakkad Division, Palakkad.

5 E.V.Raghavan, Chief Parcel Supervisor,
Southern Railway,
Tellichery Railway Station.

6 Somasundaran A.P.
Chief Parcel Clerk, Southern Railway,
West Hill Railway Station.

7 Gopi K.E.,
Head Commercial Clerk,
Southern Railway, Coimbatore Jn
Railway Station.

8 Maheswaran A.R.
Senior Commercial Clerk,
Southern Railway, '
Kulitalai Railway Station. ... Respondents

By Advocates Mr.K.M.Anthru (R 1-4)
Mr.C.S.Manilal (R 5&6)

OA No.34/2005

1 L.Soma Suseelan
retired Chief Commercial Clerk,
Southern Railway,
Trivandrum Central
residing at Dreams, Sastri Nagar South,
Karamana P.O.,
T.C.20/831/1, Trivandrum - 695 002.

2 K.Seetha Bai,
retired Chief Commercial Clerk,
Trivandrum Parcel Office,
Southern Railway, Trivandrum
residing at
Sanjeevani, Durga Nagar,
Poomalliyoorkonam, Peroorkada P.O.,
Trivandrum.

3 T.C.Abraham,
retired Parcel Supervisor Gr.II,
Parcel Office, Southern Railway,
Kochuveli, residing at
T.C.10/540, Abbayanagar-44
Perukada P.O,
Trivandrum-5. ... Applicants

By Advocate Mr.K.A.Abraham

V/s.

1. Union of India represented by
the Secretary,
Ministry of Railways, Rail Bhavan,
New Delhi.

2. The General Manager,
Southern Railway,
Chennai

3. The Chief Personnel Officer,
Southern Railway, Chennai

4. The Divisional Railway Manager,
Southern Railway,
Trivandrum Division, Trivandrum. ... Respondents.

By Advocate Mrs.Sumathi Dandapani (Sr) with
Ms.P.K.Nandini

OA No.96/2005

1 V.Rajendran,
Chief Traveling Ticket Inspector,
CTTI/Office, AFS Southern Railway,
Palakkad

2 T.S.Varada Rajan,
Chief Traveling Ticket Inspector,
CTTI/Office, AFS Southern Railway,
Palakkad ... Applicants

By Advocate Mr.K.A.Abraham

V/s.

1. Union of India represented by
the Secretary,
Ministry of Railways, Rail Bhavan,
New Delhi.

2. The General Manager,
Southern Railway,
Chennai

3. The Chief Personnel Officer,
Southern Railway, Chennai

4. The Divisional Railway Manager,
Southern Railway,
Palakkad Division, Palakkad.

5 G.Ganesan, CTTI Grade I, Southern Railway,
Palakkad.

6 Stephen Mani, CTTI Grade II,
Southern Railway, Cannanore.

7 Sathyaseelan, CTTI Gr.III,
Southern Railway, Erode.

8 B.D.Dhanam, TTE, Southern Railway,
Erode.

... Respondents

By Advocate Mrs.Sumathi Dandapani (Sr) with
Ms.P.K.Nandini

OA No.97/2005

1 K.K.Lakshmanan,
retired Chief Traveling Ticket Inspector,
CTTI/Office/1/General, Southern Railway,
Cannanore residing at
Anurag, Near Railway Station,
Dharmadam P.O.,
Tellichery, Kannur District.

2 V.V.Gopinathan Nambiar,
retired Chief Traveling Ticket Inspector,
CTTI/Office/1/General, Southern Railway,
Cannanore residing at
Shreyas, near Elayavoor Temple,
P.O.Mundayad, Cannanore - 670 597.

3. P.Sekharan,
retired Chief Traveling Ticket Inspector,
CTTI/Office/1/General, Southern Railway,
Palakkad. Residing at
Shreyas, Choradam P.O.,
Eranholi-670 107.

4 V.K.Achuthan, Chief Travelling Ticket Inspector,
O/o CTTI/Office/1/General, Southern Railway,
Cannanore residing at
"Parvathi", Palottupalli,
P.O.Mattanur, Kannur District.

5 P.M.Balan,, Chief Travelling Ticket Inspector,
O/o CTTI/Office/1/General, Southern Railway,
Calicut, residing at No.2-/1247 'Nirmalliyam"
Near Kirthi Theatre, Badagara 673 101.

6 A.Govindan, Chief Travelling Ticket Inspector,
O/o CTTI/Office/1/General, Southern Railway,
Cannanore residing at
Prasadam, Near Parakadavu
P.O.Anchupeedika, Cannanore,
Kerala.

... Applicants

By Advocate Mr.K.A.Abraham

V/s.

1. Union of India represented by
the Secretary,
Ministry of Railways, Rail Bhavan,
New Delhi.

2. The General Manager,
Southern Railway,
Chennai

3. The Chief Personnel Officer,
Southern Railway, Chennai

4. The Divisional Railway Manager,
Southern Railway,
Palakkad Division, Palakkad. ... Respondents

By Advocate Mrs.Sumathi Dandapani (Sr) with
Ms.P.K.Nandini

OA No.114/2005

1 V.Selvaraj,
Station Master Gr.I
Office of the SMR/O/Salem Junction,

2 G.Angappan,
Station Master Gr.I Southern Railway,
Virapandy Road,

3 P.Govindan,
Station Master Gr.III,
SMR/O/Salem Jn.

4 K.Syed Ismail,
Station Master Gr.III,,
Southern Railway, Salem.

5 N.Ravichandran,
Station Master Gr.II,
Station Masters Office,
Tinnappatti,

6 R.Rajamanickam,
Station Master Gr.I,
Office of the Station Master,
Magudenchavadi,

7 A.R.Raman,
Station Master Gr.I,
Station Masters Office, BDY.

8 V.Elumalai
Station Master Gr.II,
Office of the Station Master/SA.

9 M.Balasbramaniam,
Station Master Gr.II,
SMR/O/SA MT

10 A.Ramachandran,
Station Master Gr.III SM R/O/SA

11 A Balachandra Moorthy,
Station Master Gr.II,
Station Masters Office, Karuppur.

12 S.Sivanandham,
Station Master Gr.III,
SRM/O/ED

13 S.Gunasekharan
Station Master Gr.I,
Station Masters Office,
Perundurai.

14 R.Ramakrishnan
Station Master Gr.III,
Station Master's Office,
Magnesite Cabin C,Salem.

15 C.Sundara Raj
Station Master Gr.III,
Station Master's Office,
Karur Jn. ... Applicants

By Advocate Mr.K.A.Abraham

V/s.

1. Union of India represented by
the Secretary,
Ministry of Railways, Rail Bhavan,
New Delhi.

2. The General Manager,
Southern Railway,
Chennai

3. The Chief Personnel Officer,
Southern Railway, Chennai

4. The Divisional Railway Manager,
Southern Railway,
Palakkad Division, Palakkad.

5 R.Jayabalan,
Transportation Inspector,
Railway Divisional Office,
Palakkad.

6 K.P.Divakaran,
Station Master, Tikkoti Railwaystation,
Tikkoti.

7 Manojkumar, Station Master,
Baraik, Mettur Dam RailwayStation,
Mettur Dam.

... Respondents

By Advocate Mr.K.M.Anthru.(forR.1to4)

O.A. 291/2005:

1 K.Damodaran,
retired Chief Parcel Supervisor,
Tirur Railway Station,
Tirur. Residing at
Aiswarya, P.O.Trikkandiyur,
Tirur - 676 101.

2 K.K.Kunhikutty,
retired Head Goods Clerk,
Calicut Goods, Southern Railway,
Calicut residing at
Mulloly house, P.O.Atholy-673 315.

3 K.Raghavan,
retired Parcel Clerk,
Calicut Parcel Office,
Southern Railway, Calicut
residing at Muthuvettu House,
Kaithakkad. P.O.Chenoli,
via Perambra, Kozhikode Dist.

4 K.V.Vasudevan
retired GLC, Southern Railway,
Ferok, residing at
5/308, Karuna P.H.E.D Road,
Eranhipalam, Calicut-673 020.

5 E.M.Selvaraj, retired
Chief Booking Supervisor,
Southern Railway, Calicut
residing at Shalom, Parayanchari,
Kuthiravattam, Calicut-673 016.

... Applicants

By Advocate Mr.K.A.Abraham

V/s.

1. Union of India represented by
the Secretary,
Ministry of Railways, Rail Bhavan,
New Delhi.

2. The General Manager,
Southern Railway,
Chennai

3. The Chief Personnel Officer,
Southern Railway, Chennai

4. The Divisional Railway Manager,
Southern Railway,
Palakkad Division, Palakkad. ... Respondents

By Advocate Mr.Sunil Jose.

OA No.292/2005

1 K.Krishnan Nair,
retired Chief Commercial Clerk,
Chirakinkezh, Trivandrum residing at
Devika T/C No.18/0857, East Pattom,
Trivandrum-695 004.

2 K.C.Kuriakose,
Retired Chief Commercial Clerk,
Aluva residing at
Kallayiparambil House, Nellikayil P.O,
Kothamangalam. ... Applicants

By Advocate Mr.K.A.Abraham

V/s.

1. Union of India represented by
the Secretary,
Ministry of Railways, Rail Bhavan,
New Delhi.

2. The General Manager,
Southern Railway,
Chennai

3. The Chief Personnel Officer,
Southern Railway, Chennai

4. The Divisional Railway Manager,
Southern Railway,
Trivandrum Division, Trivandrum. ... Respondents.

By Advocate Mr.K.M.Anthru

OA No. 329/2005

1 K.J.Baby,
Senior Commercial Clerk,
Southern Railway, Aluva.

2 P.S.James,
Senior Commercial Clerk,
Booking Office, Southern Railway,
Alwaye.

3 T.K.Sasidharan Kartha,
Chief Commercial Clerk Gr.II,
Southern Railway, Parcel Office,
Ernakulam. ... Applicants

By Advocate Mr.K.A.Abraham.

V/s.

1. Union of India represented by
the Secretary,
Ministry of Railways, Rail Bhavan,
New Delhi.

2. The General Manager,
Southern Railway,
Chennai

3. The Chief Personnel Officer,
Southern Railway, Chennai

4. The Divisional Railway Manager,
Southern Railway,
Trivandrum Division, Trivandrum.

5 V.Bharathan, Chief Commercial Clerk Gr.I,
Southern Railway,
Kalamassery Railway Station,
Kalamassery.

6 S.Murali, Chief Booking Clerk Gr.II,
Southern Railway, Ernakulam Jn,
Kochi.

7 V.S.Shajikumar, Head Commercial Clerk Gr.III,
Southern Railway,
Changanacheri Railway Station

8 G.S.Gireshkumar,
Senior Commercial Clerk,
Southern Railway,
Nellayi Railway Station,
Trichur Dist. ... Respondents.

By Advocate Mrs.Sumathi Dandapani (Sr) with
Ms.P.K.Nandini **for R.1 to 4.**

<u>OA No.381/2005</u>

1 T.M.Philipose,
retired Station Master Gr.I,
Kazhakuttom, Southern Railway,
Trivandrum Division,
residing at Thengumcheril,
Kilikolloor P.O.,
Kollam District.

2 A.N.Viswambaran,
retired Station Master Gr.II,
Cochin Harbour Terminus,
Southern Railway,
Trivandrum Division, residing at
Annamkulangara house,
Palluruty P.O. Kochi-06. ... Applicants

By Advocate Mr.K.A.Abraham

V/s.

1. Union of India represented by
the Secretary,
Ministry of Railways, Rail Bhavan,
New Delhi.

2. The General Manager,
Southern Railway,
Chennai

3. The Chief Personnel Officer,
Southern Railway, Chennai

4. The Divisional Railway Manager,
Southern Railway,
Trivandrum Division, Trivandrum. ... Respondents

By Advocate Mr.Thomas Mathew Nellimoottil

OA No.384/2005

Kasi Viswanthan,
Retired Head Commercial Clerk Gr.II,
Southern Railway, Salem Jn, residing at
New Door No.52, Kuppusamy Naickar Thottam,
Bodinaikan Patti Post,
Salem 636 005. ... Applicant

By Advocate Mr.K.A.Abraham.

V/s.

1. Union of India represented by
the Secretary,
Ministry of Railways, Rail Bhavan,
New Delhi.

2. The General Manager,
Southern Railway,
Chennai
3. The Chief Personnel Officer,
Southern Railway, Chennai

4. The Divisional Railway Manager,
Southern Railway,
Palakkad Division, Palakkad. ... Respondents

By Advocate Mr.Sunil Jose

OA No.570/2005

P.P.Balan Nambiar,
Retired Traffic Inspector,
Southern Railway, Cannanore
Residing at Sree ragi,
Palakulangara, Taliparambu,
Kannur District. ... Applicant

By Advocate Mr.K.A.Abraham

V/s.

1. Union of India represented by
the Secretary,
Ministry of Railways, Rail Bhavan,
New Delhi.

2. The General Manager,
Southern Railway,
Chennai

3. The Chief Personnel Officer,
Southern Railway, Chennai

4. The Divisional Railway Manager,
Southern Railway,
Palakkad Division, Palakkad. ... Respondents

By Advocate Mr.Sunil Jose.

OA No.771/2005

A.Venugopal
retired Chief Traveling Ticket Inspector Gr.II,
Salem Jn residing at
New 264/160, Angalamman
Kevil Street, Sivadasapuram P.O.
Salem 636307. ... Applicant

By Advocate Mr. K.A.Abraham

v/s

1. Union of India represented by
the Secretary,
Ministry of Railways, Rail Bhavan,
New Delhi.

2. The General Manager,
Southern Railway,
Chennai

3. The Chief Personnel Officer,
Southern Railway, Chennai

4. The Divisional Railway Manager,
Southern Railway,
Palakkad Division, Palakkad. ... Respondents

By Advocate Mr.K.M.Anthru

OA No.777/2005

V.Samuel,
retired Travelling Ticket Inspector
Southern Railway, Kollam, residing at
Malayil Thekkethil, Mallimel.P.O.,
Mavelikara 690 570. ... Applicant

By Advocate Mr.K.A.Abraham

V/s.

1. Union of India represented by
the Secretary,
Ministry of Railways, Rail Bhavan,
New Delhi.

2. The General Manager,
Southern Railway,
Chennai

3. The Chief Personnel Officer,
Southern Railway, Chennai

4. The Divisional Railway Manager,
Southern Railway,
Trivandrum Division, Trivandrum.

By Advocate Mr.K.M.Anthru

OA No.890/2005

Natarajan V
retired Travelling Ticket Inspector,
Salem Jn, residing at Flat No.7,
Door No.164, Sundarnagar,
Mallamuppan Patti Salem 636 002. ... Applicant

By Advocate Mr.K.A.Abraham

V/s.

1. Union of India represented by
the Secretary,
Ministry of Railways, Rail Bhavan,
New Delhi.

2. The General Manager,
Southern Railway,
Chennai

3. The Chief Personnel Officer,
Southern Railway, Chennai

4. The Divisional Railway Manager,
Southern Railway,
Palakkad Division, Palakkad. ... Respondents

By Advocate Mr.Sunil Jose

OA No.892/2005

1 K.R.Murali
Catering Supervisor Gr.II,
Vegetarian Refreshment Room,
Southern Railway Ernakulam Jn.

2 C.J.Joby
Catering Supervisor Gr.I,
VLRR/Ernakulam North Railway Station,
residing at Chittilappilly house,
Pazhamuck Road, P.O.Mundur,
Thrissur District.

3 A.M.Pradeep,
Catering Supervisor Gr.I,
Parasuram Express, Trivandrum,

4 S.P.Karuppiah,
Catering Supervisor Gr.II,
Trivandrum Veraval Express Batch No.11,
residing at No.2,
Thilagar Street, Pollachi Coimbatore District,
Tamil Nadu.

5 D.Jayaprakash,
Catering Supervisor Gr.I,
Trivandrum Veraval Express Batch No.11,
residing at 2/3, 2/11-6, Thiruvalluvar Nagar,
Kesava Thirupapuram,
Vetturnimadam, Nagarcoil K.K.District,
Tamil Nadu.

6. S.Rajmohan,
Catering Superivor Gr.II,
Parasuram Express Pantry Car
C/o.Chief Catering Inspector,
Trivandrum Central.

7 K.Ramnath, Catering Supervisor Gr.II,
Kerala Express Batch No.XI,
C/o.Chief Catering Inspector Base Depot/
Trivandrum

8 P.A.Sathar
Catering Supervisor Gr.I,
Trivandrum Veraval Express Pantry Car,
Batch No.1,

9 Y.Sarath Kumar,
Catering Supervisor Gr.II,
Pantry Car of Kerala Express.

10 N.Krishnankutty,
Catering Supervisor Gr.II,
Pantry Car of Parasuram Express ... Applicants

By Advocate Mr.K.A.Abraham.

V/s.

1 Union of India represented by
The Secretary, Ministry of Railways,
Rail Bhavan, New Delhi.

2 The General Manager,
Southern Railway, Trivandrum.

3 The Chief Personnel Officer,
Southern Railway, Madras.

4 The Senior Divisional Personnel Officer,
Southern Railway, Trivandrum.

5 N.Ravindranath, Catering Inspector Gr.II,
Grant Trunk Express, Chennai-3.

6 D.Raghupathy, Catering Supervisor Gr.I,
Kerala Express, C/o Base Depot,
Southern Railway, Trivandrum.

7 K.M.Prabhakaran, Catering Inspector Gr.I,
Southern Railway, Trivandrum ... Respondents

By Advocate Mr.K.M.Anthru (R 1 to 4)

<u>OA No.50/2006.</u>

R.Sreenivasan,
Retired Chief Goods Clerk Gr.II,
Goods Office, Southern Railway,
Cannanore, Palakkad Division,
residing at "Sreyas, Puravur
Kanhirode P.O.Kannur. ... Applicant

By Advocate Mr.K.A.Abraham

V/s.

5 K.Perumal, Shunting Master Gr.II
Southern Railway, Salem Jn,Salem.

6 A.Venkatachalam, Shunting Master
Gr.I, Southern Railway,
Karuppur Railway Station, Karuppur.

7 K.Kannan, Shunting Master Gr.I,
Southern Railway, Calicut Railway Station,
Calicut.

8 K.Murugan, Shunting Master Gr.II,
Southern Railway,
Mangalore Railway Station. Mangalore.

9 A.Chaniya Naik, Shunting Master Gr.II,
Southern Railway,
Mangalore Railway Station.
Mangalore.

10 A.Elangovan, Pointsman "A",
Southern Railway, Bommidi Railway Station,
Bommidi.

11 L.Murugesan, Sr.Gate Keeper,
Southern Railway,
Muttarasanallur Railway Station,
Muttarasanallur

12 M.Maniyan Pointsman "A"
Southern Railway,
Panamburu Railway Station,
Panamburu.

13 P.Krishnamurthy, Pointsman "A",
Southern Railway,
Panamburu Railway Station,
Panamburu.

14 K.Easwaran,
Cabinman I, Southern Railway,
Pasur Railway Station,
Pasur. ... Respondents

By Advocate Mr.K.M.Anthru (R 1-4)

These applications having been finally heard jointly on 9.2.2007 the Tribunal on 1.5.2007 delivered the following:

1. Union of India represented by
the Secretary,
Ministry of Railways, Rail Bhavan,
New Delhi.

2. The General Manager,
Southern Railway,
Chennai

3. The Chief Personnel Officer,
Southern Railway, Chennai

4. The Divisional Railway Manager,
Southern Railway,
Palakkad Division, Palakkad. ... Respondents

By Advocate Mr.K.M.Antrhu

OA No.52/2006.

1 L.Thangaraj
Pointsman "A", Southern Railway,
Salem Market,

2 P.Govindaraj, Pointsman "A'
Southern Railway, Salem Market,

3 P.Ramalingam, Senior Traffic Porter,
Southern Railway, Salem Jn.

4 D.Nagendran, Traffic Porter,
Southern Railway, Salem Market.

5 R.Murugan, Traffic Porter,
Southern Railway, Salem Jn. ... Applicants

By Advocate Mr.K.A.Abraham

V/s.

1. Union of India represented by
the Secretary,
Ministry of Railways, Rail Bhavan,
New Delhi.

2. The General Manager,
Southern Railway,
Chennai

3. Divisional Railway Manager,
Southern Railway,
Palakkad Division, Palakkad.

4 The Senior Divisional Personnel Officer,
Southern Railway, Palakkad.

ORDER

HON'BLE MR. GEORGE PARACKEN, JUDICIAL MEMBER

1 The core issue in all these 48 Original Applications is nothing but the dispute regrading application of the principles of reservation settled by the Apex Court through its various judgments from time to time. Majority of O.As (41 Nos.) are filed by the general category employees of the Trivandrum and Palghat Divisions of the Southern Railway belonging to different grades/cadres. Their allegation is that the respondent Railway has given excess promotions to SC/ST category of employees in excess of the quota reserved for them and their contention is that the 85th Amendment to Article 16(4A) of the Constitution w.e.f 17.6.1995 providing the right for consequential seniority to SC/ST category of employees does not include those SC/ST category of employees who have been promoted in excess of their quota on arising vacancies on roster point promotions. Their prayer in all these O.As, therefore, is to review the seniority lists in the grades in different cadres where such excess promotions of the reserved category employees have been made and to promote the general category employees in their respective places from the due dates ie., the dates from which the reserved SC/ST candidates were given the excess promotions with the consequential seniority. In some of the O.As filed by the general category employees, the applicants have contended that the respondent Railways have applied the principle of post based reservation in cases of restructuring of the cadres also resulting in excess reservation and the continuance of such excess promotees from 1984 onwards is illegal as the same is against the law laid down

by the Apex Court. Rest of the O.As are filed by the SC/ST category employees. They have challenged the revision of the seniority list of certain grades/cadres by the respondent Railways whereby they have been relegated to lower positions. They have prayed for the restoration of their respective seniority positions stating that the 85th Amendment of the Constitution has not only protected their promotions but also the consequential seniority already granted to them.

2 It is, therefore, necessary to make an overview of the various relevant judgments/orders and the constitutional provisions/amendments on the issue of reservation in promotion and consequential seniority to the SC/ST category of employees and to re-state the law laid down by the Apex Court before we advert to the facts of the individual O.As.

3 After the 85th Amendment of the Constitution, a number of Writ Petitions/SLPs were filed before the Supreme Court challenging its constitutionality and all of them were decided by the common judgment dated 19.10.2006 in ***M.Nagaraj and others Vs. Union of India and others and other connected cases (2006)8 SCC 212.*** In the opening sentence of the said judgment itself it has been stated that the "width and amplitude of the right to equal opportunity in employment in the context of reservation" was the issue under consideration in those Writ Petitions/SLPs. The contention of the petitioners was that the Constitution (Eighty fifth Amendment) Act, 2001 inserting Article 16(4A) to the Constitution retrospectively from 17.6.1995 providing reservation in promotion with consequential seniority has reversed the dictum of the Supreme

Court in *Union of India Vs. Virpal Singh Chauhan (1995) 6 SCC 684, Ajit Singh Januja V. State of Punjab (Ajit Singh I) (1996) 2 SCC 715, Ajit Singh II V. State of Punjab (1999) 7 SCC 2901, Ajit Singh III V. State o Punjab (2000) 1 SCC 430, Indira Sawhney Vs. Union of India, 1992 Supp.3 SCC 217 and M.G.Badapanavar V. State of Karnataka (2001) 2 SCC 666.*

4 After a detailed analysis of the various judgments and the Constitutional Amendments, the Apex Court in Nagaraj's case (supra) held that the 77th Constitution Amendment Act, 1995 and the Constitution 85th Amendment Act, 2001 which brought in clause 4-A of the Article 16 of the Constitution of India, have sought to change the law laid down in the cases of Virpal Singh Chauhan, Ajit Singh-I, Ajit Singh-II and Indra Sawhney. In para 102 of the said judgment the Apex Court stated as under:

> ".....Under Article 141 of the Constitution, the pronouncement of this Court is the law of the land. The judgments of this Court in Virpal Singh, Ajit Singh-I, Ajit Singh-II and Indra Sawhney were judgments delivered by this Court which enunciated the law of the land. It is that law which is sought to be changed by the impugned constitutional amendments. The impugned constitutional amendments are enabling in nature. They leave it to the States to provide for reservation. It is well settled that Parliament while enacting a law does not provide content to the "right". The content is provided by the judgments of the Supreme Court. If the appropriate Government enacts a law providing for reservation without keeping in mind the parameters in Article 16(4) and Article 335 then this Court will certainly set aside and strike down such legislation. Applying the "width test", we do not find obliteration of any of the constitutional limitations. Applying the test of "identity, we do not find any alteration in the existing structure of the equality code. As stated above, none of the axioms like secularism, federalism, etc. which are overreaching principles have been violated by the impugned constitutional amendments. Equality has

> two facets - "formal equality" and "proportional equality". Proportional equality is equality "in fact" whereas formal equality "in law". Formal equality exists in the rule of law. In the case of proportional equality the State is expected to take affirmative steps in favour of disadvantaged sections of the society within the framework of liberal democracy. Egalitarian equality is proportional equality."

However, the Apex Court held in clear terms that the aforesaid amendments have no way obliterated the constitutional requirement like the concept of post based roster with inbuilt concept of replacement as held in R.K.Sabharwal". The concluding para 121 of the judgment reads as under:

> "121 The impugned constitutional amendments by which Articles 16(4-A) and 16(4-B) have been inserted flow from Article 16(4). They do not alter the stricture of Article 16(4). They retain the controlling factors or the compelling reasons, namely, backwardness and inadequacy of representation which enables the States to provide for reservation keeping in mind the overall efficiency of the State Administration under Article 335. Those impugned amendments are confined only to S.Cs and S.Ts. They do not obliterate any of the constitutional requirements, namely, ceiling limit of 50% (quantitative limitation), the concept of creamy layer (qualitative exclusion) the sub-classification between OBCs on one hand and S.Cs and S.Ts on the other hand as held in Indra Sawhney, the concept of post-based roster with inbuilt concept of replacement as held in R.K.Sabharwal."

5 After the judgment in Nagaraj's case (supra) the learned advocates who filed the present O.As have desired to club all of them together for hearing as they have agreed that these O.As can be disposed of by a common order as the core issue in all these O.As being the same. Accordingly, we have extensively heard learned Advocate Shri K.A.Abraham, the counsel in the maximum number of cases in this group on behalf of the general category employees and learned Advocates Shri T.C.Govindaswamy and Shri C.S.Manilal

counsels for the Applicants in few other cases representing the Scheduled Caste category of employees. We have also heard Advocates Mr.Santhoshkumar, Mr.M.P.Varkey, Mr.Chandramohan Das, and Mr.P.V Mohanan on behalf of some of the other Applicants, Smt.Sumati Dandapani, Senior Advocate along with Ms. P.K.Nandini, Advocate and assisted by Ms. Suvidha, Advocate led the arguments on behalf of the Railways administration. Mr.Thomas Mathew Nellimootil, Mr. K.M.Anthru and Mr.Sunil Jose also have appeared and argued on behalf of the Railways.

6 Shri Abraham's submission on behalf of the general category employees in a nut shell was that the 85th amendment to Article 16(4-A) of the Constitution with retrospective effect from 17.6.95 providing the right of consequential seniority, will not protect the excess promotions given to SC/ST candidates who were promoted against vacancies arisen on roster points in excess of their quota and therefore, the respondent Railways are required to review and re-adjust the seniority in all the grades in different cadres of the Railways and to promote the general category candidates from the respective effective dates from which the reserved SC/ST candidates were given the excess promotions and consequential seniority. His contention was that the SC/ST employees who were promoted on roster points in excess of their quota are not entitled for protection of seniority and all those excess promotees could only be treated as adhoc promotees without any right to hold the seniority. He submitted that the 85th amendment only protected the SC/ST candidates promoted after 17.6.95 to retain the consequential seniority in the promoted grade but does not protect

any excess promotions. He reminded that the Clause (1) of Article 16 ensures equality of opportunity in all matters relating to appointment in any post under the State and clause (4) thereof is an exception to it which confers powers on the State to make reservation in the matter of appointment in favour of the S.Cs, S.Ts and OBCs classes. However, the aforesaid clause (4) of Article 16 does not provide any power on the State to appoint or promote the reserved candidates beyond the quota fixed for them and the excess promotions made from those reserved categories shall not be conferred with any right including seniority in the promoted cadre.

7 Sr. Advocate Smt.Sumati Dandapani, Advocate Shri K.M.Anthru and others who represented the cause of respondent Railways on the other hand, argued that all the O.As filed by the general category employees are barred by limitation. On merits, they submitted that in view of the judgment of the Apex Court in R.K.Sabhrwal's case decided on 10.2.1995, the seniority of SC/ST employees cannot be reviewed till that date. The 85th Amendment of the Constitution which came into force w.e.f. 17.6.1995 has further protected the promotion and seniority of SC/ST employees from that date. For the period between 10.2.95 and 17.6.1996, the Railway Board has issued letter dated 8.3.2002 to protect those SC/ST category employees promoted during the said period. They have also argued that from the judgment of the Apex Court in Nagaraj case (supra), it has become clear that the effects of the judgments in Virpal Singh Chauhan and Ajit Singh II have been negated by the 85th Amendment of the Constitution which came into force retrospectively from 17.6.1995 and, therefore, there is no question

of any change in seniority of SC/ST Railway employees already fixed. The views of the counsels representing SC/ST category of employees were also not different. They have also challenged the revision of seniority which adversely affected the SC/ST employees in separate O.As filed by them.

8 We may start with the case of ***J.C.Mallick and others Vs. Union of India and others 1978(1) SLR 844, wherein*** the Hon'ble High Court of Allahabad rejected the contentions of the respondent Railways that percentage of reservation relates to vacancy and not to the posts and allowed the petition on 9.12.77 after quashing the selection and promotions of the respondents Scheduled Castes who have been selected in excess of 15% quota fixed or SC candidates. The Railway Administration carried the aforementioned judgment of the High Court to the Hon'ble Supreme Court in appeal and vide order dated 24.2.84, the Supreme Court made it clear that promotion, if any, made during the pendency of the appeal was to be subject to the result of the appeal. Later on on 24.9.84 the Apex Court clarified the order dated 24.2.84 by directing that the promotions which might have been made thereafter were to be strictly in accordance with the judgment of the High Court of Allahabad and further subject to the result of the appeal. Therefore, the promotions made after 24.2.84 otherwise than in accordance with the judgment of the High Court were to be adjusted against the future vacancies.

9 It was during the pendency of the appeal in J.C.Mallick's case, the Apex Court decided the case of ***Indra Sawhney Vs. Union of India and others (1992) Supp.(3) SCC 217*** on 16.11.1992 wherein it was held that reservation in appointments or posts under Article

16(4) is confined to initial appointments and cannot be extended to reservation in the matter of promotions.

10 Then came the case of ***R.K.Sabharwal and others Vs. State of Punjab and others, (1995) 2 SCC 745*** decided on 10.2.95 wherein the judgment of the Allahabad High Court in JC Mallick's case (supra) was referred to and held that there was no infirmity in it. The Apex Court has also held that the reservation roster is permitted to operate only till the total posts in a cadre are filled and thereafter the vacancies falling in the cadre are to be filled by the same category of persons whose retirement etc. cause the vacancies so that the balance between the reserved category and the general category shall always be maintained. However, the above interpretation given by the Apex Court to the working of the roster and the findings on this point was to be operated prospectively from 10.2.1995. Later, the appeal filed by the Railway administration against the judgment of the Allahabad High Court dated 9.12.77 in JC Malik's case (supra) was also finally dismissed by the Apex Court on 26.7.1995***(Union of India and others V.s M/s JC Malik and others, SLJ 1996(1) 114.***.

11 Meanwhile, in order to negate the effects of the judgment in Indra Sawhney's case (supra), the Parliament by way of the 77th Amendment of the Constitution introduced clause 4-A in Article 16 of the Constitution w.e.f. 17.6.1995. It reads as under:

> "(4-A) Nothing in this article shall prevent the State from making any provision for reservation in matters of promotion to any class or classes of posts in the services under the State in favour of the Scheduled Castes and the Scheduled Tribes which, in the opinion of the State, are not adequately represented in the srvices under the State." (emphasis supplied)

12 The judgment dated 10.10.95 in ***Union of India Vs. Virpal Singh Chauhan and others 1995(6) SCC 684*** came after the 77th Amendment of the Constitution. Following the principle laid down in the case of RK Sabharwal (supra) the Apex Court held that when the representation of Scheduled Castes is already far beyond their quota, no further SC candidates should be considered for the remaining vacancies. They could only be considered along with general candidates but not as members belonging to the reserved category. It was further held in that judgment that a roster point promotee getting benefit of accelerated promotion would not get consequential seniority because such consequential seniority would be constituted additional benefit. Therefore, his seniority was to be governed only by the panel position. The Apex Court also held that *"even if a Scheduled Caste/Scheduled Tribe candidate is promoted earlier by virtue of rule of reservation/roster than his senior general candidate and the senior general candidate is promoted later to the said higher grade, the general candidate regains his seniority over such earlier promoted Scheduled caste/Scheduled Tribe candidate. The earlier promotion of the Scheduled Caste/Scheduled Tribe candidate in such a situation does not confer upon him seniority over the general candidate even though the general candidate is promoted later to that category."*

13 In ***Ajit Singh Januja and others Vs. State of Punjab and others 1996(2) SCC 715***, the Apex Court on 1.3.96 concurred with the view in Virpal Singh Chauhan's judgment and held that the *"seniority between the reserved category candidates and general candidates in the promoted category shall continue to be governed*

by their panel position ie., with reference to their inter-se seniority in the lower grade. The rule of reservation gives accelerated promotion, but it does not give the accelerated "consequential " seniority". Further, it was held that ***"seniority between the reserved category candidates and general candidates in the promoted category shall continue to be governed by their panel position ie., with reference to their inter se seniority in the lower grade."*** In other words, the rule of reservation gives only accelerated promotion, but it does not give the accelerated "consequential seniority".

14 In the case of ***Ajit Singh and others II Vs. State of Punjab and others, 199(7) SCC 209*** decided on 16.9.99, the Apex Court specifically considered the question of seniority to reserved category candidates promoted at roster points. They have also considered the tenability of "catchup" points contended for, by the general category candidates and the meaning of the 'prospective operation" of Sabharwal (supra) and Ajit Singh Januja (supra). The Apex Court held *"that the roster point promotees (reserved category) cannot count their seniority in the promoted category from the date of their continuous officiation in the promoted post - vis-a-vis the general candidates who were senior to them in the lower category and who were later promoted. On the other hand, the senior general candidate at the lower level if he reaches the promotional level later but before the further promotion of the reserved candidate - he will have to be treated as senior, at the promotional level, to the reserved candidate even if the reserved candidate was earlier promoted to that level."* The Apex Court

concluded *"it is axiomatic in service jurisprudence that any promotions made wrongly in excess of any quota are to be treated as ad hoc. This applies to reservation quota as much as it applies to direct recruits and promotee cases. If a court decides that in order only to remove hardship such roster point promotees are not to face reversions, - then it would, in our opinion be, necessary to hold - consistent with our interpretation of Articles 14 and 16(1) - that such promotees cannot plead for grant of any additional benefit of seniority flowing from a wrong application of the roster. In our view, while courts can relieve immediate hardship arising out of a past illegality, courts cannot grant additional benefits like seniority which have no element of immediate hardship. Thus while promotions in excess of roster made before 10.2.1995 are protected, such promotees cannot claim seniority. Seniority in the promotional cadre of such excess roster-point promotees shall have to be reviewed after 10.2.1995 and will count only from the date on which they would have otherwise got normal promotion in any future vacancy arising in a post previously occupied by a reserved candidate. That disposes of the "prospectivity" point in relation to Sabharwal (supra).* As regards "prospectivity" of Ajit Singh -I decided on 1.3.96 the Apex Court held that the question is in regard to the seniority of reserved category candidates at the promotional level where such promotions have taken place before 1.3.96. The reserved candidates who get promoted at two levels by roster points (say) from Level 1 to Level 2 and Level 2 to Level 3 cannot count their seniority at Level 3 as against senior general candidates who reached Level 3 before the reserved candidates moved upto Level

4. The general candidate has to be treated as senior at Level.3". If the reserved candidate is further promoted to Level 4 – without considering the fact that the senior general candidate was also available at Level 3 – then, after 1.3.1996, it becomes necessary to review the promotion of the reserved candidate to Level 4 and reconsider the same (without causing reversion to the reserved candidate who reached Level 4 before 1.3.1996). As and when the senior reserved candidate is later promoted to Level 4, the seniority at Level 4 has also to be refixed on the basis of when the reserved candidate at Level 3 would have got his normal promotion, treating him as junior tot he senior general candidate at Level 3." In other words there shall be a review as on 10.2.1995 to see whether excess promotions of SC/ST candidates have been made before that date. If it is found that there are excess promotees, they will not be reverted but they will not be assigned any seniority in the promoted grade till they get any promotion in any future vacancy by replacing another reserved candidate. If the excess promotee has already reached Level 3 and later the general candidate has also reached that level, if the reserved candidate is promoted to Level 4 without considering the senior general candidate at Level 3, after 1.3.96 such promotion of the reserved candidate to Level 4 has to be reviewed, but he will not be reverted to Level 3. But also at the same time, the reserved candidate will not get higher seniority over the senior general category candidate at Level.3.

15 In the case of ***M.G.Badapanavar and another Vs. State of Karnataka and others 20021(2) SCC 666*** decided on I.12.2000 the Apex Court directed *"that the seniority lists and promotions be*

reviewed as per the directions given above, subject of course to the restriction that those who were promoted before 1.3.1996 on principles contrary to Ajit Singh II (supra) need not be reverted and those who were promoted contrary to Sabharwal (supra) before 10.2.1995 need not be reverted. This limited protection against reversion was given to those reserved candidates who were promoted contrary to the law laid down in the above cases, to avoid hardship." "So far as the general candidates are concerned, their seniority will be restored in accordance with Ajit Singh II and Sabharwal (supra) (as explained in Ajit Singh II) and they will get their promotions accordingly from the effective dates. They will get notional promotions but will not be entitled to any arrears of salary on the promotional posts. However, for the purposes of retiral benefits, their position in the promoted posts from the notional dates – as per this judgment – will be taken into account and retiral benefits will be computed as if they were promoted to the posts and drawn the salary and emoluments of those posts, from the notional dates.

16 Since the concept of "catch-up" rule introduced in Virpal Singh Chauhan and Ajit Singh-I case (supra) and reiterated in Ajit Singh II and M.G.Badapanavar (supra) adversely affected the interests of the Scheduled Castes/Scheduled Tribes in the matter of seniority on promotion to the next higher grade, Clause 4-A of Article 16 was once again amended on 4.1.2002 with retrospective effect from 17.6.1995 by the Constitution 85th Amendment Act, 2001 and the benefit of consequential seniority was given in addition to the accelerated promotion to the roster point promotees. By way of

the said Amendment in Clause 4-A for the words" in the matters of promotion to any class", the words "in matters of promotion, with consequential seniority, to any class" have been substituted. After the said Amendment, Clause 4-A of Article 16 now reads as follows:

> "16.(4-A). Nothing in this article shall prevent the State from making any provision for reservation in matters of promotion, with consequential seniority, to any class or classes of posts in the services under the State in favour of the Scheduled Castes and the Scheduled Tribes which, in the opinion of the State, are not adequately represented in the services under the State."

17 After the 85th Constitutional Amendment Act 2001 which got the assent of the President of India on 4.1.2002 and deemed to have came into force w.e.f 17.6.1995, a number of cases have been decided by this Tribunal, the High Court and the Apex Court itself. In the case of ***James Figarado ,Chief Commercial Clerk (Retd), Southern Railway Vs. Union of India, represented by the Chairman Railway Board and others*** in ***OP 5490/01*** and connected writ petitions decided on 11.2.2002 the Hon'ble High Court of Kerala considered the prayer of the petitioner to recast the seniority in different grades of Commercial Clerks in Palakkad Division, Southern Railway with retrospective effect by implementing the decision of the Supreme Court in Ajit Singh.II (supra) and to refix their seniority and promotion accordingly with consequential benefits. The complaint of the petitioners was that while they were working as Commercial Clerks in the entry grade in the Palakkad Vision, their juniors who belonged to SC/ST communities were promoted erroneously applying 40 point roster superseding their seniority. Following the judgment of the Apex Court in Ajit Singh's case

(surpa), the High Court held that promotions of SC/ST candidates made in excess of the roster before 10.2.95 though protected, such promotees cannot claim seniority. The seniority in the promotional cadre of such roster point promotees have to be reviewed after 10.2.95 and will count only from the date on which they would have otherwise got normal promotion in any future vacancy arising in a post previously occupied by a reserved candidates. The High Court further held that the general candidates though they were not entitled to get salary for the period they had not worked in the promoted post, they were legally entitled to claim notional promotion and the respondents to work out their retirement benefits accordingly. The respondents were therefore, directed to grant the petitioners seniority by applying the principles laid down in Ajit Singh's case and give them retiral benefits revising their retirement benefits accordingly.

18 In the case of ***E.A.Sathyanesan Vs. V.K.Agnihotri and others, .2004(9) SCC 165*** decided on 8.12.2003, the Apex Court considered the question of inter-se seniority of the reserved and general category candidates in the light of the judgment in Sabharwal's case (supra) and Ajit Singh I (supra). The appellant was the original applicant before this Tribunal. He questioned the decision of the Railway Board to invoke the 40 point roster on the basis of the vacancy arising and not on the basis of the cadre strength promotion. The Tribunal had vide order dated 6.9.94, held inter alia (a) that the principle of reservation operates on cadre strength and (b) that seniority vis-a-vis reserved and unreserved categories of employees in the lower category will be reflected in

the promoted category also, notwithstanding the earlier promotion obtained on the basis of reservation. The Tribunal directed the respondents Railways to work out the reliefs applying the above mentioned principles. The Union of India preferred a Special Leave Petition against said order of this Tribunal and by an order dated 30.8.96 the Hon'ble Supreme Court dismissed the said petition stating that those matters were fully covered by the decision in Sabharwal and Ajit Singh I (supra). The appellant thereafter filed a Contempt petition before the Tribunal as its earlier order dated 9.6.94 was not complied with. This Tribunal, however, having regard to the observations made by the Supreme Court in its order dated 30.8.96, observed that as in both the cases of Sabharwal and Ajit Singh, decision was directed to be applied with prospective effect, the appellants were not entitled to any relief and therefore it cannot be held that the respondents have disobeyed its direction and committed contempt. However, the Apex Court found that the said findings of the Tribunal were not in consonance with the earlier judgments in Virpal Singh Chauhan (supra) and Ajit Singh-I (supra) and dismissed the impugned orders of this Tribunal. The Apex Court observed as under:-

> "In view of the aforementioned authoritative pronouncement we have no other option but to hold that the Tribunal committed a manifest error in declining to consider the matter on merits upon the premise that Sabharwal and Ajit Singh-I had been given a prospective operation. The extent to which the said decisions had been directed to operate prospectively, as noticed above, has sufficiently been explained in Ajit Singh -II and reiterated in M.G.Badappanavar."

19 Between the period from judgment of J.C.Mallick on 9.12.1977 by the Allahabad High Court and the Constitution (85th

Amendment) Act, 2001 which received the assent of the President on 4.1.2002, there were many ups and down in law relating to reservation/reservation in promotion. Most significant ones were the 77th and the 85th Constitutional Amendment Acts which have changed the law laid down by the Apex Court in Virpal Singh Chauhan's case and Indra Sawhney's case. But between the said judgment and the Constitutional Amendments, certain other principles laid down by the Apex Court regarding reservation remained totally unchanged. Till J.C.Mallick's case, 15% % & 7 ½% of the vacancies occurring in a year in any cadre were being filled by Scheduled Castes and Scheduled Tribes candidates, even if the cadre was having the full or over representation by the said categories of employees. If that procedure was allowed to continue, the High Court found that the percentage of Scheduled Castes/Scheduled Tribes candidates in a particular cadre would reach such high percentage which would be detrimental to senior and meritorious persons. The High Court, therefore, held that the reservation shall be based on the total posts in a cadre and not the number of vacancies occurring in that cadre. This judgment of the Allahabad High Court was made operative from 24.9.84 by the order of the Apex Court in the Appeal filed by the Union. Hence any promotions of SC/ST employees made in a cadre over and above the prescribed quota of 15% & 7 ½% respectively after 24.9.84 shall be treated as excess promotions. Before the said appeal was finally disposed of on 26.7.1995 itself, the Apex Court considered the same issue in its judgment in R.K.Sabharwal's case pronounced on 10.2.1995 and held that hence forth roster is permitted to operate

till the total posts in cadre are filled up and thereafter the vacancies falling in the cadre are to be filled by the same category of persons so that the balance between the reserved category and the general category shall always be maintained. This order has taken care of the future cases effective from 10.2.1995. As a result, no excess promotion of SC/ST employees could be made from 10.2.1995 and if any such excess promotions were made , they are liable to be set aside and therefore there arises no question of seniority to them in the promotional post. What about the past cases? In many cadres there were already scheduled Castes and Scheduled Tribes employees promoted far above the prescribed quota of 15% and 7 ½% respectively. In Virpal Singh's case decided on 10.10.95, the Apex Court was faced with this poignant situation when it pointed out that in a case of promotion against eleven vacancies, all the thirty three candidates being considered were Scheduled Castes/Scheduled Tribe candidates. The Apex Court held that until those excess promotions were reviewed and redone, the situation could not be rectified. But considering the enormity of the exercise involved, the rule laid down in R.K.Sabharwal was made applicable only prospectively and consequently all such excess promotees were saved from the axe of reversion but not from the seniority assigned to them in the promotional post. It is, therefore, necessary for the respondent Department in the first instance to ascertain whether there were any excess promotions in any cadre as on 10.2.1995 and to identify such promotees. The question of assigning seniority to such excess SC/ST promotees who got promotion before 10.2.1995 was considered in Ajit Singh -II case decided on 16.9.99.

The conclusion of the Apex Court was that such promotees cannot plead for grant of any additional benefit of seniority flowing from a wrong application of roster. The Apex Court very categorically held as under:

> "Thus promotions in excess of roster made before 10.2.1995 are protected, such promotees cannot claim seniority. Seniority in the promotional cadre of such excess roster-point promotees shall have to be reviewed after 10.2.1995 and will count only from the date on which they would have otherwise got normal promotion in any future vacancy arising in a post previously occupied by a reserved candidate."

In Badappanavar, decided on 1.12.2000, the Apex Court again said in clear terms that "the decision in Ajit Singh II is binding on us" and directed the respondents to review the Seniority List and promotions as per the directions in Ajit Singh-II.

20 The cumulative effect and the emerging conclusions in all the aforementioned judgments and the constitutional amendments may be summarized as under:-

(i) The Allahabad High Court in J.C.Mallick's case dated 9.12.1977 held that the percentage of reservation is to be determined on the basis of vacancy and not on posts.

(ii) The Apex Court in the appeal filed by the Railways in J.C.Mallick's case clarified on 24.9.1984 that all promotions made from that date shall be in terms of the High Court judgment. By implication, any promotions made from24.9.1984 contrary to the High Court judgment shall be treated as excess promotions.

(iii) The Apex Court in Indra Sawhney's case on 16.11.1992 held that reservation in appointments or posts under Article 16(4) is confined to initial appointment and cannot be extended to

reservation in the mater of promotion.

(iv) The Apex Court in R.K.Sabharwal's case decided on 10.2.1995 held that the reservation roster is permitted to operate only till the total posts in a cadre are filled and thereafter those vacancies falling vacant are to be filled by the same category of persons.

(v) By inserting Article 16(4A) in the Constitution with effect from 17.6.95, the law enunciated by the Hon'ble Supreme Court in its judgment in Indra Sahney's case was sought to be changed by the Constitution (Seventy Seventh Amendment) Act, 1995. In other words the facility of reservation in promotion enjoyed by the Scheduled Castes and Scheduled Tribes from 1955 to 16.11.92 was restored on 17.6.95.

(vi) The Apex Court in Virpal Singh Chauhan's case decided on 10.10.1995 held that the SC/ST employees promoted earlier by virtue of reservation will not be conferred with seniority in the promoted grade once his senior general category employee is later promoted to the higher grade.

(vii) The Apex Court in Ajit Singh I's case decided on 1.3.96 concurred with in Virpal Singh Chauhan's case and held that the rule of reservation gives only accelerated promotion but not the 'consequential" seniority.

(viii) The combined effect of the law enunciated by the Supreme Court in its judgments in Virpal Singh Chauhan and in Ajit Singh-I was that while rule of reservation gives accelerated promotion, it does not give accelerated seniority, or what may be called, the

consequential seniority and the seniority between reserved category of candidates and general candidates in the promoted category shall continue to be governed by their panel position, ie., with reference to the inter se seniority in the lower grade. This rule laid down by the Apex Court was to be applied only prospectively from the date of judgment in the case of R.K.Sabharwal (supra) on 10.2.95.

(ix) The Apex Court in Ajit Singh II's case decided on 16.9.1999 held that :

> (i) the roster point promotees (reserved category) cannot count their seniority in the promoted grade and the senior general candidate at the lower level, if he reaches the promotional level later but before the further promotion of the reserved candidate, will have to be treated as senior.
>
> (ii) the promotions made in excess of the quota are to be treated as adhoc and they will not be entitled for seniority. Thus, when the promotions made in excess of the prescribed quota before 10.2.1995 are protected, they can claim seniority only from the date a vacancy arising in a post previously held by the reserved candidate. The promotions made in excess of the reservation quota after 10.2.1995 are to be reviewed for this purpose.

(x) The Apex Court in Badapanavar's case decided on 1.12.2000

held that (i) those who were promoted before 1.3.1996 on principles contrary to Ajit Singh II need not be reverted (ii) and those who were promoted contrary to Sabharwal before 10.2.1995 need not be reverted. Para 19 of the said judgment says as under:

> "In fact, some general candidates who have since retired, were indeed entitled to higher promotions, while in service if Ajit Singh II is to apply they would, get substantial benefits which were unjustly denied to them. The decision in Ajit Singh II is binding on us. Following the same, we set aside the judgment of the Tribunal and direct that the seniority lists and promotions be reviewed as per the directions given above, subject of course to the restriction that those who were promoted before 1.3.1996 on principles contrary to Ajit Singh II need not be reverted and those who were promoted contrary to Sabharwal before 10.2.1995 need not be reverted. This limited protection against reversion was given to those reserved candidates who were promoted contrary to the law laid down in the above cases, to avoid hardship."

(xi) By the Constitution (Eighty Fifth Amendment) Act, 2001 passed on 4.1.2002 by further amending Article 16(4A) of the Constitution to provide for consequential seniority in the case of promotion with retrospective effect from 17.6.95 the law enunciated in Virpal Singh Chauhan's case and Ajit Singh-I case was sought to be changed .

(xii) There was a gap between the date of judgment in Indra Sawhney case (supra) on 16.11.92and the enactment of Article 16 (4A) of the Constitution on 17.6.1995 and during this period the facility of reservation in promotion was denied to the Scheduled casts/Scheduled Tribes in service.

(xiii) There was another gap between 10.10.95 ie., the date of

judgment of Virpal Singh Chauhan's case and the effective date of 85th Amendment of the Constitution providing not only reservation in promotion but also the consequential seniority in the promoted post on 17.6.95. During this period between 10.10.95 and 17.6.95, the law laid down by the Apex Court in Virpal Singh Chauhan's case was in full force.

(xiv) The Eighty Fifth Amendment to Article 16(4A) of the Constitution with effect from 17.6.95only protects promotion and consequential seniority of those SC/ST employees who are promoted from within the quota but does not protect the promotion or seniority of any promotions made in excess of their quota.

21 The net result of all the aforementioned judgments and constitutional amendments, are the following:

(a) The appointments/promotions of SC/ST employees in a cadre shall be limited to the prescribed quota of 15% and 7 ½% respectively of the cadre strength. Once the total number of posts in a cadre are filled according to the roster points, vacancies falling in the cadre shall be filled up only by the same category of persons.

(R.K.Sabharwal's case decided on 10.2.1995)

(b) There shall be reservation in promotion if such reservation is necessary on account of the in adequacy of representation of S.Cs/S.Ts (85th Constitutional Amendment and M.Nagaraja's case)

(c) The reserved category of SC/ST employees on accelerated promotion from within the quota shall be entitled to have the consequential seniority in the promoted post.

(d) While the promotions in excess of roster made before 10.2.1995 are protected such promotees cannot claim seniority. The seniority

in the promotional cadre of such excess roster point promotees have to be reviewed after 10.2.1995 and will count only from the date on which they would have otherwise got normal promotion in any future vacancies arising in a post previously occupied by a reserved category candidate.

(e) The excess promotions of SC/ST employees made after 10.2.1995 will have neither the protection from reversion nor for seniority.

(f) The general category candidates who have been deprived of their promotion will get notional promotion, but will not be entitled to any arrears of salary on the promotional posts. However, for the purposes of retiral benefits, their position in the promoted posts from the notional dates will be taken into account and retiral benefits will be computed as if they were promoted to the posts and drawn the salary and emoluments of those posts, from the notional dates.

(xv)The question whether reservation for SC/ST employees would be applicable in restructuring of cadres for strengthening and rationalizing the staff pattern of the Railways has already been decided by this Tribunal in its orders dated 21.11.2005 in O.A.601/04 and connected cases following an earlier common judgment of the Principal Bench of this Tribunal sitting at Allahabad Bench in O.A. 933/04 - P.S.Rajput and two others Vs. Union of India and others and O.A 778/04 - Mohd. Niyazuddin and ten others Vs. Union of India and others wherein it was held that "the upgradation of the cadre as a result of the restructuring and adjustment of existing staff will not be termed as promotion attracting the

principles of reservation in favour of Scheduled Caste/Scheduled Tribe." Cases in which the respondent Railways have already granted such reservations, this Tribunal had directed them to withdraw orders of reservations.

22 Hence the respondent Railways,

(i) shall identify the various cadres (both feeder and promotional) and then clearly determine their strength as on 10.2.1995.

(ii) shall determine the excess promotions, if any, made ie., the promotions in excess of the 15% and 7 ½% quota prescribed for Scheduled Castes and Scheduled Tribes made in each such cadre before 10.2.1995.

(iii) shall not revert any such excess promotees who got promotions upto 10.2.1995 but their names shall not be included in the seniority list of the promotional cadre till such time they got normal promotion against any future vacancy left behind by the Scheduled castes or Scheduled Tribe employees, as the case may be.

(iv) shall restore the seniority of the general category of employees in these places occupied by the excess SC/ST promotees and they shall be promoted notionally without any arrears of pay and allowance on the promotional posts.

(v)shall revert those excess promotees who have been promoted to the higher grade even after 10.2.1995 and their names also shall be removed from the seniority list till they are promoted in their normal turn.

(v)shall grant retiral benefits to the general category employees who have already retired computing their retiral benefits as if they were promoted to the post and drawn the salary and emoluments of those posts from the notional dates.

23 The individual O.As are to be examined now in the light of the conclusions as summarized above. These O.As are mainly grouped under two sets, one filed by the general category employees against their junior SC/ST employees in the entry cadre but secured accelerated promotions and seniority and the other field by SC/ST employees against the action of the respondent Railways which have reviewed the promotions already granted to them and relegated them in the seniority lists.

24 As regards the plea of limitation raised by the respondents is concerned, we do not find any merit in it. By the interim orders of the Apex Court dated 24.2.1984 and 24.9.1984 in Union of India Vs. J.C.Mallick (supra) and also by the Railway Board's and Southern Railway's orders dated 26.2.1985 and 25.4.1985 respectively, all promotions made thereafter were treated as provisional subject to final disposal of the Writ Petitions by the

Hon'ble Supreme Court. Respondent Railways have not finalized the seniority even after the concerned Writ Petitions were disposed of on the ground that the issue regarding prospectivity in Sabharwal's case and Virpal Singh's case was still pending. This issue was finally settled by the Hon'ble Supreme Court only with the judgment in Satyaneshan's case decided in December, 2003. It is also not the case of the Respondent Railways that the seniority lists in different cadres have already been finalized.

25 After this bunch of cases have been heard and reserved for orders, it was brought to our notice that the Madras Bench of this Tribunal has dismissed O.A.1130/2004 and connected cases vide order dated 10.1.2007 on the ground that the relief sought for by the applicants therein was too vague and, therefore, could not be granted. They have also held that the issue in question was already covered by the Constitution Bench decision in Nagaraj's case (supra). We see that the Madras Bench has not gone into the merits of the individual cases. Moreover, what is stated in the orders of the Madras Bench is that the issue in those cases have already been covered by the judgment in Nagaraj's case. In the present O.As, we are Considering the individual O.As on their merit and the applicability of Nagaraj's case in them.

O.As 289/2000, 888/2000, 1288/2000, 1331/2000, 1334/2000, 18/2001 232/2001, 388/2001, 664/2001, 698/2001, 992/2001, 1048/2001, 304/2002, 306/2002, 375/2002, 604/2003, 787/2004, 807/2004, 808/2004, 857/2004, 10/2005, 11/2005, 12/2005, 21/2005, 26/2005, 34/2005, 96/2005, 97/2005, 114/2005, 291/2005, 292/2005, 329/2005, 381/2005, 384/2005, 570/2005, 771/2005, 777/2005, 890/2005, 892/2005, 50/2006 & 52/2006.

OA 289/2000: The applicant is a general category employee who belongs to the cadre of Commercial Clerks in Trivandrum Division of the Southern Railway. The applicant joined the service of the Railways as Commercial Clerk w.e.f. 14.10.1969 and he was promoted as Senior Clerk w.e.f. 1.1.1984 and further as Chief Commercial Clerk Gr.III w.e.f 28.12.1988. The 5th respondent belongs to scheduled caste category. He was appointed as Commercial Clerk w.e.f. 9.2.82 and Chief Commercial Clerk Grade.III w.e.f 8.7.88. Both of them were entitled for their next promotion as Chief Commercial Clerk Gr.II. The method of appointment is by promotion on the basis of seniority cum suitability assessed by a selection consisting of a written test and viva-vice. There were four vacant posts of Chief Commercial Clerk Gr.II in the scale of Rs. 5500-9000 available with the Trivandrum Division of the Southern Railway. By the Annexure A6 letter dated 1.9.99 the Respondent 4 directed 12 of its employees including the Respondent No.5 in the

cadre of Chief Commercial Clerks Gr.III to appear for the written test for selection to the aforesaid 4 posts. Subsequently by the Annexure.A7 letter dated 28.2.2000, six out of them including the respondent No.5 were directed to appear in the viva-voce test. The applicant was not included in both the said lists. The applicant submitted that between Annexure.A6 and A7 letters dated 1.9.99 and 28.2.2000, the Apex Court has pronounced the judgment in Ajit Singh II on 16.9.1999 wherein it was directed that for promotions made wrongly in excess of the quota is to be treated as ad hoc and all promotions made in excess of the cadre strength has to be reviewed. After the judgment in Ajit Singh-II, the applicant submitted the Annexure.A5 representation dated 5.10.1999 stating that the Apex Court in Ajit Singh case has distinguished the reserved community employees promoted on roster points and those promoted in excess and held that those promoted in excess of the quota have no right for seniority at all. Their place in the seniority list will be at par with the general community employees on the basis of their entry into feeder cadre.

26 The applicant in this OA has also pointed out that out of the 35 posts of Chief Commercial Clerks Gr.I, 20 are occupied by the Scheduled Caste candidates with an excess of 11 reserved class. He has, therefore, contended that as per the orders of the Apex Court in J.C.Mallicks case, all the promotions were being made on adhoc basis and with the judgment in Ajit Singh II, the law has been laid down that all excess promotions have to be adjusted against any available berth in the cadre of Chief Commercial Clerk Gr.II and Grade III. If the directions in Ajit Singh II were implemented, no

further promotions for SC employees from the Seniority List of Chief Commercial Clerks Gr.II to the Chief Commercial Clerk Gr.I can be made. The submission of the Applicant is that the 4th respondent ought to have reviewed the seniority position of excess promotees in various grades of Chief Commercial Clerks before they have proceeded further with the Annexure A7 viva voce test. The applicant has, therefore, prayed for quashing the Annexures.A6 and A7 letters to the extent that they include excess reserved candidates and also to issue a direction to the respondents 1 to 4 to review the seniority position of the promotees in the reserved quota in the cadre of Chief Commercial Clerk Gr.I and Gr.II in accordance with the decision of the Hon'ble Supreme Court in the case of Ajit Singh II (supra). They have also sought a direction to restrain the respondents 1 to 4 from making any promotions to the post of Chief Commercial Clerk Gr.II without reviewing and regulating the seniority of the promotees under the reserved quota to the cadre of Chief Commercial Clerk Gr.I and II in the light of the decision of the Apex Court in Ajit Singh II.

2ꝛ In the reply, the official respondents have submitted that for claiming promotion to the post of Chief Commercial Clerk Gr.II, the applicant had to first of all establish his seniority position in the feeder category of Chief Commercial Clerk Grade III and unless he establishes that his seniority in the Chief Commercial Clerk Gr.III needs to be revised and he is entitled to be included in the Annexure.A6 list, he does not have any case to agitate the matter. The other contention of the respondents is that since the judgment of the Apex Court in R.K.Sabharawal (supra) has only prospective

effect from 10.2.1995 no review in the present case is warranted as they have not made any excess promotions in the cadre of Commercial Clerks as on 10.2.1995. The respondents have also denied any excess promotion after 1.4.97 to attract the directions of the Apex Court in Ajit Singh II case.

28. The 5th respondent, the affected party in his reply has submitted that he entered the cadre of Chief Commercial Clerk Gr.III on 8.7.88 whereas the applicant has entered the said cadre only on 28.12.88. According to him, in the Seniority List dated 9.4.97, he is at Sl.No.24 wheres the applicant is only at Sl.No.26. He further submitted stated that he was promoted as Chief Commercial Clerk Gr.III against the reserved post for Scheduled castes and the vacancy was caused on promotion of one Shri S.Selvaraj, a Scheduled Caste candidate. He has also submitted that the apprehension of the applicant that promotion of SC hands to the post of Chief Commercial Clerks Grade II inclusive of the 5th respondent, would affect his promotional chances as the next higher cadre of Commercial Clerk Grade I is over represented by SC hands is illogical,.

29 In the rejoinder the applicant's counsel has submitted that the Eighty Fifth Amendment to Article 16(4A) of the Constitution does not nullify the principles laid down by the Apex Court in Ajit Singh II case (supra). The said amendment and the Office Memorandum issued thereafter do not confer any right of seniority to the promotion made in excess of the cadre strength. Such promotions made before 10.2.95 will be treated as ad hoc promotions without any benefit of seniority. The Eighty Fifth

Amendment to the Constitution was given retrospective effect only from 17.6.95 and that too only for seniority in case of promotion on roster point but not for those who have been promoted in excess of the cadre strength. Those who have been promoted in excess of the cadre strength after 17.6.95 will not have any right for seniority in the promoted grade.

30 The official respondents filed an additional reply and submitted that subsequent to the judgment of the Supreme Court dated 10.2.95 in Virpal Singh Chauhan's case (supra) they have issued the OM dated 30.1.97 to modify the then existing policy of promotion by virtue of rule of reservation/roster. The said OM stipulated that if a candidate belonging to the SC or ST is promoted to an immediate higher post/ grade against the reserved vacancy earlier than his senior general/OBC candidate those promoted later to the said immediate higher post/grade, the general/OBC candidate will regain his seniority over other earlier promoted SC/ST candidates in the immediate higher post/grade. However, by amending Article 16(4A) of the Constitution right from the date of its inclusion in the Constitution ie., 17.6.95, the government servants belonging to SC/ST regained their seniority in the case of promotion by virtue of rule of reservation. Accordingly, the SC/ST government servants shall, on their promotion, by virtue of rule of reservation/roster are entitled to consequential seniority also effective from 17.6.95. To the aforesaid effect the Government of India, Department of Personnel and Training have issued the Office Memorandum dated 21.1.02. Th Railway Board has also issued similar communication vide their letter dated 8.3.02. In the 2nd

additional affidavit, the respondent-4 clarified that the applicant has not raised any objection regarding the excess promotions nor the promotions that have been effected between 10.2.95 and 17.6.95. They have also clarified that no promotion has been effected in excess of the cadre strength as on 10.2.1995 in the category of Chief Commercial Clerk/Grade II. It is also not reflected from the files of the Administration that there were any such excess promotion in the said category upto 17.6.1995. They have also denied that any excess promotion has been made in excess of the cadre strength after 1.4.1997 and hence there was no question of claiming any seniority by any excess promotees.

31 From the above facts and from the Annexure.R.5(1) Seniority List of Chief Commercial Clerk Grade III it is evident that applicant has entered service as Commercial Clerk w.e.f. 4.10.1969 and the Respondent No.5 was appointed to that grade only on 9.2.1982. Though the Respondent No.5 was junior to the applicant, he was promoted as Commercial Clerk, Grade III w.e.f. 8.7.88 and the applicant was promoted to this post only on 28.12.88. Both have been considered for promotion to the 4 available posts of Chief Commercial Clerks Grade II and both of them were subjected to the written test. But, vide letter dated 28.2.2000 based on their positions in the seniority list, the applicant was eliminated and Respondent No.5 was retained in the list of 6 persons for viva-voce. The question for consideration is whether the Respondent No.5 was promoted to the cadre of Commercial Clerk Grade III within the prescribed quota or whether he is an excess promotee by virtue of applying the vacancy based roster. If this promotion was within the

prescribed quota, he will retain his existing seniority in the grade of Commercial Clerk Grade III based on which he was considered for future promotion as Chief Commercial Clerk Grade II. The Eighty Fifth Amendment to Article 16(4A) of the Constitution only protects promotion and consequential seniority of those SC/ST employees who are promoted within their quota. In this view of the matter, the respondent Railways is directed to review the seniority list of Chief Commercial Clerk Grade III as on 10.2.1995 and ensure that it does not contain any excess SC/ST promotees over and above the quota prescribed for them. The promotion to the cadre of Chief Commercial Clerk Grade II shall be strictly in terms of the seniority in the cadre of Chief Commercial Clerk Grade III so reviewed and recast. Similar review in the cadre of Chief Commercial Clerk Grade II also shall be carried out so as to ensure balanced representation of both reserved and unreserved category of employees. This exercise shall be completed within a period of two months from the date of receipt of this order and the result thereof shall be communicated to the applicant. There is no order as to costs.

OA 888/2000:

3.2 The applicants belong to general category and respondents 3 to 6 belong to Scheduled caste category and all of them belong to the grade of Chief Health Inspector in the scale of Rs. 7450-11500. The first applicant commenced service as Health and Malaria Inspector Grade IV in scale Rs. 130-212 (revised Rs. 330-560) on 4.6.69. He was promoted to the grade of Rs. 425-640 on 6.6.1983, to the grade of Rs. 550-750 on 18.11.1985, to the grade of Rs. 700-900 (revised Rs. 2000-3200) on 6.8.99 and to the

grade of Rs. 7450-11600 on 1.1.1996. He is continuing in that grade. Similarly, the 2nd applicant commenced his service as Health and Malaria Inspector Grade IV in scale Rs. 130-212 (revised Rs. 330-560) on 28.10.69, promoted to the grade Rs. 425-640 on 22.7.1983, to the grade of Rs. 550-750 on 31.10.85, to the grade of Rs. 700-900 (revised Rs.2000-3200) on 31.10.89 and to the grade of Rs. 7450-11500 on 1.1.96. He is still continuing on that grade.

33 The respondents 3 to 6 commenced their service as Health and Malaria Inspector Grade IV in the scale Rs. 330-560 much later than the applicants on 16.8.74, 14.5.76, 22.5.76 and 18.1.80 respectively They were further promoted to the grade of Rs. 550-750 on 7.12.76, 1.1.84, 1.1.84 and 13.6.85 and to the grade of Rs. 700-900 (2000-3200) on 23.9.80, 4.7.87, 16.12.87 and 5.6.89 respectively. They have also been promoted to the grade of Rs. 7450-11500 from 1.1.1996 ie., the same date on which the applicants were promoted to the same grade. According to the applicants, as they are senior to the respondents 3 to 6 in the initial grade of appointment and all of them were promoted to the present grade from the same date, the applicants original seniority have to be restored in the present grade.

34 By order dated 21.7.99, 5 posts of Assistant Health Officers in the scale of Rs. 7500-12000 were sanctioned to the Southern Railway and they are to be filled up from amongst the Chief Health Inspectors in the grade of Rs. 7450-11500. If the seniority of the applicants are not revised before the selection to the post of Assistant Health Officers based on the decision of the Hon'ble Supreme Court in Ajit Singh-II case, the applicants will be put to

irreparable loss and hardship. They have relied upon the Annexure.A7 common order of the Tribunal in OA 244/96 and connected cases decided on 2.3.2000 (Annexure.A1) wherein directions have been issued to the respondents Railways Administration to revise the seniority of the applicants therein in accordance with the guidelines contained in the judgment of the Apex Court in Ajit Singh II's case. The applicants have also relied upon he judgment of the Hon'ble High Court of Kerala in OP 16893/1998-S - G.Somakuttan Nair & others Vs. Union of India and others decided on 10.10.2000 (Annexure.A8) wherein directions to the Respondent Railways were given to consider the claim of the petitioners therein for seniority in terms of para 89 of the judgment of the Supreme Court in Ajit Singh II case.

35. The applicants have filed this Original Application for a direction to the 2nd respondent to revise the seniority of the applicants and Respondents 3 to 6 in the grade of Chief Health Inspectors based on the decision of the Apex Court in Ajit Singh II.

36 The Respondents Railways have submitted that the seniority of the reserved community candidates who were promoted after 10.2.95 are shown junior to the unreserved employees who are promoted at a later date. This, according to them, is in line with the Virpal Singh Chauhan's case. They have also relied upon the Constitution Bench decision in the case of Ajit Singh II wherein it was held that in case any senior general candidate at level 2 (Assistant) reaches level 3 (Superintendent Gr.II) before the reserved candidates (roster point promottee) at level 3 goes further upto level 4, in that case the seniority at level 3 has to be modified

by placing such general candidate above the roster promottee, reflecting their inter se seniority at level 2. The seniority of Health and Malaria Inspector was fixed prior to 10.2.95 ie. before R.K.Sabharwal's case and as such their Seniority cannot be reopened as the judgment in R.K Sabharwal will have prospective effect from 10.2.95. The seniority list of Health and Malaria Inspector was prepared according to the date of entry in the grade based on the judgment dated 10.2.95 and the same has not been superseded by any other order and hence the seniority published on 31.12.98 is in order. They have also submitted that the S.C. Employees were promoted to the scale of Rs. 2000-3200 during 1989-90 and from 1.1.1996 they were only granted the replacement scale of Rs. 7450-11500 and it was not a promotion as submitted by the applicants.

37 The Railway Board vide letter dated 8.4.99 introduced Group B post in the category of Health and Malaria Inspector and designated as Assistant Health Officer in scale Rs. 7500-12000. Out of 43 posts, 5 posts have been allotted to Southern Railway. Since they are selection posts, 15 employees including the applicants have been alerted according to seniority with the break up of SC 1, ST1 and UR3. The examination was held on 23.9.2000 and the result was published on 12.10.2000. The Ist applicant secured the qualifying marks in the written examination and admitted to viva voce on 29.1.2000.

38 The 6th respondent in his reply has submitted that both the applicants and the 6th respondent have been given replacement scale of Rs. 7450-11500 with effect from1.1.96 on the basis of the

recommendations of the Vth Central Pay Commission and it was not by way of promotion as all those who were in the scale of pay of Rs. 2000-3200 as on 31.12.95 were placed in the replacement scale of Rs. 7450-11500 with effect from 1.1.96. The dates of promotion of applicants 1&2 and that of the 6th respondent were as follows:

Name	Grade IV Inspector	Grade III Inspector	Grade II Inspector	Grade I Inspector	Replacement scale Rs. (1.1.96)
K.V.Mohammed kutty(A1)	6.6.1969	6.6.1983	18.11.1985	6.8.1989	7450-11500
S.Narayanan (A2)	28.10.89	22.7.83	31.10.85	31.10.89	7450-1150
P.Santhanagopal(R6)	18.1.80	28.10.82	13.6.85	5.6.89	7450-11500

According to the 6th respondent, the post of Health and Malaria Inspector Grade II was a selection post and the 6th respondent was at merit position No.6 whereas the applicants were only at position Nos. 8&10 respectively. The promotion of the 6th respondent was against an UR vacancy. Therefore, the 6th respondent was promoted to the grade I on the basis of his seniority in Grade II. The promotion of the applicants 1&2 to the Grade I was subsequent to the promotion of the 6th respondent to that grade. Thus the applicants were junior to the respondent No.6 from Grade II onwards. Therefore, the contention of the 6threspodnent was that the decision in the case of Ajit Singh II would not apply in his case vis-a-vis the applicant.

39 The applicant has filed rejoinder reiterating their position in the O.A.

40 The applicants filed an additional rejoinder stating that the respondents 3 to 6 are not roster point promotees but they are

excess promotees and therefore the 85th Amendment of the Constitution also would not come to their rescue. This contention was rebutted by the 6th respondent in his additional reply.

41 The only issue for consideration in this OA is whether the private respondents have been promoted to the grade of Rs. 2000-3200/7450-11500 in excess of the quota prescribed for the Scheduled Castes and claim seniority above the applicants. The Apex Court in Ajit Singh II has held that while the promotions made in excess of the reservation quota before 10.2.1995 are protected, they can claim seniority only from the date a vacancy arising in a post previously held by the reserved candidates. The respondent Railways have not made any categorical assertions that the respondents 3 to 6 were promoted to the grade of Rs. 2000-3200/7450-11500 not in excess of the S.C quota. The contention of the 6th respondent was that the post of Malaria Inspector Gr.II is a selection post and his promotion to that post was on merit and it was against a U.R vacancy. The applicants in the additional rejoinder has, however, stated that the respondents 3 to 6 were not roster point promotees but they were promoted in excess of the S.C quota.

42 In the above facts and circumstances of the case, the Respondent Railways are directed to review the seniority list/position of the cadre of Chief Health Inspectors in the scale of Rs. 7450-11500 as on 10.2.1995 and pass appropriate orders in their Annexures,.A2 and A3 representations within three months from the date of receipt of this order and the decision shall be communicated to them by a reasoned and speaking order within two months thereafter. There shall be no order as to costs.

OA 1288/2000: The applicants in this OA are general category employees and they belong to the cadre of ministerial staff in Mechanical (TP) Branch of the Southern Railway,Trivandrum Division. They are aggrieved by the Annexure.A2 order dated 8.2.2000 and A.3 order dated 17.2.2000. By the A2 order dated 8.2.2000, consequent on the introduction of additional pay scales in the Ministerial Categories and revised percentages prescribed by the Railway Board, 15 Office Superintendents Gr.I who belong to SC/ST category have been promoted as Chief Office Superintendents. By the Annexure.A3 order dated 17.2.2000 by which sanction has been accorded for the revised distribution of posts in the ministerial cadre of Mechanical Branch, Trivandrum Division as on 10.5.98 after introducing the new posts of Chief Office Superintendent in the scale of Rs. 7450-11500 and two ST officials, namely, Ms.Sophy Thomas and Ms.Salomy Johnson belonging to the Office Superintendent Gr.I were promoted to officiate as Chief Office Superintendent. According to the said order, as on 10.5.1998 the total sanctioned strength of the Mechanical Branch consisted of 168 employees in 5 grades of OS Gr.I, OS Gr.II, Head Clerk, Sr.Clerk and Junior Clerks. With the introduction of the grade of Chief Office Superintendent, the number of grades has been increased to 6 but the total number of posts remained the same. According to the applicants, all the 15 posts of Chief Office Superintendents in the scale of Rs. 7450-11500 except one identified by the 4th respondent Chief Personnel Officer, Madras were filled up by promoting respondents 6 to 19 who belong to SC/ST community vide the Annexure A2 order NoTP.2/2000 dated 8.2.200.

43 All those SC/ST promottees got accelerated promotion as Office Superintendent Grade I and most of them were promoted in excess of the quota applying 40 point roster on arising vacancies during 1983 and 1984. The Annexure.A2 order was issued on the basis of the Annexure.A5 provisional seniority list of Office Superintendents Grade I Mechanical Branch as on 1.10.1997 published vide letter of the CPO No.P(S)612/IV/TP dated 12.11.1997. As per the Annexure A7 circular issued by the Railway Board No.85-E(SCT)49/2 dated 26.2.1985, and the Annexure A8 Circular No.P(GS)608/XII/2/HQ/Vo.XXI dated 25.4.1985 issued by the Chief Personnel Officer, Madras, "all the promotions made should be deemed as provisional and subject to the final disposal of the Writ Petitions by the Supreme Court". As per the above two circulars, all the promotions hitherto done in Southern Railway were on a provisional basis and the seniority list of the staff in the Southern Railway drawn up from 1984 onwards are also on provisional basis subject to finalization of the seniority list on the basis of the decision of the cases then pending before the Supreme Court. Annexure A5 seniority list of Office Superintendent Grade I was also drawn up provisionally without reflecting the seniority of the general category employees in the feeder category notwithstanding the fact that the earlier promotion obtained by the SC/ST candidates was on the basis of reservation.

44 After the pronouncement of the judgment in Ajit Singh II, the applicants submitted Annexure.A9 representation dated 18.11.1999 before the Railway Administration to implement the decision in the said judgment and to recast the seniority and review

the promotions. But none of the representations are considered by the Administration.

45 The names of applicants as well as the respondents 6 to 19 are included in Annexure.A5 seniority list of Office Superintendent Grade-I as on 1.10.97. Applicants are at Sl.Nos. 22&23 respectively and the party respondents are between Slo.No.1 to 16. The Ist applicant entered service as Junior Clerk on 29.10.1963. He was promoted as Office Superintendent Grade I on 15.7.1991. The second applicant entered service as Junior Clerk on 23.10.65. She was promoted as Office Superintendent Grade I on 1.8.1991. But a perusal of seniority list would reveal that the reserved category employees entered service in the entry grade much later than the applicants but they were given seniority positions over the applicants. The submission of the applicants is that the SC/ST Office Superintendent Gr.I officers promoted as Chief Office Superintendent was against the law laid down by the Apex Court in Ajit Singh-II case. They have, therefore, sought a direction to the Railway Administration to review the promotions in the cadre of Senior Clerks onwards to Office Supdt. Gr.I and refix their seniority retrospectively with effect from 1.1.84 in compliance of the Supreme Court judgment in Ajit Singh II and to set aside Annexure.A2 order dated 8.2.2000 and Annexure A3 dated 17.2.2000. They have also sought a direction from this Tribunal to the Railway Administration to promote the applicants and similarly placed persons as Chief Office Superintendent in the Mechanical Branch of the Southern Railway after review of the seniority from the category of Senior Clerks onwards.

46 The Railway Administration filed their reply. They have submitted that Applicant No.1 who was working as Office Superintendent-I has since been retired on 31.12.2000. Applicant No.2 is presently working as Office Superintendent/Grade I. They have submitted that the Railway Board had created the post of Chief Office Superintendent in Rs. 7450-11500 out of 2% of the existing 8% of the cadre of Office Superintendent/Grade II in Rs. 6500-10500 w.e.f 10.5.98. As per the Annexure.A1, the vacancies arising after 10.5.98 are to be filled up as per the rules of normal selection procedure and in respect of the posts arose on 10.5.98 modified selection procedure was to be followed. As per Annexure.A2, 15 posts of Chief Office Superintendent in scale Rs. 7450-11500 alloted to various Divisions & Workshops under the zonal seniority in Southern Railway had been filled up. As per Annexure.A4 the posts of Office Superintendent/Grade I which was controlled by Head quarters has been decentralized ie., to be filled up by the respective Divisions and accordingly the sanctioned strength of Chief Office Superintendent in Trivandrum Division was fixed as 2. Regarding Annexure.A5, it was submitted that the same was the combined seniority list of Office Superintendents Grade I & II/Mechanical(TP) Branch in scale Rs. 6500-10500/5500-9000 as on 1.10.97 and the Applicants did not make any representations against their seniority position shown therein. The Railway Board had also clarified vide their letter dated 8.8.2000 that in terms of the judgment of the Apex Court in Ajit Singh II's case the question of revising the existing instructions on the principles of determining seniority of SC/ST staff promoted earlier vis-a-vis general/OBC staff promoted later was

still under consideration of the Government, ie., Department of Personnel and Training and that pending issue of the revised instructions specific orders of the Tribunals/Courts, if any, are to be implemented in terms of the judgment of the Apex Court dated 16.9.99.

47 The respondents filed Miscellaneous Application No.511/2002 enclosing therewith a copy of the notification dated 4.1.2002 publishing the 85th Amendment Act, 2001 and consequential Memorandum dated 21.2.2002 and letter dated 8.3.2002 issued by the Govt. Of India and Railway Board respectively.

48 In the rejoinder affidavit, the applicant has submitted that the 85th Amendment of the constitution and the aforesaid consequential Memorandum/letter do not confer any right for seniority to the promotions made in excess of the cadre strength. Prior the 85th Amendment (with retrospective effect from 17.6.1995), the settled postilion of law was that the seniority in the lower category among employees belonging to non-reserved category would be reflected in the promoted grade, irrespective of the earlier promotions obtained by the employees belonging tor reserved category. By the 85th Amendment, the SC/ST candidates on their promotion will carry the consequential seniority also with them. That benefit of the amendment will be available only to those who have been promoted after 17.6.95. Those reserved category employees promoted before 17.6.95 will not carry with them consequential seniority on promotion. The seniority of non-reserved category in the lower category will be reflected in the promoted post who have been promoted prior to 17.6.1995. According to the

applicants, their case is that the seniority of the excess promotees as well as the seniority wrongly assigned to SC/ST employees on accelerated promotion shall be reviewed as per the law laid down by the Supreme Court in Ajith Singh II. The excess promotees who have been promoted in excess of the cadre strength after 1.4.1997 also cannot be treated as promoted on ad hoc basis as held by the Apex Court in Ajith Singh II. They will be brought down to the lower grades and in those places general category employees have to be given promotion retrospectively as held by the Supreme Court in Badappanvar V. State of Karnataka (supra).

49 The undisputed facts are that the applicants have joined the entry grade of Junior Clerk on 29.10.63 and 4.10.65 respectively and the private respondents have joined that grade much alter in 1976 and 1977. Both the parties have got promotions in the grades of Senior Clerk, Head Clerk, O.S.Grade II and O.S.Grade I during the course of their service. Due to the accelerated promotions got by the private respondents, they secured the seniority positions from 1 to 16 and the applicants from 22 to23 in the Annexure.A5 Seniority List of O.S.Grade I as on 1.10.1997. The case of the applicants is that the private respondents were granted promotions in excess of the quota prescribed for them and they have also been granted consequential seniority which is not envisaged by the 85th Constitutional Amendment. However, the contention of the Respondent Railways is that though the Annexure.A5 provisional Seniority List of Office Superintendent Grade I and Office Superintendent Grade II was circulated on 12.11.97, the applicants have not raised any objection to the same. As observed in this order elsewhere, the direction of the Supreme Court in Sabharwal's case, Ajit Singh II case etc. has not been obliterated by the 85th Amendment of the Constitution as held by the Apex Court in Nagaraj's case (supra). It is also not the case of the Respondent Railways that they have finalized the Annexure.A5 provisional Seniority List dated 12.11.97. After the judgment in Ajit Singh II, the

applicants have made theAnnexure.A9 representation which has not bee considered by the respondents. We are of the considered opinion that the respondents Railways ought to have reviewed the Annexure.A5 provisional Seniority List to bring it in accordance with the law laid down by the Apex Court in Sabharwal's case and Ajit Singh II case. Similar review also should have been undertaken in respect of the other feeder grade seniority lists also as on 10.2.1995 to comply with the law laid down in the aforesaid judgments. Accordingly, we direct the respondnet Rilways to review the Annexure.A5 provisional Seniroity List and other feeder grade Seniority Lists as on 10.2.1995 within a period of two months from the date of receipt of this order. As the Annexure.A2 Office Order dated 8.2.2000 and the Annexure.A3 Office Order dated 17.2.2000 have a direct bearing on Annexure.A5 Provisional Seniority List dated 12.11.97, we refrain from passing any order regarding them at this stage but leave it to respondent Railways to pass appropriate orders on the basis of the aforesaid review undertaken by them. They shall also pass a reasoned and speaking order on the Annexure.A9 representation of the applicant and convey the decision to him within the aforesaid time limit.This O.A is accordingly disposed of.

OA 1331/2000: The applicants in this OA are Chief Commercial Clerks working in Trivandrum Division of the Southern Railway. They entered service as Commercial Clerks in the years 1963, 1964, 1966 etc. The Respondent Railways published the provisional seniority list of Chief Commercial Clerks Grade I as on 31.5.2000 vide Annexure.A1 letter dated 24.7.2000. The reserved community candidates are placed at Sl.No. 2 to 19 in Annexure.A1 seniority

list. All of them are juniors to the Applicants, having entered the entry cadre much later, from the year 1974 onwards. While the first nine persons (SC-6 and ST-3) were promoted on 40 point roster, others were promoted in excess, applying the roster in arising vacancies, instead of cadre strength. The said first 9 persons are only eligible to be placed below the applicants in the same grade in the seniority list. The excess promotees were not to be placed in that seniority unit at all. While protecting their grade on supernumerary posts till such time they become eligible for promotion to grade Rs. 6500-10500, their seniority should have been reckoned only in the next lower grade based on their length of service.

50 The applicants have also submitted that vide Railway Board's directive vide No.85-(E) (SCT)/49-11 dated 26.2.85 and by the orders dated 25.4.85 of the chief Personnel Officer, Southern Railway, all the promotions made and the seniority lists published since 1984 were provisional and subject to the final disposal of writ petitions pending before the Supreme Court. Regular appointments in place of those provisional appointments are still due. The decision was finally rendered by the Supreme Court on 16.9.99 in Ajith Singh II and settled the dispute regrading promotion and seniority of employees promoted on roster points and the respondents are liable to revise the seniority lists and review promotions made in different grades of commercial clerks retrospectively from 1.1.1998, the date from which the first cadre review was implemented. They have therefore, sought a direction to the respondent Railway Administration for reviewing the

Anenxure.A1 Seniority list of Chief Commercial Clerks Gr.I as on 31.5.2000 by implementing the decision of the Apex Court in Ajit Singh II case.

51 The respondents in their reply have submitted that the Annexure.A1 Seniority List was published on provisional basis against which representations have been called for. Instead of making representations against the said Seniority List, the applicants have approached this Tribunal. On merits, they have submitted that in the judgment of the Apex Court dated 16.9.99, there was no direction to the effect that the excess promotees have to be vacated from their unit of seniority with protection of their grade and they are to be continued in supernumerary posts to be created exclusively for them. They contended that the seniority in a particular grade is on the basis of the date of entry into the grade and the applicants entered into the grade of Rs.6500-10500 much later than others, as has been shown in the Annexure.AI Seniority list. They have also contended that all those reserved community candidates were juniors to the applicants having entered the entry cadre much later, was not relevant at the present juncture as the Annexure.A1 is the seniority list in the category of Chief Commercial Clerk Grade I in scale Rs. 6550-10500, the highest in the cadre. They have also found fault with the applicants in their statement that while the first 9 persons (SC 6 & ST 3) were promoted on 40 point roster others were promoted in excess applying the roster in arising vacancies instead of cadre strength as the same was not supported by any documentary evidence. They rejected the plea of the applicants for the revision of seniority w.e.f. 1.1.1984 as admitted by

the applicants themselves, the Apex Court has protected the promotions in excess of the roster made before 10.2.95.

52 We have considered the rival contentions of the parties. Though it is the specific assertion of the applicants that 9 out of the 18 Scheduled Caste employees in the Annexure.A1 Seniority List of Chief Commercial Clerks Grade I dated 24.7.2000 are excess promotees and therefore, they cannot claim the seniority, the respondent Railways have not refuted it. They have only stated that the applicants have not furnished the documentary evidences. We cannot support this lame excuse of the respondnets. As the respondents are the custodian of reservation records, they should have made the position clear. The other contention of the respondents that the applicants have approached the Tribunal without making representations/objections against the Annexure.A1 provisional Seniority List of Chief Commercial Clerks as on 31.5.2000 also is not tenable. It is the duty cast upon the respondent Railways to follow the law laid down by the Apex Court through its judgment. We, therefore, direct the respondent Railways to review the aforesaid Annexure.A1 Seniority List and other feeder grade Seniority Lists as on 10.2.1995 and revise Seniority List, if found necessary and publish the same within two months from the date of receipt of this order.

53 There shall be no order as to costs.

OA 1334/2000: The applicants in this case are Chief Commercial Clerks in the scale of Rs. 6500-10500 working in Palakkad Division of Southern Railway. They entered service as Commercial Clerks in

1963. The respondents vide Annexure.A1 letter dated 11/30.9.97 published provisional seniority list of Commercial Supervisors in the scale of Rs. 2000-3200/Chief Commercial Clerks in the scale of Rs.1600-2600 and Head Commercial Clerk in the scale of Rs. 1400-2300 as on 31.8.97 keeping in view of the Apex Court judgment in Virpal Singh Chauhan. Reserved community candidates were placed at Serial No.1 to 32 in Annexure.A1 seniority list of Commercial Supervisors in the scale of Rs. 2000-3200 even though all of them are juniors to the applicants, having entered the entry cadre much later. The applicants were shown in the next below grade of Chief Commercial Clerks Grade II in the scale of Rs. 1600-2660 and they were subsequently promoted to Grade I on 23.12.1998. The promotions applying 40 point roster on vacancies was challenged by Commercial Clerks of Palakkad Division in OA 552/90 and OA 603/93. These O.As were disposed of by order dated 6.9.94 directing corespondents Railways to work out relief applying principles that: "*The reservation operates on cadre strength and that seniority vis-a-vis reserved and unreserved categories of employees in the lower category will be reflected in the promoted category also, not withstanding the earlier promotion obtained on the basis of reservation*".

54 Other averments in this OA on behalf of the applicants are same as that of in OA 1331/2000. The applicants have, therefore, sought a direction to the Railway Administration to implement the decision of the Supreme Court in Ajit Singh II case extending the benefits uniformly to all the Commercial Clerks including the applicants without any discrimination and without

limiting only to the persons who have filed cases before the Tribunal/Courts by reviewing the seniority of the Commercial Clerks of all grades including Annexure.A1 Seniority List of Commercial Clerks dated 11/30.9.97.

55 The respondents have submitted that the applicants have already been promoted as Commercial Supervisors in the grade of Rs. 6500-10500 from 1998 and their seniority is yet to be finalized and only when the list is published the applicants get a cause of action for raising their grievance, if any. The Annexure.A1 seniority list was published in consonance with the judgment of the Apex Court in Virpal Singh Chauhan's case. They have also submitted that the Hon'ble Supreme Court in their judgment dated 17.9.99 in Ajit Singh II held that the excess roster point promotes are not entitled for seniority over general category employees promoted to the grade later.

56 We have considered the aforesaid submissions of the applicants as well as the Respondent Railways. It is an admitted fact that the applicants have also been promoted as Commercial Supervisors from 1998 onwards. Only the question of determining that seniority remains. In this view of the matter, we direct the Respondent Railways to prepare the provisional Seniority List of Commercial Clerks as on31.12.2006 in accordance with the law laid down by the Apex Court and summarized in this order elsewhere and circulate the same within two months from the date of receipt of this order. There shall be no order as to costs.

O.A.No.18/2001:

57 Applicants are general category employees and working as Chief Travelling Ticket Inspectors Grade I in scale Rs. 2000-3200 (6500-10500) in Trivandrum Division of Southern Railway. Respondents 3,4,8,9 and 10 belong to Scheduled Tribe (reserved) category and respondents 5,6&7 belong to Scheduled caste (reserved) category. Applicants 1&2 and respondents 3 to 10 are figuring at Serial Numbers 14,15,1,2,3,4,6,7,11 and 12 respectively in para 1 in the provisional seniority list of Chief Travelling Ticket Inspectors (CTTIs)/Chief Ticket Inspectors (CTIs) Grade I in scale 2000-3200 as on 1.9.93.

58 Applicant No.1 was initially appointed as Ticket Collector in scale Rs. 110-190 (Level-I) on 7.2.66, promoted as Travelling Ticket Examiner in scale Rs. 330-560 (level-2) on 17.12.73, promoted as Travelling Ticket Inspector in scale Rs. 425-640 (level 3) on 1.1.84, promoted as Chief Traveling Ticket Inspector Grade II in scale Rs. 1600-2660 (level 4) in 1988 and promoted as Chief Travelling Ticket Inspector Grade In in scale Rs. 2000-3200 (level-5) on 25.7.1992 and continuing as such. Applicant No.2 was appointed initially as Ticket Collector in scale 110-190 on 1.6.66 in Guntakal Division and promoted as Travelling Ticket Examiner on 21.7.73 in the same Division. Thereafter he got a mutual transfer to Trivandrum Division in 1976. In Trivandrum Division he was further promoted as Travelling Ticket Inspector on 1.1.84, promoted as Chief Travelling Ticket Inspector Grade II in 1998 and promoted as

Chief Travelling Ticket Inspector Grade-I on 1.3.03 and continuing as such. Respondent 3,5 and 6 were appointed to level-1 only on 1.9.66, 11.2.66 and 4.6.66 respectively and the applicant No.1 was senior to them at Level-I. The Applicant No.2 was senior to respondents 3 and 6 at level-I. The applicant's were promoted to level 2 before the said respondents and hence they were senior to the said respondents at level 2 also. Thereafter, the said respondents were promoted to levels 3,4 and 5 ahead of the applicants. Respondents 4,7,8 and 10 were initially appointed to level-1 on 5.9.77, 8.4.76, 17.10.79 and 26.2.76 respectively, when the applicants were already at level 2. Yet respondents 4,7,8 and 10 were promoted to level 3,4,5 ahead of the applicants. Respondent No.9 was appointed to level 1 on 7.7.84 only when the applicants were already at level 3. Nevertheless he was promoted to level 4 and 5 ahead of the applicants. They have submitted that as per para 29 of Virpal Singh Chauhan (supra) even if a SC/ST candidate is promoted earlier by virtue of rule of reservation/roster than his senior, general candidate and the senior general candidate is promoted later to the said higher grade, the general candidate regains his seniority over such earlier promoted scheduled caste/scheduled tribe candidate and the earlier promotion of the SC/ST candidates in such a situation does not confer upon him seniority over the general candidate, even though the general candidate is promoted later to that category. But this rule is prospective from 10.2.95. However para 46 and 47 of Virpal Singh

restricted such regaining of seniority to non-selection posts only. But in the light of Ajit Singh-I, the distinction between selection posts and non-selection posts was done away with. Therefore, the rule laid down in para 29 of Virpal Singh is applicable to both selection and non-selection posts with effect from 10.2.95. The same principle has been reiterated in Ajit Singh-II, under para 81, 87,88 and 89. Therefore, it is very clear that whereever the general candidates have caught up with earlier promoted juniors of reserved category at any level before 10.2.95 and remains so thereafter, their seniority has to be revised with effect from 1.2.95 and whenever such catch up is after 10.2.95, such revision shall be from the date of catch up. Consequently the applicants are entitled to have their seniority at Annexure.A1 revised, as prayed for.

59 The Hon'ble High Court of Kerala following Ajit Singh II, in OP No.16893/98S – G.Somakuttan Nair and others V. Union of India and others on 10.10.2000 held that on the basis of the principles laid down in Ajit Singh-II's case (para 89) the petitioner's claim of seniority and promotion was to be re-considered and accordingly directed the respondent railways to reconsider the claim of seniorities and promotion of the Petitioners Station Masters Grade I in Palghat Division. In the said order dated 10.10.2000, the High Court held as under:

> "We are of the view that the stand taken by the respondents before the Tribunal needs a second look on the basis of the principles laid down in Ajit Singh and others Vs. State of Punjab and others (1999) 7 SCC 209).

It appears that the Supreme Court has given a clear principle of retrospectivity for revision in paragraph 89 of that judgment. Under such circumstances, we think it is just and proper that the petitioner's claim of seniority and promotion be re-considered in the light of the latest Supreme Court judgment reported in Ajit Singh's case.

Hence there will be a direction to respondents 1 to 3 to reconsider the petitioners' claim of seniority and promotion in the light of the decision of the Supreme Court referred to above and pass appropriate orders within a period of two months from the date of receipt of copy of this judgment."

60 Similarly, in OA 643/97 and OA 1604/97 this Tribunal directed the respondents to revise the seniority of Station Masters Grade I in Trivandrum Division. Pursuant to the decision of this Tribunal in OA 544 of 1997, the Chief Personnel Officer, Chennai directed the 2nd respondent to revise the seniority list of CTTI Grade II (1600-2660), based on their inter se seniority as TTE (Rs. 330-560) at level 2 as per letter dated 7.8.2000.

61 The respondents in their reply submitted that the seniority of CTTI/Grade I and II in scale Rs. 2000-3200/6500-10500 and Rs. 1600-2660/5500-9000 as on 1.9.93 was published as per Annexure A1 list. There were no representations from the applicants against the seniority position shown in the said Annexure.A1 List. Further, as per the directions of this Tribunal in OA 544/96 and 1417/96, the seniority list of CTTI Grade II was revised and published as per office order dated 21.11.2000. All the reserved community employees were promoted upto the scale Rs. 1600-2660/5500-9000 against shortfall vacancies and to scale Rs. 6500-10500 according to their seniority in scale Rs. 1600-2660/5500-9000. No promotion has

been granted to the reserved community employees in the category of Chief Travelling Ticket Inspector Grade I in scale Rs. 2000-3200/64500-10500 after 10.2.95. It is also submitted that the applicants cannot claim revision of their seniority on the basis of the Anenxure.A5 judgment, as they are not parties in that case.

62 In the rejoinder the applicants submitted that they are claiming seniority over respondents 3 to 9 with effect from 10.2.95 under the 'catch up' rule (described in para 4 of Ajit Singh II). They have further submitted that the applicants in OA 554/96 and OA 1417/96 were granted the benefit of recasting of their seniority in grade Rs. 5500-9000. They are seeking a similar revision of the seniority in scale Rs. 6500-10500. They have also submitted that the reserved community candidates were not promoted to that grade of Rs. 6500-10500 after 10.2.95 because of the interim order/final order passed in O.As 544/96 and 1417/96 and not because of any official decision in this regard.

63 We have considered the rival contentions of the parties. The Apex Court in Para 89 of Ajit Singh II was only reiterating an existing principle in service jurisprudence when it stated that "any promotions made wrongly in excess of any quota are to be treated as adhoc" and the said principle would equally apply to reservation quota also. The pre 10.2.1995 excess promotees can only get protection from reversion and not any additional benefit of seniority. The seniority of such excess promotees shall have to be reviewed after 10.2.1995 and will count only from the date on which they would

have otherwise got normal promotion in any further vacancy in a post previously occupied by the reserved candidate. The Constitution 85th Amendment Act, 2001 also do not grant any consequential seniority to the excess promotees. In Nagaraj's case also the Apex Court has held that "the concept of post based roster with inbuilt replacement as held in R.K.Sabharwal has not been obliterated by the 85th Amendment in any manner". The submission of the Respondent Railways that the applicants in this O.A were not entitled for similar treatment as in the case of the petitioners in OP 16893/98-S is also not acceptable as similarly situated employees cannot be treated differently only for the reason that some of them were not parties in that case. We, therefore, hold that the applicants are entitled to get their seniority in Annexure.A1 provisional list dated 15.9.1993 re-determined on the basis of the law laid down by the Apex Court. In the interest of justice, the applicants and all other concerned employees are permitted to make detailed representations/objections against the Annexure.A1 Seniority List within one month from the date of receipt of this order. The respondent Railways shall consider their representations/objections in accordance with the law laid down by the Apex Court in this regard and pass a speaking orders and convey the same to the applicants within one month from the date of receipt of such representations/objections. The Annexure.A1 provisional seniority list shall be finalized and notified thereafter. Till such time the Annexure. A1 seniority list shall not be acted upon for any promotions to the next higher grade.

64 The O.A is disposed of with the aforesaid directions. There shall be no order as to costs.

OA 232/01:

65 The applicants are general category employees and they belong to the common cadre of Station Masters/Traffic Inspectors . There are five grades in the category. The entry grade is Assistant Station Master in the scale of Rs. 4500-7000 and other grades are Station Master Grade.III(5000-8000), Station Master Grade.II (5500-9000) and Station Master Grade I (6500-10500).. The highest grade in the hierarchy is Station Superintendent in the scale of Rs. 7500-11500.

66 The respondents had earlier implemented the cadre restructuring in the category of Station Masters in 1984 and again in 1993 with a view to create more avenues of promotion in these cadres. According to the applicants, the respondents have applied the 40 point roster for promotion erroneously on vacancies instead of the cadre strength, thereby promoting large number of SC/ST employees who were juniors to the applicants, in excess of the quota reserved for them. Aggrieved by the erroneous promotions granted to the reserved category employees, several of general category employees submitted representations to respondents 3 and 4, but they did not act on it. Therefore, they have filed 8 different O.As including O.A No.1488/95. In a common order dated 29.10.97 in the above O.A, this Tribunal directed the respondents to bring out a seniority list of Station Masters/Traffic Inspectors applying the

principles laid down in R.K.Sabharwal, J.C.Mallick and Virpal Singh Chauhan. Therafter the Annexure.A1 and A2 provisional combined seniority list of Station Superintendents/Traffic Inspectors dated 16.12.97 was drawn up by the 3rd respondent. According to the applicants it was not a seniority list applying the principles laid down by the Supreme Court in R.K.Sabhrwal case. Therefore, applicants filed objections against A2 seniority list. But none of the objections were considered on the plea that the R.K.Sabharwal case will have only prospective effect from 10.2.95 and that seniority and promotions of even the excess promotes are to be protected. A perusal of Annexure.A2 seniority List would reveal that many of the SC/ST employees who are junior to the applicants were given seniority over them. The applicants are placed at Sl.Nos.157, 171 and 183 in the Seniority List and their dates of appointment in the grade are 31.12.62, 3.01.63 and 17.12.62 respectively. However S/hri G.Sethu (SC) , P. Nallia Peruman (SC), M.Murugavel (SC), K.K.Krishnan (SC), P.Dorai Raj (SC) and Krishnamurthy were shown at Sl No. 1 to 4, 6&7 when they have entered the grade only on 2.1.64, 14,4,65, 23.6.75, 12.12.77, 3.3.76 and 3.3.76 respectively. According to the applicants, there are many other SC/ST employees in the Seniority List who entered the service much later than them but have been assigned higher seniority position. The applicants, the Annexure.A2 provisional seniority list was prepared on the assumption that the seniority need be revised only after 10.2.95 relying on the prospectivity given in R.K.Sabhrwal. The above

prospectivity was finally settled by the Supreme Court in para 88 of its judgment in Ajith Singh II. The stand taken by the Railways has been that the general category employees cannot call the erstwhile juniors in the lower grade who belong to SC/ST community as juniors now because they have been given seniority in the present grade before 10.2.95, and their seniority should not be disturbed. The above stand taken by the Railways was rejected by the Division Bench of the High Court of Kerala in OP 16893/98 dated 10.10.2000 while considerings the principles laid down by the Supreme Court in prospectivity in Ajith Singh II. The Division Bench has held in the above judgment" *"It appears that the Supreme Court has given clear principles of retrospectivity for reservation in para 89of the judgment"*. In such circumstances it was directed that the petitioner claim of seniority and promotions be considered in the light of the latest Supreme Court judgment reported in Ajith Singh II. According to the applicants, the judgment of the division Bench is squarely applicable to the case of the applicants. The Railway Board vide Anenxure.A5 letter dated 8.8.2000, had already directed the General Managers of all Indian Railways and Productions Units to implement the Hon'ble Supreme Court judgment in Ajit Singh II case dated 16.9.99. The applicants have submitted that the respondent Railways have still not complied with those directions. The applicants have, therefore, sought direction from this Tribunal to the respondent Railways to review the seniority of Station Master/Traffic Inspectors and to recast the same in the light of the principles laid down by the Supreme Court in Ajit Singh II's case and effect further promotions

to the applicants after the seniority list is revised and recast with retrospective effect with all attendant benefits. They have also challenged the stand of the respondent Railways communicated through the Annexure.A5 letter of the Railway Board dated 8.8.2000 that the judgment of the Apex Court in the case of Ajith Singh II dated 16.6.99 would be implemented only in cases where the Tribunals/Courts issued specific directions to that effect.

67 The respondents Railways have submitted in their reply that they had already revised the Seniority List of Station Master Grade I/Traffic Inspector based on the principles laid down by the Supreme Court in Ajit Singh II case (supra), and a copy of the revised seniority List as Annexure.R.1 dated 11.5.01 has also been field by them. According to the respondents in the revised Seniority List the applicants have been assigned their due positions in terms of the aforesaid judgment.

68 The applicants have not field any rejoinder refuting the aforesaid submissions of the respondents regarding the revision of seniority.

69 In view of the aforesaid submissions of the Respondent Railways, the O.A has become infructuous and it is dismissed accordingly.

OA 388/01: The applicants in this OA are working in the Enquiry Cum Reservation Section of Palakkad Division of Southern Railway. They are seeking a direction to the respondent Railways to review and recast the provisional seniority list of different grades taking into consideration the objection filed by them in the light of the decision of

the Supreme Court in Ajit Singh II and the High Court in Annexure.A6 judgment and to promote the applicants in the places erroneously occupied by their junior reserved category candidates retrospectively.

70 The date of appointment of the Ist and 2nd applicants in the entry grade is on 23.11.67. The Ist applicant was promoted to the grade of Chief Reservation Supervisor on 23.10.81 and the 2nd applicant on 31.10.81. The 3rd and 4th applicants are working as Enquiry & Reservation Supervisors. The appointment of the 3rd applicant in the entry grade was on 11.5.76 and he was promoted to the grade of Enquiry & Reservation Supervisor on 16.11.1981. The date of appointment of the 4th applicant in the entry grade was on 24.8.76. He was promoted to the grade of Enquiry & Reservation Supervisor on 21.10.81. The 5th and 6th applicants are working as Enquiry Cum Reservation Clerks. The date of entry of the 5th applicant was on 6.10.89 and he was promoted to the present grade on 29.1.97. The date of appointment of the 6th applicant in the entry grade was on 24.12.85 and his date of promotion to the present grade was on 15.2.2000.

71 In terms of the judgment in JC Mallick's case, the Railway Board had issued instructions in 1985 that all promotions should be deemed as provisional and subject to the final disposal of the writ petition by the Supreme Court. Since then, the respondents have been making all promotions on provisional basis. Vide Annexure.A4 letter dated 23.6.98, the provisional seniority list of Enquiry and Reservation Supervisor as on 1.6.98 in the scale of Rs.

5500-9000 was issued and the names of 2nd and 3rd applicants have been included in the said List. The SC/ST candidates who are juniors to the applicants 2 and 3 are placed in the above seniority list on the basis of accelerated and excess promotions obtained by them on the arising vacancies. The 5th and 6th respondents belong to the cadre of Enquiry Cum Reservation Clerks. Vide A5 letter dated 24.1.2000 the provisional seniority list of Enquiry Cum Reservation Clerks in the scale Rs. 5000-8000 was issued. The above seniority list also contains the names of junior SC/ST candidates who were promoted in excess of the quota reserved for them on the arising vacancies, above the applicants.

72 The respondents gave effect to further promotions from the same erroneous provisional seniority list maintained by them and also without rectifying the excess promotions given to the reserved category candidates thereby denying general category candidates like the applicants their right to be considered for promotion to the higher grades against their junior reserved community candidates in the pretext that the interpretation given by the Supreme Court in R.K.Sabharwal operates only prospectively from 10.2.95. The prospectivity in Sabharwal case has been finally settled by the Apex Court in Ajith Singh II by clarifying that the prospectivity of Sabahrwal is limited to the purpose of not reverting those erroneously promoted in excess of the of the roster but such excess promotees have no right for seniority. The contentions of the respondents after the judgment in Ajith Singh II was that such employees who are

overlooked for promotion cannot hold the erstwhile juniors in the lower grades as juniors now because they have been given seniority in the present grade before10.2.95 and the law as held by the Supreme Court is that if they had entered the present grade before 10.2.95, their seniority should not be disturbed. This contention was rejected by the Hon'ble Division Bench of the High Court of Kerala as per the Annexure.A6 judgment in OP 16893/98-S -G.Somakuttan Nair and others Vs. Union of India and others decided on 10.10.2000 wherein it was held as under:

> "We are of the view that the stand taken by the respondents before the Tribunal needs a second look on the basis of the principles laid down in Ajit Singh and others Vs. State of Punjab and others (1999) 7 SCC 209).
>
> It appears that the Supreme Court has given a clear principle of retrospectivity for revision in paragraph 89 of that judgment. Under such circumstances, we think it is just and proper that the petitioner's claim of seniority and promotion be re-considered in the light of the latest Supreme Court judgment reported in Ajit Singh's case.
>
> Hence there will be a direction to respondents 1 to 3 to reconsider the petitioners' claim of seniority and promotion in the light of the decision of the Supreme Court referred to above and pass appropriate orders within a period of two months from the date of receipt of copy of this judgment."

Thereafter, the respondents in the case of Station Masters in Palakkad Division issued the Annexure.A7 order No.P(S) 608/II/SMs/Vol.III/SN dated 14.2.2001 regarding revision of combined seniority of SM Gr.I published on 27.1.98 in the light of the decision in Ajit Singh II case.

73 The respondents Railways in their reply have admitted that the seniority of the Station Master Gr.I was recast as per the

orders of the Hon'ble High Court in OP 16893/98.

74 In our considered opinion, this O.A is similar to that of O.A 18/2001 discussed and decided earlier and, therefore, the observations/directions of this Tribunal in the final two paragraphs would equally apply in this case also. We, therefore, dispose of this O.A permitting the applicants to make detailed representations/objections against the Annexure.A4 Provisional Seniority List of E&Rs dated 23.6.1998 and the Annexure.A5 provisional integrated Seniority List of ECRC/II dated 24.1.2000 within one month from the date of receipt of this order. The respondent Railways shall consider these representations/objections in accordance with the law laid down by the Apex Court in this regard and pass speaking orders and convey the same to the applicants within one month from the date of receipt of the representations/objections. The said Annexure.A4 and A5 Seniority Lists shall be finalized and notified thereafter within one month. Till such time those Seniority Lists shall not be acted upon for any promotions to the next higher grade.

75 There shall be no order as to costs.

OA 664/01: The applicants in this OA are also Enquiry-cum-Reservation Clerks in Palakkad Division of Southern Railway as in the case of applicants in OA 388/01. . Their grievance is that their juniors belonging to the SC/ST communities have been promoted to the next grade of Inquiry-Cum-Reservation Clerk Grade I overlooking their seniority in excess of the quota reserved for them

by promoting them in the arising vacancies instead of cadre strength. The applicants have produced the provisional Seniority List of Inquiry-Cum-Reservation Clerks Gr.II issued on 1.12.92 and the Seniority List of Inquiry-Cum reservation Clerks Gr.I issued on 24.1.2000. The respondents are making promotions to the next higher grades from the aforesaid lists dated 1.12.92 and 24.1.2000. They have, therefore, sought directions from this Tribunal to review and recast the provisional Seniority List of Grade I of Inquiry-Cum Reservation Clerk taking into consideration of the objection filed by them in the light of the judgment of the Apex Court in Ajit Singh-II. They have also sought a direction to the respondents to implement the law laid down by the Apex Court in Ajit Singh II universally to Inquiry-Cum-Reservation Clerks also without any discrimination and without limiting only to the persons who have filed cases before the Tribunal's/Courts.

76 The respondents in their reply admitted that according to the principle laid down in Ajit Singh-II case, the reserved community candidates who are promoted in excess of the quota will not be entitled for seniority over general candidates in a category to which general category employee was promoted later than the SC/ST employees and when general category candidates are promoted to higher grade after the SC/ST employees are promoted to the same grade, they will be entitled to reckon their entry seniority reflected in the promoted post. However, according to them, the above principle has been reversed by the 85th amendment of the Constitution which

came into effect from 17.6.95. The Railway Board has also issued instructions in this regard vide their notification dated 8.3.02. According to the Amendment, the SC/ST Governments employees shall, on their promotion by virtue of rule of reservation/roster will be entitled to consequential seniority also. In other words, the principles laid down in Ajit Singh-II case by the Apex Court was nullified by the 85th amendment and therefore, the claim of the applicants based on Ajit Singh-II case would not survive.

77 The applicants have filed their rejoinder stating that the 85th amendment of the constitution is regarding Seniority of the SC/ST employees promoted on roster point only and not on those SC/ST candidates promoted in excess of the quota erroneously on the arising vacancies and the respondent could rely on the said amendment only after fixing the seniority as on 16.6.95 as the said amendment has given effect only from 17.6.95. They have also submitted that the judgment in R.K.Sabharwal's case does not protect the promotions on reserved candidates prior to 10.2.95 and by Ajit Singh-II case, the prospective effect of R.K. Sabharwal and seniority status of excess promotes have been clarified. In the case of M.G.Badapanar also the Supreme Court has clarified the prospective effect of the judgment in R.K.Sabahrawal case.

78 They have further submitted that the cadre of Enquiry-Cum Reservation Clerk underwent restructure as on 1.1.84 and again on 1.3.93 and the reservation could have been permitted only to the post that existed as on 31.12.93. They have alleged deliberate

attempt on the part of the respondents to club roster point promotees and excess promotes, with the sole intention of misleading this Tribunal. In the case of roster point promotees the dispute is regarding fixation of seniority between general category and SC/ST employees who got accelerated promotion, but in the case of excess promotees, they have no claim for promotion to higher grades or any claim for further promotion based on the Seniority assigned to them illegally.

79 In our considered opinion the applicants have mixed up the issue of excess promotion to SC/ST employees beyond the quota prescribed for them and the reservation for SC/ST employees in upgraded posts on account of restructuring the cadres for administrative reasons. While SC/ST employees promoted prior to 10.2.1995 in excess of their quota are entitled for protection from reversion to lower grade without any consequential seniority, such employees are not entitled for reservation at all in restructuring of cadres for strengthening and rationalizing the staff pattern of the Railways. This issue was already decided by this Tribunal in its order dated 21.11.2005 in OA 601/04 and connected cases wherein the respondent Railways were restrained from extending reservation in the case of up-gradation on restructuring of cadre strength. In cases were reservation have already been granted, the respondents were also directed to pass appropriate orders withdrawing all such reservations. In case the respondent Railways have made any excess promotions of the SC/ST employees in the grades of Inquiry-

Cum-Reservation Clerks Grade I and II on 24.1.2000 and 1.12.1992, they are also liable to be reviewed.

80 We, therefore, in the interest of justice permit the applicants to make representations/objections, if any, against the Annexure.A3 and A4 Seniority Lists within one month from the date of receipt of this order clearly indicating the violation of any of the law laid down by the Apex Court in its judgments mentioned in this order. The Respondent Railways shall consider their representations/objections when received in accordance with law and dispose them of within two months from the date of receipt with a speaking order. Till such time the provisional seniority list of Inquiry-Cum-Reservation Clerks Grade II dated 1.12.92 and Inquiry-cum-Reservation Clerk Grade I dated 24.1.2000 shall not be acted upon for any further promotions.

81 The O.A is accordingly disposed of with no order as to costs.

OA 698/01: The applicants are general category employees belonging to the cadre of Ticket Checking Staff having five grades namely (i) Ticket Collector, (ii) Senior Ticket Collector/Travelling Ticket Examiner, (iii) Travelling Ticket Inspector/Head Ticket Collector, (iv) Chief Travelling Ticket Inspector Gr.II and (v) Chief Travelling Ticket Inspector Grade. The first applicant was working in the grade of Travelling Ticket Inspector, the second applicant was working in the grade of Chief Travelling Ticket Inspector Grade I and the third applicant was working in the grade of Travelling Ticket

Examiner. The respondents 3 to 5 belong to Scheduled Caste category of employees. The Respondents 3&5 are in the grade of Travelling Ticket Inspector and the 4th respondent was in the grade of Chief Travelling Ticket Inspector Grade I. They commenced their service at the entry grade of Ticket Collector later than the applicants. By virtue of the accelerated promotion granted to them and similarly placed SC candidates by wrong application of roster, they have been placed above the applicants in the category of Travelling Ticket Inspectors and despite the judgment rendered by the Apex Court in R.K.Sabharwal, Ajit Singh Juneja and Ajit Singh II cases, the seniority list has not been recast in terms of the directions of the Apex Court. The contention of the applicants is that in the light of the law declared by the Apex Court in Ajit Singh II, the Railway Administration ought to have revised the seniority list, restored the seniority of the applicants based on their dates of commencement of service in the entry cadre. They have also assailed the Annexure.A1 policy of the Railway Board that specific orders of the Tribunals/Courts, if any, only to be implemented in terms of the Apex Court's judgment dated 16.9.99 in Ajit Singh-II. They have also referred to OA 1076/98 decided on 27.2.2001 -P.M.Balan and others vs. Union of India and others by this Tribunal wherein a direction was given to the respondents to recast the seniority in the cadre of CTTI in accordance with the observations of the Apex Court in para 88 of the judgment in Ajit Singh-II case (supra) and to assign proper seniority to the applicants therein accordingly.

82 The respondents Railways have denied that all the private respondents have joined the entry grade later than the applicants. According to the list furnished by them the dates of entry of the applicants and respondents as Ticket Collectors are as under:

1	A.Victor (Applicant)	29.4.71
2	K.Velayudhan (SC) (respondent)	22.5.74
3	P.Moideenkutty (applicant)	07.9.82
4	M.K.Kurumban (SC)(Respondent)	28.12.82
5	A.K.Suresh (Applicant)	26.4.85
6	N.Devasundaram(Respondent)	24.4.85

By applying the 40 point reservation roster in force then, the S.C category employees including the Respondents 3 to 5 were given promotion against the vacancies set apart for SC/ST candidates and the grade wise/category wise relative seniority maintained in respect of the above said employees at present in the promoted post is as under:

1	K.Velayudhan(SC)	CTTI/Gr.I/CBE
2	A.Victor	CTTI/Gr.I/CBE
3	M.K.Kurumban (SC)	TTI/CBE
4	P.Moideenkutty	TTI/CBE
5	N.Devasundaram	TTI/ED
6	A.K.Suresh	TTE/CBE

They have further submitted that consequent upon the judgment in Sabharwal's case dated 10.2.95, the Railway Board issued the letter dated 28.2.97 for implementing the judgment according to which

implementation of judgment including revision of seniority was to be for cases after 10.2.95 and not for earlier cases. Hence, revision of seniority in the case of the applicants and similarly placed employees was not done. They have further submitted that though the Supreme Court has laid down the principles for determination of seniority of general category employees vis-a-vis SC/ST employees in Ajit Sihgh II case, yet the Ministry of Personnel and Training has not issued necessary orders in the matter and it was pending such orders, the Railway Board has issued the A.1 letter dated 18.8.2000 directing the Railways to implement only the orders where Tribunals/Courts have directed to do so. They have also submitted that in terms of the directions of this Tribunal in OA 1076/98 necessary revision of seniority has been done in the case of CTTI. Gr.II in the scale of Rs. 5500-9000. In effect the submission of the respondents is that revision in the present case has not been done because there was no such direction to do so from this Tribunal or from any courts.

83 The applicants have not filed any rejoinder.

84 The Respondent No.5 has filed a reply stating that his entry as a Ticket Collector on16.4.1985 was against the quota earmarked for Class IV employees. He has also denied any over representation of Scheduled castes and Scheduled Tribes in the Ticket Checking Cadre of the Southern Railway in Palghat Division.

85 In our considered opinion the stand of the Respondent Railways is totally unacceptable. Once the law has been laid down by the Apex Court in its judgments, it has to be made applicable in all

similar cases without waiting for other similarly situated persons also to approach the Tribunal/Courts. Since the Respondents have not denied that the applicants in this OA are similarly placed as those in OA 1076/98, the benefit has to be accorded to them also. The official Respondents shall, therefore, recast the cadre of Chief Travelling Ticket Inspector Grade II and assign appropriate seniority position to the applicants as well as the party respondents within two months from the date of receipt of this order. Till such time the aforesaid direction are complied with the existing provisional seniority list of Chief Travelling Ticket Inspector Grade II shall not be acted upon.

86 The respondents shall pass appropriate orders within one month from the date of receipt of this order and convey the same to the applicants.

87 There shall be no order as to costs.

OA 992/2001: The applicant is a general category employee working as Senior Data Entry operator in the Palakkad Division of Southern Railway. He seeks a direction to the third respondent to prepare and to publish the seniority list of Head Clerks in Commercial Branch of Palghat Division and to review the promotions effected after 10.2.95 in terms of the judgment in Ajit Singh-II and to further declare that the applicant has passed in the selection conducted for filling up the two vacancies of Office Superintendent Grade II pursuant to A1 notification and to promote him to that post from the date of promotion of the 4th respondent who belongs to SC category.

88 The applicant and the 4th respondent are in the feeder line (Head Clerk) for promotion to the post of Office Sudpt. Grade II. The applicant commenced service as Senior Clerk on 4.4.87 in the Commercial Branch. He continued there upto 21.6.89 and thereafter he was posted in the computer center as Data Entry Operator on adhoc basis. He was promoted to the post of Senior Data Entry Operator on adhoc basis on 12.4.94 and is continuing there in the said psot. He was given proforma promotion in the Commercial Branch as Head Clerk while promoting his immediate junior.

89 The 4th respondent was initially appointed as Junior Clerk on 8.4.84. He has got accelerated promotion to the posts of Senior Clerk and Head Clerk as he belongs to Scheduled Caste Community. He was promoted to the post of Head Clerk on 1.5.1991.

90 The third respondent vide Annexure.A10 letter dated 12.5.95 alerted the respondent No.4 and the applicant among others for the written test and viva voce for the promotion to two posts of OS Gr.II. The applicant along with one Smt. O.P.Leelavathi and Shri Sudhir M.Das, came out successful in the written examination. However,the respondent 3 vide Annexure A2 note dated 6.7.98 declared that respondent 4 has passed by adding the notional seniority marks. The applicant unsuccessfully challenged the inclusion of the respondent No.4 in the list of qualified candidates before this Tribunal. Finally, the 2 posts were filled up by one Mrs.Leelavathy and the Respondent No.4 who belongs to SC in

accordance with the seniority list of Head Clerks maintained by the respondents.

91 The applicant again made the Anenxure.A5 representation dated 28.4.2000 to the respondent No.2 to consider his name also for promotion to OS Grade II on the basis of the judgment of the Apex Court in Virpal Singh Chauhan dated 10.10.95 and Sabharwal's cases dated 16.9.99. Thereafter, he filed the present OA seeking the same reliefs.

92 Respondents 1 to 3 in their reply submitted that the principles of seniority laid down in Ajit Singh case has been reversed by the 85th amendment to the constitution of India. As per the amendment the reserved community employee promoted earlier to a higher grade than the general category employee will be entitled to the consequential seniority also. They have further submitted that admittedly the applicant has commenced the service as Senior Clerk on 5.5.87. 4th respondent was appointed as Junior Clerk on 3.5.84 and he was promoted as Senior Clerk on 25.4.85 ie., before the applicant was appointed to that post. Thus the 4th respondent was very well senior to the applicant in the grade of Senior Clerk. Hence there is no basis for the claim of the applicant. Moreover, the claim of applicant is for fixation of seniority in the entry grade and the judgment of the Apex Court in Ajit Singh's case is not at all applicable in such cases.

93 The applicant has not filed any rejoinder to the reply filed by the respondents.

94 We have considered the rival contentions. Both the applicant and the respondent No.4 belong to the feeder cadre of Head Clerk for promotion to the post of Office Superintendent Grade II. Admittedly the respondent No.4 is senior to the applicant as Head Clerk. There is no case made out by the applicant that the respondent No.4 was promoted as Head Clerk on 1.5.91 from the feeder cadre of Senior Clerk in excess of the quota earmarked for the S.C category employees. Moreover, the respondent No.4 was promoted as Head Clerk on 1.5.91 ie., much before the judgment in Sabharwal's case decided on 10.2.1995. In view of the factual position explained by the respondents which has not been disputed by the applicant, we do not find any merit in this case and therefore, this OA is dismissed. There shall be no order as to costs.

OA 1048/2001: Applicant belongs to general category. He commenced his service as Junior Clerk on 23.7.1965. Subsequently, he got promotions to the posts of Senior Clerk, Head Clerk and then as Office Superintendent Grade II w.e.f. 1.3.1993. The applicant and 6 others earlier approached this Tribunal vide OA 268/2001 with the grievance that Respondents have not revised their seniority vis -a-vis the seniority of the reserved community candidates who were promoted to higher posts on roster points in spite of the ruling of the Apex Court in Ajit Singh's case. This Tribunal vide Annexure.A6 order dated 22.3.2001 allowed them to make a joint representation to the third respondent which in turn to consider the representation in the light of the ruling in Ajit Singh's case and to pass a speaking

order. The impugned Annexure. A7 letter dated 10.10.2001 has been issued in compliance of the aforesaid directions and it reads as under:

> "In the joint representation dated 28.3.2001, you have not given the names of junior SC/ST employees who had gained the advantage due to application of reservation rules.
>
> Hon'ble Supreme Court in the case of Ajit Singh II have laid down certain principles for determining the seniority between the junior candidates belonging to reserved community promoted earlier against reserved points vis-a-vis the senior UR candidates who were promoted latter on catch up with the junior employees belonging to reserved community. Hon'ble Supreme Court had laid down that as and when the senior UR employee catches up with the junior reserved employee his seniority must be revised in that grade.
>
> Hon'ble Supreme Court has also laid down that if in the meantime, the junior reserved candidates further promoted to a next higher grade, the seniority cannot be revised and the reserved community employee should also not be reverted. The seniority list of OS/Gr.II was published on 1.7.99. You have not brought out as to how the seniority is not in accordance with the principles laid down by Hon'ble Supreme Court in Ajit Singh II case. It has to be established that employees belonging to reserved community has stolen a march over the UR employee by virtue of accelerated promotion due to application of reservation rules. It is very essential that employees seeking revision of seniority should bring out that revision of seniority is warranted only on account the reserved employees gaining advantage because of reservation rules. Instructions of Railway Board vide their letter No.E(NG) 97/STR6/3/(Vol.III) dated 8.8.200 have stated that if specific direction from the Hon'ble Courts/Tribunals for revision of seniority should be complied with. In the representation you had admitted that the employees belonging to reserved community in excess of the roster made before 10.2.95 cannot claim seniority and their seniority in the promotional cadre shall have to be reviewed after 10.2.95. No reserved community employees had been promoted in the cadre as OS/Gr.II in excess before 10.2.95 which warrants revision of seniority at this distant date."

95 The applicant however challenged the said Annexure.A7 letter dated 10.10.2001 on the ground that the Hon'ble Supreme Court in the decision in Ajit Singh-II (supra) held that the roster point promtoees (reserved categories) cannot count their seniority in the promoted category from the date of their continuous officiation in the promoted post vis-a-vis general candidates who were senior to them in the lower category and who were later promoted. The Hon'ble Supreme Court had also held that the seniority in the promotional cadre of excess roster point promtoees shall have to be reviewed after 10.2.95. Since the applicant was senior to Smt.Psuhpalatha in the initial grade, his seniority has to be restored and the further promotions has to be made in accordance with the revised seniority based on the above said decision of the Supreme Court. The respondents have implemented the decision of the Hon'ble Supreme Court in Ajit Singh-II in various categories as could be clear from A3,A4 and A5. The non-implementation of the decision in the case of the applicant is discriminatory and violative of Article 14 and 16 of the Constitution of India. The decision of the Hon'ble Supreme Court is applicable to the parties therein as well also to similar employees. And denying the benefit of the decision applicant is discriminatory and violative of articles 14 and 16 of the Constitution of India.

96 In the reply statement the respondents submitted that the applicant commenced service as Junior Clerk on 23.7.65 at FSS office/Golden Rock. He was transferred to Podanur on mutual transfer basis on 4.5.70. Thereafter, he was transferred to Palghat

on mutual transfer basis with effect from 25.8.76. He was promoted as Senior Clerk on regular basis with effect from 20.4.80 and Head Clerk on1.10.84. Having been selected and empanelled for promotion to the post of Chief Clerk, he was promoted as Chief Clerk with effect from1.3.93 against the restructured vacancy. He is still continuing in the said post. They have also submitted that by the 85th Amendment the principles of seniority laid down in Ajit Singh II has been nullified and therefore, the applicant is not entitled for any relief. After the 85th amendment, the Government of India also vide Office Memorandum No.20011/2/2001 Establishment (D) Ministry of Personnel and Public Grievances and Pensions, dated 21.1.2002, clarified that the candidates belonging to general/OBC promoted later than 17.6.95 will be placed junior to the SC/ST government servants promoted earlier by virtue of reservation.

97 The applicant has not filed any rejoinder refuting the submission of the respondents.

98 We have considered the rival contentions. The applicant's submission was that in accordance with the judgment of the Apex Court in Ajit Singh II, the excess roster point promotees promoted prior to 10.2.1995 cannot claim seniority over the senior general category employee who got promotion later. It is the specific averment of the respondents that none of the reserved category employees have been promoted in the cadre of OS Gr.II in excess before 10.2.1995. The applicant has cited the case of one Smt. K.Pushpalatha who is not impleaded as a party respondent in the

present case. It is nowhere stated by the applicant that the said Smt. Pushpalatha who was appointed later than the applicant in the initial grade was promoted in excess of the quota prescribed for Scheduled Caste. In view of the specific averment of the respondent Railways that none of the reserved category employees have been promoted in the cadre of OS Grade II in excess of the quota before 10.2.1995, there is no question of revising their seniority and assign higher position than the SC/ST employees promoted earlier. If the SC/ST employees have got their accelerated promotion within their prescribed quota, they will also get higher seniority than the UR seniors who were promoted later.

99 This OA is, therefore, dismissed. There shall be no order as to costs.

OA 304/02: This OA is similar to OA 664/01 dealt with earlier. The applicants in this O.A are Chief Commercial Clerks Gr.III of the Trivandrum Division of Southern Railway. Their cadre was restructured with effect from 1.1.84 and 1.3.93. By the Railway Board letter dated 20.12.1983 (Annexure.I) certain Group 'C' categories including the grade of Commercial Clerks have been restructured on the basis of the cadre strength as on 1.1.1984. Vide the Annexure.A2 order dated 15.6.1984, the Southern Railway promoted the Commercial Clerks in different grades to the upgraded post. According to the applicants, it was only an upgradation of existing posts and not a case of any additional vacancies or posts being created. The up -gradation did not result any change in the

vacancies or any creation of additional posts. However, at the time of restructuring, the employees belonging to the reserved category (SC/ST) were promoted applying the 40 point roster on vacancies and also in excess of their quota thereby occupying almost the entire posts by the SC/ST employees.

100 The applicants relied upon the judgment of the Apex Court in Union of India V. Sirothia (CA No.3622/95) and Union of India and others Vs. All India Non-SC/ST employees Association and another SLP No.14331 & 18686/1997) (Annexure.A3 and A3(). In Sirothia's case (supra) the Apex Court held that in a case of up-gradation on account of restructuring of cadres, the question of reservation will not arise. Similar is the decision in All India Non-ST/ST employees Association and others (supra). They have alleged that from 1984 onwards, the SC/ST employees were occupying such promotional posts and such promotees are in excess as found by the Apex Court in Ajit Singh II and R.K.Sabharwal (supra). They have also submitted that from 1984 onwards only provisional seniority lists were published in different grades of Commercial Clerks and none of them were finalized in view of the direction of the Apex Court and also on the basis of the administrative instructions. They have therefore, sought a direction to the respondents to review and finalize the Seniority List of all the grades of Commercial Clerks in Trivandrum Division and the promotions made therefrom provisionally with effect from 1.1.84 applying the principles laid down in Ajit Singh II and regularize the promotions promoting the

petitioners from the effective date on which they were entitled to be promoted. They have also contended that as clarified in Ajit Singh II the propsectivity of Sabhwarwal was limited to the purpose of not reverting those erroneously promoted in excess of the roster and in the case of excess promotions made after 10.2.1995, the excess promotees have neither any right of seniority nor any right to hold the post in the promoted unit and they have to be reverted. In the case of Railways this process have been extended upto 1.4.1997.

101 The Respondents Railways in their reply submitted that after the judgment of the Apex Court in Ajit Singh II (supra), the respondents have issued the Annexure.A9 Seniority List dated 24.7.2000 against which applicants have not submitted any representation. They have also submitted that after the 85th amendment was promulgated on 4.1.02, the Government of India, Department of Personnel and Training issued OM dated 21.1.02 (Annexure.R3(2) and modified the then existing policy which stipulated that if candidates belonging to the SC or ST are promoted to an immediate higher post/grade against the reserved vacancy earlier his senior General/OBC candidates who is promoted later to the said immediate higher post/grade, the General/OBC candidates will regain his seniority over such earlier promoted candidates of the SC and ST in the immediate higher post/grade. By the aforesaid Office Memorandum dated 21.1.02 the Government has negated the effects of its earlier OM dated 30.1.97 by amending the Article 16(4A) of the Constitution right from the date of its inclusion in the

Constitution ie., 17.6.95 with a view to allow the Government servants belonging to SC/ST to retain their seniority in the case of promotion by virtue of rule of reservation. The Ministry of Railways (Railway Board) had also issued similar orders vide their letter No.E (NG)I-97/SR6/3 (Vol.III) dated 8.3.02 and the revised instructions as under:

(i)"(a) SC/ST Railway servants shall, on their promotion by virtue of rule of reservation/roster, be entitled to consequential seniority also, and (b) the above decision shall be effective from 17th June, 1995.

(ii)The provisions contained in Para 319A of Indian Railway Establishment Manual, Vol.I 1989 as introduced vide ACS No.25 and 44 issued under the Ministry's letters No.E(NG)I-97/SR6/3 dated 28.2.97 and 15.5.98 shall stand withdrawn and cease to have effect from 17.6.95.

(iii)Seniority of the Railway servants determined in the light of para 319A ibid shall be revised as if this para never existed. However, as indicated in the opening para of this letter since the earlier instructions issued pursuant to Hon'ble Supreme Court's judgment in Virpal Singh Chauhan's case (JT 1995(7) SC 231) as incorporated in para 319A ibid were effective from 10.2.95 and in the light of revised instructions now being issued being made effective from 17.6.95, the question as to how the cases falling between 10.2.95 and 16.6.95 should be regulated, is under consideration in consultation with the Department of Personnel & Training. Therefore, separate instructions in this regard will follow.

(iv)(a) On the basis of the revised seniority, consequential benefits like promotion, pay, pension etc. should be allowed to the concerned SC/ST Railway servants (but without arrears by applying principle of 'no work no pay".

(b) For this purpose, senior SC/ST Railway servants may be granted promotion with effect from the date of promotion of their immediate junior general/OBC Railway servants.

(C)Such promotion of SC/ST Railway servants may be ordered with the approval of appointing authority of the post to which the Railway servant is to be promoted at each level after following normal procedure viz. Selection/non-selection.

(v) Except seniority other consequential benefits like promotion, pay etc (including retiral benefits in respect of those who have already retired) allowed to general/OBC Railway servants by virtue of implementation of provisions of para 319A of IREM, Vol.I 1989 and/or in pursuance of the directions of CAT/Court should be protected as personal to them."

102 In the rejoinder, the applicants have submitted that after the 85th amendment of the Constitution providing consequential seniority to the reserved category on promotion with effect from 17.6.95, the Railway Administration had canceled the re-casted seniority by issuing fresh proceedings and restored the old seniority. The applicants contended that the 85th amendment enabled the consequential seniority only with effect from 17.6.95 but the respondents have allowed consequential seniority to the reserved community even prior to 17.6.95 and also given excess promotions beyond the quota reserved for them in the earlier grade before and after 17.6.95. The applicants contended that the core dispute in the present OA filed by the applicants are on the question of promotion of the reserved category in excess of the quota and the consequential directions of the Supreme Court in Ajit Singh -II that such persons would not be eligible to retain the seniority in the promoted post but it would be treated as only ad hoc promtoees without seniority in the promoted category. The Railway Administration has not so far complied with the said direction.

103 After going through the above pleadings, it is seen that the applicants have raised two issues in this OA. First issue is the reservation in he matter of restructuring of cadre. No doubt the

Apex Court in V.K. Sirothia's case (supra) held that there will be no reservation in the case of upgradation of posts on account of restructuring of cadres. Same was the decision in the case of All India Non-SC/ST Employees Association and another case (supra) also. In spite of the above position of law, the Railway Board had issued the Order No.PC/III-2003-CRC/6 dated 9.10.03 and the instruction No.14 of it reads as follows:

> "The existing instructions with regard to reservations for SC./ST wherever applicable will continue to apply"

The above order of Railway Board was under challenge recently in OA 601/04 and connected cases. This Tribunal, after considering a number of judgments of the Apex Court and the earlier orders of this Tribunal, restrained the respondent Railways from extending reservation in the case of upgradation on restructuring the cadre strength. We had also directed the Respondents to withdraw the reservation, if any, granted to SC./ST employees. The other issue raised by the applicant is that on account of such reservation on restructuring of cadres, the SC/ST employees have been given excess promotions from 1984 and in view of the judgment of Apex Court in Ajit Singh II, the excess promotees who got promotion prior to 10.2.1995 are only protected from reversion but they have no right for seniority in the promoted unit and they have to be reverted. The relief sought by the applicant in this OA is, therefore to "review and finalize the seniority lists in all the grades of Commercial Clerks in Trivandrum Division and the promotions made therefrom provisionally w.e.f. 1.1.1984 applying the principles laid down in Ajith Singh II and

regularize the promotions promoting the petitioners accordingly from the effective dates on which they were entitled to be promoted".

104 We, therefore, in the interest of justice permit the applicants to make representations/objections against the seniority list of Chief Commercial Clerk Grade I, Commercial Clerk Grade II and Commercial Clerk Grade III of the Trivandrum Division within one month from the date of receipt of this order clearly indicating the violation of any law laid down by the Apex Court in its judgments mentioned in this order. The respondent Railways shall consider their representations/objections when received in accordance with law and dispose them off within two months from the date of receipt with a speaking order. Till such time the above seniority list shall not be acted upon for any further promotions. There shall be no order as to costs.

OA. 306/02: This OA is similar to OA 664/01 discussed and decided earlier. In this OA the applicants 1 to 12 are Chief Commercial Clerks Gr.II and applicants 13 to 18 are Chief Commercial Clerks Gr.III belonging to general category and they are employed in the Palakkad Division of the Southern Railway. They have filed the present O.A seeking a direction to the respondents to revise the seniority list of Chief Commercial Clerk Gr.I and Commercial Clerks Gr.II and Commercial Clerk Gr.III of Palakkad Division and to recast and publish the final seniority list retrospectively with effect from 1.1.84 by implementing decision in R.K.Sabharwal as explained in Ajit Singh II and in the order of this Tribunal dated 6.9.94 in OA

552/90 and connected cases and refix their seniority in the place of SC/ST employees promoted in excess of the quota and now placed in the seniority units of Chief Commercial Clerks Gr.I and in other different grades.

105 As a result of the cadre restructure in the cadre of Chief Commercial Clerks a number of existing posts were integrated with effect from 1.1.84 and 1.3.92 without any change in the nature of the job. As per the law settled by the Apex Court in *Union of India Vs. Sirothia,* CA No.3622/95 and *Union of India and others Vs. All India Non-SC/ST employees Association and another,* SLP 14331 and 18686 of 1997 promotion as a result of the re-distribution of posts is not promotion attracting reservation. It is a case of up gradation on account of restructuring of cadres and therefore the question of reservation will not arise. But at the time of restructuring of the cadres, the employees belonging the communities (SC/ST) were promoted applying the 40 point roster on vacancies and also in excess of cadre strength as it existed before the cadre restructuring thereby occupying almost the entire promotion posts by the SC/ST candidates. From 1984 onwards they are occupying such promotion illegally and such promotes are excess promotees as found by the Apex Court in Ajit Singh II and Sabharwal (supra).

106 The respondents in their reply submitted that determination of seniority of general community employees vis-a-vis SC/ST employees has been settled in R.KSabahral's case (supra) according to promotions of SC/ST employees made prior to 10.2.95

and their seniority are protected. However, in Ajit Singh II it was held that the general category employees on promotion will regain seniority at level-IV over SC/ST employees promoted to that grade earlier to them due to accelerated promotion and who are still available at Level IV. Applicants are seeking promotion against the post to which the reserved community employees have been promoted based on the roster reservation. The respondents have submitted that the said prayer is not covered by Ajit Singh II judgment and the subsequent ruling by which reserved community employees already promoted upto 1.4.97 shall not be reverted.

107 This O.A being similar to O.As 664/01 and 304/02, it is disposed of in the same lines. The applicants are permitted to make representations/objections against the seniority list of Chief Commercial Clerks Grade I/Commercial Clerk Gr.II and Commercial Clerk Gr.III of the Palakkad Division. The respondent Railways shall consider their representations/objections when received in accordance with law and dispose them off within two months from the date of receipt with a speaking order. Till such time the above seniority list shall not be acted upon for any further promotions. There shall be no order as to costs.

OA 375/02 & OA 604/03: The applicant in OA 375/02 retired from service on 30.6.00 while working as Chief Commercial Clerk Gr.II under the respondents 1 to 4. He joined Southern Railway as Commercial Clerk on 24.3.64 and was promoted as Senior Clerk in 1981 and as Head Clerk in1984. The next promotional posts are

Chief Commercial Clerk Gr.I and Commercial Supervisor. This applicant had earlier approached this Tribunal vide O.A 153/99 with the prayer to review all promotions given after 24.2.1984 to some of the private respondents, to refix their seniority and for his promotion to the post of Commercial Supervisor thereafter. The said OA was disposed of vide order dated 19.6.2001 (Annexure.A8) permitting the applicant to make a representation ventilating all his grievances in the light of the latest rulings of the Apex Court and the departmental instructions on the subject. Accordingly, he made the Anenxur.eA9 representation dated 18.1.2002 stating that a number of his juniors belonging to reserved community have been promoted to the higher posts and he is entitled for fixation of pay on every stage wherever his junior reserved category employee was promoted in excess by applying the 40 point roster on arising vacancies. He has, therefore, requested the respondents to consider his case in the light of the case of Badappanavar (supra) decided by the Apex Court and common judgment dated 11.1.2002 in OP No.9005/2001 and connected cases (Annexure.A5). The respondents rejected his request vide the impugned Annexure.A10 letter dated 26.3.2002 and its relevant portion is extracted below:-

> "In the representation he has not stated any details of the alleged juniors belonging to reserved community. He has only stated that he is eligible for refixation of pay on every stage on par with junior reserved community employee promoted in excess applying 40 point roster on vacancies instead of cadre strength, in the light of the pronouncements of the Apex Court.
>
> The Government of India have notified through the Gazette of India Extraordinary Part II Sec.1 the 85th

Amendment to the Constitution of India as per notification dated 4.1.2002. The Ministry of Personnel, Public Grievance and Pension has also issued Office Memorandum No.20011/1/2001-Estt(D) on 21.1.2002 communicating the decision of the Government consequent on the 85th Constitutional Amendment. It has been clearly stated in the said Notification that SC/ST govt. servant shall on their promotion by virtue of the rule of reservation/roster be entitled to consequential seniro0ty also as prevailing earlier. Hence the principles laid down by the Hon'ble Supreme Court in Vir Pal Singh Chauhan's case have been nullified by the 85th Amendment to Constitution of India. These orders have also been communicated by Railway Board vide letter No.E(NG)1-97/SR6/3 Vol.III dated 8.3.2002"

108 The applicant challenged the aforesaid impugned letter dated 26.3.2002 in this OA. His grievance is that at the time of restructuring of cadre with effect from 1.1.84 the employees belonging to the reserved communities(SC/ST) were promoted applying the 40 point roster on vacancies and also in excess of cadre strength as it existed before cadre restructuring thereby SC/STs candidates occupying the entire promotion post. From. 1984 onwards they are occupying such higher promotional posts illegally as such promotees are excess promotees as found by the Apex Court in Ajit Singh II and Sabharwal. He had relied upon the judgment of the Apex Court in Civil Appeal No.9149/1995-Union of India Vs.V.K.Sirothia (Annexure.A3) wherein it was held that in case of upgradation on account of restructuring of the cadres, there will not be any reservation. Similarly orders have been passed by the Apex Court in Civil Appeal No.1481/1996-Union of India Vs.All India non-SC/ST Employees Association and others (Annexure.A4). The contention of the applicant is that such excess promotions of SC/ST

employees made on cadre restructuring would attract the judgment of the Apex Court in Ajit Singh II case and therefore, the Respondents have to review alls such promotions made. He relied upon a judgment of the Hon'ble High Court of Kerala in OP No.16893/1998-S – G. Somanathan Nair and others Vs. Union of India and others decided on10.10.2000 wherein it was held as under:

> "We are of the view that the stand taken by the respondents before the Tribunal needs a second look on the basis of the principles laid down in Ajit Singh and others Vs. State of Punjab and others (1999) 7 SCC 209).
>
> It appears that the Supreme Court has given a clear principle of retrospectivity for revision in paragraph 89 of that judgment. Under such circumstances, we think it is just and proper that the petitioner's claim of seniority and promotion be re-considered in the light of the latest Supreme Court judgment reported in Ajit Singh's case.
>
> Hence there will be a direction to respondents 1 to 3 to reconsider the petitioners' claim of seniority and promotion in the light of the decision of the Supreme Court referred to above and pass appropriate orders within a period of two months from the date of receipt of copy of this judgment."

He has also relied upon the order in OP 9005/2001 - C. Pankajakshan and others Vs. Union of India and others and connected cases decided by the High Court on 11.1.2002 on similar lines. In the said judgment the High Court directed the Respondents to give the petitioners the seniority by applying the principle laid down in Ajit Singh's case and to give them retiral benefits revising their retirement benefits accordingly.

109 He has, therefore, sought direction from this Tribunal to the Respondents 1 to 4 to review all promotions given after 1.1.84 to

Commercial Clerks and refix the seniority and thereafter order promotion of the applicant to the post of Commercial Supervisor with all attendant benefits including back wages based on the revised seniority and refix the pension and retiral benefits and disburse the arrears as the applicants had already retired from Service.

110 The respondents in their reply submitted that the Hon'ble Supreme Court has held that the promotions given to the SC/ST prior to 1.4.97 cannot be reviewed and the review of promotions arises only after 1.4.97. Therefore, the prayer of the applicant to review the promotion made right from 1984 is not supported by any law. The respondents have also contended that there were no direction in Ajit Singh-II to revert the reserved community employees already promoted and, therefore, the question of adjustment of promotions made after 25.4.85 does not arise. They have also submitted that the seniority lists of Chief Commercial Clerks and Head Commercial Clerks have already been revised on 13.2.2001 as per the directions of this Tribunal in OA 244/96, 246/96, 1067/97 and 1061/97 applying the principles enunciated in Ajit Singh-I Judgment and the Applicant had no grievance against the said seniority list by which his seniority was revised upwards and fixed at Sl.No.10. Even now the applicant has not challenged the seniority list published on 13.2.2001.

111 The applicant has not filed any rejoinder in this case. However, it is understood from the pleadings of OA 604/2003 (dealt with subsequently) that the respondents, after the 85th Amendment of the Constitution has cancelled the provisional seniority list of chief

Commercial Clerk and Head Commercial Clerk issued vide letter dated 13.2.2001 by a subsequent letter dated 19.6.2003 and the same is under challenge in the said OA.

112 The applicants in OA 604/03 are Commercial Clerks in Palakkad Division of the Southern Railway belonging to the general category. They are challenging the action of the Railway Administration applying the 40 point roster for promotion to SC/ST employees in Railways and wrongly promoting them on arising vacancies instead of the cadre strength and also the seniority given to them.

113 The Commercial Clerks of Palakkad Division had approached this Tribunal earlier vide OAs 246/96 and 1061/97 and relying the decision of the Supreme Court in Ajit Singh II case this Tribunal directed the railway administration to recast the seniority of Chief Commercial Clerks Gr.II and on that basis, the respondents published the Seniority List of Commercial Clerks as on 31.8.97 vide Annexure.A1 letter dated 11/30.9.97, keeping in view of the Apex Court judgment in Virpal Singh Chauhan (supra). Applicants are at Sl.No.34,39,41,42,45 and 46 in the list of chief Commercial Clerks (Rs.1600-2660). Again, on the directions of this Tribunal in OA 246/96 and OA 1061/97 filed by Shri E.A.D'Costa and K.K.Gopi respectively, the Railway Administration prepared and published the seniority list of Chief Commercial Clerks vide Annexure A2 letter dated 13.2.2001. The applicants were assigned higher seniority position at Sl.Nos.12,17,18,19,20,23& 24. After publishing the

Annexure.A2 Seniority List dated 13.2.2001, Article 16(4A) of the constitution was amended by the 85th Amendment providing consequential seniority to reserved SC/ST candidates promoted on roster points with retrospective effect from 17.6.95. As a result, the Respondents vide Annexure.A3 letter dated 19.6.2003 cancelled the A2 Seniority List and restored the A.1 seniority list. The prayer of the applicants is to set aside Annexure.A3 letter cancelling the Annexure.A2 seniority List and to revive the A2 Seniority List in place of A1 Seniority List.

114 In reply the respondent Railways submitted that the Seniority List of Commercial Clerks were revised on13 .2.2001 in the light of the ruling of the Apex Court in Ajit Singh-II case and as per the directions of this Tribunal in OA 246/96 the applicant's seniority was revised upwards based on the entry grade seniority in the cadre. However, the principle enunciated in Ajit Singh Judgment regrading seniority of SC/ST employees on promotion have been reversed by the enactment of the 85th amendment of the constitution by which the SC/ST employees are entitled for consequential seniority on promotion based on the date of entry into the cadre post. Based on the said amendment the Railway Board issued instructions restoring seniority of SC/ST employees. They have submitted that after the amendment, the applicants have no claim for seniority over the Respondents 5 to 11.

115 The 11th party respondent Shri A.P.Somasundaram has filed a reply. He has submitted that neither the 40 point roster for

promotion nor the judgment of the Apex Court in Ajit Singh-II would apply in his case as he is a direct recruit Chief Commercial Clerk w.e.f. 3.6.1991 and not a promotee to that grade. In the Annexure.A1 seniority List dated 11/30.9.97, his position was at Sl.No.31. Pursuant to the directions of this Tribunal in OA 246/96 his position in the Annexure.A2 Seniority List dated 13.2.2001 was revised to 67. He challenged the same before this Tribunal in OA 463/2001 and by the interim order dated 6.6.2001, the said revision was made subject to the outcome of the OA. This OA is also heard along with this group of cases. Another OA similar to OA 463/01 is OA 457/01 which is also heard along with this group of cases. Subsequently vide Annexure.R2(f) letter dated 12.11.2001, the seniority of the applicant was restored at Sl.No. 10 in the Annexure.A2 Seniority List dated 13.2.2001.

116 In the reply filed by the respondent Railways, it has been submitted that the effect of the 85th Amendment of the Constitution is that the SC/ST employees who have been promoted on roster reservation are entitled to carry with them the consequential seniority also and after the said amendment, the applicant has no claim for revised seniority. They have also submitted that for filling up vacancies in the next higher grade of Commercial Supervisor, selection has already been held and the private Respondents 6,7,8, 9 & 10 belonging to SC/ST category have been selected along with the unreserved candidates vide order dated 28.7.2003.]

117 Considering the various judgments of the Apex Court, we

cannot agree with the respondent Railways about their interpretation of the effect of the 85th Constitutional Amendment. It only provides for consequential seniority to the SC/ST employees who have been promoted within the quota prescribed for them. When promotions made in excess of the quota are protected from reversion, they will not carry any consequential seniority. Hence, the impugned Annexure.A3 order dated 19.6.2003 cannot be sustained. The same is therefore, quashed and set aside. However, the case of the 11th respondent cannot be equated with that of the other promotee SC/ST employees.

118 We, therefore, quash and set aside the Annexure.A10 letter dated 26.3.2002 in OA 375/02. The respondents shall review the seniority lists of Head Clerks, Chief Commercial Clerks, Chief Commercial Clerk Grade II and Chief Commercial Clerks Grade I as on 10.2.1995 so that the excess promotions of SC/ST employees over and above the prescribed quota, if any, are identified and if the applicant was found eligible for promotion, it shall be granted to him notionally with all admissible retirement benefits. This exercise shall be done within a period of three months from the date of receipt of this order and result thereof shall be conveyed to the applicant. In OA 604/03, Annexure.A3 letter dated 19.6.2003 is quashed and set aside. The Annexure.A1 seniority list dated 11/30.9.97 is also quashed and set aside. The respondent Railways shall review the Annexure.A1 and A2 seniority lists for the purpose aforementioned and the results thereof shall be communicated to the applicants

within the period stipulated above. There shall be no order as to costs.

OA 787/04, OA 807/04, 808/04, 857/04, 10/05, 11/05, 12/05, 21/05, 26/05, 34/05, 96/05, 97/05, 114/05, 291/05, 292/05, 329/05, 381/05, 384/05, 570/05, 771/05, 777/05, 89/06, 892/05, 50/06 & 52/06:

119 All these 25 O.As are similar. The applicants in OA 784/04 are Commercial Clerks in Trivandrum Division of the Southern Railway belonging to the general category.

120 OA 807/04 is identical to that of OA 787/04 in all respects. Except for the fact that applicants in OA 808/04 are retired Commercial Clerks, this OA is also similar to OA 787/04 and OA 807/04. Except for the fact that the applicants in OA 857/04 are Ticket Checking staff of the Commercial Department in Trivandrum Division, it is similar to the other earlier O.As 787/04 and 807/04 & 808/04. Applicants in OA 10/05 belong to the combined cadre of Station Masters/Traffic Inspectors/Yard Masters employed in different Railway stations in Palakkad Division,Southern Railway. The applicants in O.A 11/05 are retired Station Masters from Trivandrum Division,Southern Railway, belonging to the combined cadre of Station Master/Traffic Inspectors, Yard Masters employed in different Railway Stations in Trivandrum Division. Applicants in OA 12/05 are retired Station Master Traffic Assistants belonging to the combined cadre of Station Masters/Traffic Inspector/Yard Masters in different Railway Stations in Palakkad Division of Southern Railway. Applicants in OA 21/05 are Station Masters/Deputy Yard Masters

belonging to the combined cadre of Station Masters/Traffic Inspectors/Yard Masters working in Trivandrum Division of Southern Railway. First applicant is Station Master Gr.I and the second Applicant is Deputy Yard Maser Grade.I. Applicants in O.A 26/05 are Commercial Clerks in Palakkad Division of Southern Railway. Applicants in OA 34/05 are retired Commercial Clerks from Triandrum Division of Southern Railway. Applicants in OA 96/05 are Ticket Checking Staff of Commercial Department, Palakkad Division of Southern Railway. Applicants in OA 97/05 are Ticket Checking Staff of Commercial department of Palakkad Division of Southern Railway. Applicants in OA 114/05 are Station Masters/Traffic Inspectors/Yard Masers belonging to the combined cadre of Station Masters/Traffic Inspectors/Yard Masters in Palakkad Division of Southern Railway. Applicants in OA 291/05 are retired Parcel Supervisor,Tirur, Head Goods Clerks, Calicut, Chief Parcel Clerk,Calicut, Sr.GLC,Feroke and Chief Booking Supervisor Calicut working under the Palakkad Division of Southern Railway. Applicant No.1 in OA 292/05 is a retired Chief Commercial Clerk Gr.II and Applicant No.2 is Chief Commercial Clerk Gr.I belonging to the grade of Chief Parcel Supervisor in the Trivandrum Division of Southern Railway. Applicants in OA 329/05 are Commercial Clerks in Trivandrum Division of Southern Railway. Applicants in OA 381/05 are retired Station Masters belonging to the combined cadre of Station Masters/Traffic Inspectors./Yard Masters employed in different Railway stations in Trivandrum Division of Southern Railway.

Applicant in OA 384/05 is a retired Head Commercial Clerk of Palakkad Division of Southern Railway. Applicant in OA 570/05 was a Traffic Inspector retired on 28.2.89 and he belonged to the combined cadre of Traffic Inspector/Yard Master/Station Masters in Palakkad Division of Southern Railway. Applicant in OA 771/05 is a retired Chief Travelling Ticket Inspector belonging to the cadre of Chief Traveling Ticket Inspector Gr.II in Southern Railway under the respondents. Applicant in OA 777/05 is a retired Travelling Ticket Inspector belonging to the Ticket Checking Staff of commercial Department in Trivandrum Division of Southern Railway. Applicant in OA 890/05 is are retired Chief Travelling Ticket Inspector Gr.II belonging to the cadre of Travel;ling Ticket Inspectors, Southern Railway. Applicants in OA 892/05 are Catering Supervisors belonging to the cadre of Catering Supervisors Gr.II in Trivandrum Division of Southern Railway. Applicant in OA 50/06 is a retired Chief Goods Clerk in the Palakkad Division of Southern Railway. Applicants in OA 52/06 are working as Traffic Yard Staff in the Traffic Department of Palakkad Division of Southern Railway.

121 The factual position in OA 787/04 is as under:

122 The cadre of Commercial Clerks have five grades, namely, Commercial Clerks Entry Grade (Rs. 3200-4900), Senior Commercial Clerk (Rs. 4000-6000), Chief Commercial Clerk Gr.III (Rs. 5000-8000), Chief Commercial Clerk Gr.II (Rs. 5500-9000) and Chief Commercial Clerk Gr.I (Rs. 6500-10500).

123 The applicants submitted that the cadre of Commercial

Clerks underwent up-gradation by restructuring of the existing posts in various grades w.e.f. 1.1.1984 and thereafter from 1.3.1993. The reserved category employees were given promotions in excess of the strength applying reservation roster illegally on arising vacancies and also conceded seniority on such roster/excess promotions over the senior unreserved category employees. The Apex Court in *All India Non SC/ST Employees Association (Railway) v. Agarwall and others, 2001 (10) SCC 165* held that reservation will not be applicable on redistribution of posts as per restructuring. From 1984 onwards, only provisional seniority lists were published in the different grades of Commercial Clerks. None of the seniority lists were finalized considering the directive of the Apex Court and also in terms of the administrative instructions. None of the objections field by general category candidates were also considered by the administration. All further promotions to the higher grades were made from the provisional seniority list drawn up erroneously applying 40 point roster on arising vacancies and conceding seniority to the SCST category employees who got accelerated and excess promotions. As such a large number of reserved category candidates were promoted in excess of cadre strength.

124 In the meanwhile large number of employees working in Trivandrum and Palakkad Divisions filed Applications before this Tribunal and as per the Annexure.A6 order dated 6.9.94 in OA 552/90 and other connected cases, the Tribunal held that the principle of reservation operates on cadre strength and the seniority

viz-a-viz reserved and unreserved category of employees in the lower category will be reflected in the promoted category also, notwithstanding the earlier promotions obtained on the basis of reservation. However, Respondents carried the aforesaid order dated 6.9.94 before the Hon'ble Supreme Court filing SLP No.10691/95 and connected SLPs. The above SLPs were disposed of by the Supreme Court vide judgment dated 30.8.96 holding that the matter is fully covered by the decision of the Supreme Court in R.K.Sabharwal and Ajit Singh I and the said order is binding on the parties. The Railways, however, did not implement the directions of this Tribunal in the aforesaid order dated 6.9.94 in OA 552/90. The applicants submitted that in view of the clarification given by the Apex Court in Ajit Singh II case that prospectivity of Sabharwal is limited to the purpose of not reverting those erroneously promoted in excess of the roster and that such excess promotees have no right for seniority and those who have been promoted in excess after 10.2.95 have no right either to hold the post or seniority in the promoted grade and they have to be reverted. The Railway Administration published the Seniority List of Commercial Clerks in Grade I, II, III and Sr.Commercial Clerks vide Annexure.A7 dated 2.12.2003, A8 dated 31.12.2001, A9 dated 30.10.2003 and A10 dated 7.1.2002 respectively. The above seniority list, according to the applicants were not published in accordance with the principles laid down by the Supreme Court as well as this Tribunal. The SC/ST candidates promoted in excess of the cadre strength are still retaining in

seniority units in violation of principles laid down by the Supreme Court. They can only be treated as adhoc promotes only without the right to hold the seniority in the promoted posts. Those SC/ST candidates promoted in excess of cadre strength after 1.4.1997 are not entitled either for protection against reversion or to retain their seniority in the promoted posts. One of the applicants in Annexure.A6 judgment dated 6.9.94, namely, Shri E.A. Sathyanesan filed Contempt Petition (C) No.68/96 in OA 483/91 before this Tribunal, but the same was dismissed by this Tribunal holding that the Apex Court has given reasons for dismissing the SLP and further holding that when such reason is given, the decision become one which attracts Article 141 of the Constitution of India which provides that the law declared by the Supreme Court shall be binding on all courts within the territory of India. Above order was challenged vide CA No.5629/97 which was disposed of by the Supreme Court vide order dated 18.12.03 holding that the Tribunal committed a manifest error in declining to consider the matter on merits and the impugned judgment cannot be sustained and it was set aside accordingly.

125 As directed by the Supreme Court in the above order, this Tribunal by order dated 20.4.2004 in MA 272/04 in CPC 68/96 in OA 483/91 directed the Railways to issue necessary resultant orders in the case of the applicants in OA No.552/90 and other connected cases applying the principles laid down in the judgment and making available to the individual petitioner the resultant benefits within a period of four months.

126 The submission of the applicant is that the directions of this Tribunal in Annexure. A6 order dated 16.9.94 in OA 552/90 and Annexure.A11 Supreme Court judgment dated 18.12.2003 in CA 5629/97 are equally and uniformally applicable in the case of applicants also as laid down by the Apex Court in the case of *Inder Pal Yadav Vs. Union of India, 1985(2) SCC 648* wherein it was held as under:

> ".....therefore, those who could not come to the court need not be at a comparative disadvantage to those who rushed in here. If they are otherwise similarly situated, they are entitled to similar treated, if not by any one else at the hand of this Court."

They have submitted that when the Court declares a law, the government or any other authority is bound to implement the same uniformly to all employees concerned and to say that only persons who approached the court should be given the benefit of the declaration of law is discriminatory and arbitrary as is held by the High Court of Kerala in *Somakuttan Nair V. State of Kerala, (1997(1) KLT 601)*. They have, therefore, contended that they should also have been given the same benefits that have been given to similarly situated persons like the Applicants in OA 552/90 and OA 483/91 and other connected cases by making available the resultant benefits to them by revising the seniority list and promoting them with retrospective effect. Non- fixation of the seniority as per the principles laid down by the various judicial pronouncements and not applying them in proper place of the seniority and promoting them from the respective dates of their due promotion and non-fixation of

pay accordingly is a continuing wrong giving rise to recurring cause of action every month on the occasion of the payment of salary.

127 In the reply submitted by the respondent Railway, they have submitted that the revision of seniority is not warranted in the cadre of Chief Commercial Clerks as it contains selection and non selection posts. The judgment in *J.C.Mallick and Virpal Singh Chauhan (supra)* were decided in favour of the employees belonging to the general category merely because the promotions therein were to non-selection posts. They have also submitted that the present case is time barred one as the applicants are seeking a direction to review the seniority in all grades of Commercial Clerks in Trivandrum Division in terms of the directions of this Tribunal in the common order dated 6.9.94 in OA 552/90 and connected cases and to promote the applicants retrospectively from the effective dates on their promotions. They have also resisted the OA on the ground that the benefits arising out of the judgment would benefit only petitioners therein unless it is a declaration of law. They have submitted that the orders of this Tribunal in OA 552/90 was not a declaratory one and it was applicable only to the applicants therein and therefore the applicants in the present OA have no locus standi or right to claim seniority based on the said order of the Tribunal.

128 On merits they have submitted that the seniority decided on the basis of restructuring held on 1.1.84,1.3.93 and 1.11.03 cannot be reopened at this stage as the applicants are seeking to reopen the issue after a period of two decades. They have,

however,admitted that the orders of this Tribunal in OA 552/90 was challenged before the Apex Court and it was disposed of holding that the matter was fully covered by Sabharwal's case. According to them by the judgment in Sabharwal case, the SC/ST employees would be entitled for the consequential seniority also on promotion till 10.2.95. The Contempt Petition filed in OA 483/91, 375/93 and 603/93 were dismissed by this Tribunal but the applicant in OA 483/91 filed appeal before the Hon'ble Supreme Court against the said dismissal of the Contempt Petition 68/96. The Hon'ble Supreme Court set aside the order in CPC 68/96 vide order dated 18.12.03 and directed the Tribunal to consider the case afresh and pass orders. Thereafter on reconsideration, the Tribunal directed the Respondents to implement the directions contained in OA 552/90 and connected cases vide order dated 20.4.2004. However, the said order dated 20.4.04 was again appealed against before the Apex Court and the Apex Court has granted stay in the matter. Therefore, the respondents have submitted that the applicants are estopped from claiming any benefits out of the judgment in OA 552/90 and connected cases.

129 In the rejoinder filed by the applicants, they have reiterated that the core issue is the excess promotions made to the higher grades on arising vacancies instead of the quota reserved for SC/ST employees, superseding the applicants. They have no right to hold the posts and seniority except those who have been promoted in excess of quota before 1.4.1997 who will hold the post only on adhoc

basis without any right of seniority.

130 In all these O.As the directions rendered by us in O.As 664/01, 304/02 etc., will apply. We, therefore, in the interest of justice permit the applicants to make representations/objections against the seniority list of Chief Commercial Clerk Grade I, Commercial Clerk Grade II and Commercial Clerk Grade III of the Trivandrum Division within one month from the date of receipt of this order clearly indicating the violation of any law laid down by the Apex Court in its judgments mentioned in this order. The respondent Railways shall consider their representations/objections when received in accordance with law and dispose them off within two months from the date of receipt with a speaking order. Till such time the above seniority list shall not be acted upon for any further promotions. There shall be no order as to costs.

O.As 305/2001, 457/2001, 463/2001, 568/2001, 579/2001, 640/2001 ,1022/2001.

OA 463/01: The applicants in this case are Scheduled caste employees. The first applicant is working as Chief Parcel Supervisor at Tirur and the second applicant is working as Chief Commercial Clerk at Calicut under the Southern Railway. They are aggrieved by the Anenxure.AVI letter dated 13.2.2001 issued by the third respondent by which the seniority list of Commercial Clerks in the scale of Rs. 5500-9000 has been recast and the revised seniority list has been published. This was done in compliance of a directive of this Tribunal in OA 246/96 and OA 1061/97 and connected cases

filed by one E.D.D'Costas, one Shri K.C.Gopi and others. The prayer of the applicants in those O.As was to revise the seniority list and also to adjust all promotions made after 24.2.84 otherwise than in accordance with the judgment of the Allahabad High Court in J.C.Mallick's case. This Tribunal vide order dated 8.3.2000 disposed of the aforesaid OA and connected cases directing the respondents Railway Administration to take up the revision of seniority in accordance with the guidelines contained in the judgment of the Apex Court in Ajit Singh II case. In compliance of the said order dated 8.3.2000, the applicant No.1 who was earlier placed at Sl.No.11 of the Annexure.A3 Seniority List of Chief Commercial Clerks was relegated to the position at Sl.No.55 of the Annexure.VI revised seniority list of Chief Commercial Clerks. Similarly Applicant No.2 was relegated from the position at Sl.No.31 to position at Sl.No.67. The applicants, have, therefore sought a direction from this Tribunal to set aside the Annexure.AVI order revising their seniority and also to restore them at their original positions. The contention of the applicants are that the judgment in Ajit Singh II does not apply in their case as they were not promotees and their very entry in service was in the grade of Chief Commercial Clerks.

131 In the reply the respondents have submitted that after the revision of seniority was undertaken, the applicants have made representations pointing out the errors in the fixation of their seniority position in the grade of Chief Commercial Clerks. After due consideration of their representations, the respondents have

assigned them their correct seniority position before Sl.Nos 3&4 and 9&10 respectively and thus the OA has become infructuous.

132 The applicant has not field any rejoinder disputing the aforesaid submissions of the respondents.

133 Since the respondents have re-fixed the seniority of the applicants admittedly by wrong application of the judgment of the Apex Court in Ajit Singh II case and they themselves have corrected their mistake by restoring the seniority of the applicant, nothing further survives in this OA and therefore the same is dismissed as infructuous. There shall be no order as to costs.

OA 1022/01: The applicant belongs to the Scheduled Caste category of employee and he was working as Office Superintendent Gr.II in the scale of Rs. 5500-9000 on regular basis. He is aggrieved by the A.1 order dated 15.11.2001 by which he was reverted to the post of Head Clerk in the scale of Rs. 5000-9000.

134 The applicant has joined the cadre of Clerk on 26.11.79. Thereafter, he was promoted as Senior Clerk in the year 1985 and later as Head Clerk w.e.f 1.9.85. Vide Annexure A3 letter dated 24.12.97, the respondents published the provisional seniority list of Head Clerks and the applicant was assigned his position at Sl.No.6. The total number of posts in the category of Office Superintendent Grade II was 24. During 1994 there were only 12 incumbents as against the strength of 23 posts because of the various pending litigations. Being the senior most Head Clerk at the relevant time, the applicant was promoted as Office Superintendent Gr.II on adhoc

basis with effect from 15.6.94 against a regular permanent vacancy pending final selection. In 1998 the respondents initiated action to fill up 12 of the vacancies in the cadre of Office Superintendent Gr.II. The applicant was also one of the candidates and considering his seniority position he was selected and placed at Sl.No.5 of the panel of selected candidates for promotion to the post of Office Supdt. Gr.II and vide A4 Memorandum dated 29.1.99,p he was appointed as Office Supdt.Gr.II on regular basis. However, at the time of the said promotion, OA No.53/99f filed by one Smt.Girija challenging the action of the respondent Railways in reserving two posts in the said grade for Scheduled Caste employees was pending. Therefore, the A4 order dated 21.9.99 was issued subject to the outcome of the result of the said OA. The Tribunal disposed of the said O.A vide Annexure.A5 order dated 8.1.2001 and directed the respondents to review the matter in the light of the ruling of the Apex Court in Ajit Singh II case. It was in compliance of the said A5 order the respondents have issued A6 Memorandum dated 18.6.2001 revising the seniority of Head Clerks and pushed down the seniority position of the applicant to Sl.No.51 as against the position which he has enjoyed in the pre-revised list hitherto. Therefore, the respondents issued the impugned Annexure.A1 order dated 15.11.2001 deleting the name of the applicant from the panel of OS/Gr.II and reverting him as Head Clerk with immediate effect. The applicnat sought to quash the said Annexure.A1 letter with consequential benefits. He submitted that the cadre based roster came into effect only w.e.f.

10.2.95 but the 11 vacancies in Annexure.A4 have arisen much prior to 10.2.95 and therefore they should have filled up the vacancies based on vacancy based roster and the applicant's promotion should not have been held to be erroneous. He has also contended that in the cadre of Office Supd.Gr.II, there are only two persons belonging to the SC community, namely, Smt. M.K.Leela and Smt. Ambika Sujatha and even going by the post based roster at least three posts should have set apart for the members of the SC community in the cadre/category of consisting of 23 posts. He has also relied upon the judgment of the Apex Court in **Ramaprasad and others Vs. D.K.Vijay and others, 1999 SCC L&S 1275** and all promotions ordered upto 1997 were to be protected and the same should not have been cancelled by the respondents.

135 In the reply statement, the respondents have submitted that the reversion was based on the direction of this Tribunal to review the selection for the post of OS Gr.II and according to which the same was reviewed and decision was taken to revert the Applicant. They have also submitted that total number of posts in the category of OS Gr.II during 1994 was 23. Against this 12 incumbents were working. As such 11 vacancies were to be filled up by a process of selection. The employees including the applicant were alerted for the selection to fill up 11 vacancies of O.S Gr.II/PB/PGT. The same was cancelled due to the changes in the break up of vacancies of SC/ST as per post based roster. The applicant and other employees have been subsequently alerted for

selection vide order dated 20.8.98. The selection was conducted and a panel of 12 (9 UR, 2SC, 1 ST) was approved by the ADRM on 22.1.99 and the same was published on 29.1.99. The applicant was empanelled in the list against the SC point at Sl.No.6 in the seniority list. They were told that the panel was provisional and was subject to outcome of Court cases. As per CPO Madras instructions, the vacancies proposed for OS Gr.II personnel Branch, Palghat should cover 2 SC and 2 ST, though there were 3 S.C employees have already been working in the cadre of OS Gr.II. They were Smt. K.Pushpalatha, Smt.M.CAmbika Sujatha and Smt. M.k.Leela and they were adjusted against the 3 posts in the post based roster as they had the benefit of accelerated promotion in the cadre. Two SC employees empanelled and promoted (Shri T.K.Sviadasan (applicant) and N.Easwaran later were deemed to be in excess in terms of the Apex Court judgment in Ajit Singh II which required for review of excess promotions of SC/ST employees made after 10.2.1995. Therefore, there was no scope for fresh excess SC/ST employees to continue and their promotions cannot be protected. A provisional seniority list was, accordingly, published on 18.6.2001 and the applicant's position was shown at Sl.No.51 as against his earlier position at Sl.No.6.

136 The applicant filed MA 692/03 enclosing therewith Memorandum dated 8.7.2003 by which the respondent Railways have cancelled the revised Seniority List of Head Clerks published on 18.6.2001 (Annexure.A6) and restored the earlier seniority list dated

24.12.1997.

137 Since the respondents have cancelled the revised seniority list and restored the original seniority list based on which he was promoted as O.S Gr.II on adhoc basis w.e.f. 15.4.1994 and later placed in the regular panel vide Annexur.A 4 Memorandum dated 29.1.1999 it is automatic that the impugned Annexure.A1 order reverting the applicant w.e.f. 15.11.2001 is withdrawn unless there are any other contrary orders. The OA has thus become infructuous and it is disposed of accordingly. There shall be no order as to costs.

OA 579/2001: The applicants 1,3&4 belongs to Scheduled Caste Community and the 2nd applicant belong to the Scheduled Tribe community. They are Chief Travelling Ticket Inspectors grade II in the scale Rs. 5500-9000 of Southern Railway,Trivandrum Division. The Respondents 13,15,16 & 18 earlier filed OA No.544/96. The relief sought by them, among others, was to direct the respondents to recast A1 seniority list as per the rules laid down by the Hon'ble Supreme Court in Virpal Sigh Chauhan's case. The O.A was allowed vide Annexure.A6(a) order dated 20.1.2000. The applicants herein were respondents in the said OA. A similar OA No.1417/96 was field by respondents 8,9 and 11 and and another on similar lines and the same was also allowed vide Annexure.A6 order dated 20.1.2000. In compliance of the directions of this Tribunal in the aforesaid O.As, the respondent Railways issued the Annexure. A1 provisional revised seniority list dated 21.11.2000. After receiving

objections and considering them, the said provisional seniority list was finalized vide the Annexure.A3 letter dated 19.3.2001. The applicants submitted that they were promoted against the reserved quota vacancies upto the scale of pay of Rs. 1400-2300 and by general merit/reserved quota vacancies in the scale of pay Rs. 1600-2660. They are not persons who were promoted in excess of the quota reserved for the members of the SC/ST as is evident from the Annexure.A1 itself. They have also submitted that the impugned list are opposed to the law settled by the Hon'ble Supreme Court in Veerpal Singh Chauhan's case affirmed in Ajit Singh-II. In Veerpal Singh's Chauhan's case, the Hon'ble Supreme Court held that persons selected against a selection post and placed in an earlier panel would rank senior to those who were selected and placed in a later panel by a subsequent selection. This ratio was held to be decided correct in Ajit Singh II. Applicants 1 to 4 are persons who were selected and placed in an earlier panel in comparison to the party respondents herein and that was the reason why they were placed above the respondents in the earlier seniority list.

138 Respondents 1 to 4 have submitted that applicants No.1,2, and 4 were promoted to Grade Rs. 425-640 with effect from 1.1.84 against the vacancies which have arisen consequent upon restructuring of the cadre. The applicant No.3 has been promoted to grade Rs. 425-640 with effect from 1.1.84 against a resultant vacancy on account of restructuring. They have been subsequently promoted to the Grade of Rs. 550-750.

139 In the reply of respondents 8,9,11,13,15,16 and 18 it was submitted that in terms of paras 29 and 47 of Virpal Singh, the seniority at Level 4 (non-selection grade) is liable to be revised as was correctly done in Annexure.1. They have also submitted that they have been ranked above the applicants in A1 as they belonged to the earlier panels than that of the applicants' in Level 1, which is a selection grade. The former were promoted before the latter in Level 2 also, which is a non-selection grade. Level 3 is a selection grade to which the applicants got accelerated promotion under quota rule with effect from 1.1.84. Respondents 8,9,11,13 and 15 also entered Level 3 with effect from 1.1.84 and respondents 16 and 18 entered Level 3 later only. It was only under the quota rule that the applicants entered Level 4, which is a non-selection grade. The respondents herein and those ranked above the applicants in A4, caught up with them with effect from 1.3.93 or later. The applicants entered scale Rs. 1600/- also under quota rule only and not under general merit. Further, para 1 of A4 shows that there were 6 S.Cs and 5 S.Ts among the 27 incumbents in scale Rs. 2000-3200 as on 1.8.93, instead of the permissible limit of 4 S.Cs and 2 S.Ts at 15% and 7 ½% respectively. In view of the decisions in Sabharwal, Virpal Sing and Ajit Singh I, the 6 S.Cs and 3 S.Ts in scale Rs. 1600-2660 were not eligible to be promoted to scale Rs. 2000-3200 either under quota rule or on accelerated seniority. Apart from this, the 6 S.Cs and 3 S.Ts in scale Rs. 1600-2600 (non selection post) were liable to be superseded by their erstwhile seniors under para 319-A of IREM,

and as affirmed in Ajit Singh II. The said para 319-A of IREM is reproduced below:

> "Notwithstanding the provisions contained in paragraph 302, 319 and 319 above, with effect from 10.2.1995, if a railway servant belonging to the Scheduled Caste or Scheduled Tribe is promoted to an immediate higher post/grade against a reserved vacancy earlier than his senior general/OBC railway servant who is promoted later to the said immediate higher post/grade, the general/OBC railway servant will regain his seniority over such earlier promoted railway servant belonging to the Scheduled Caste and Scheduled Tribe in the immediate higher post?grade".

140 Applicants in their rejoinder submitted that the respondents should not have unsettled the rank and position of the applicants who had attained their respective positions in Level II and Level III applying the "equal opportunity principle". They have also submitted that there has no bonafide opportunity given to them to redress their grievances in an equitable and just basis untrammeled by the shadow of the party respondents.

141 During the pendency of the O.A, the 85th Amendment of the Constitution was passed by the parliament granting consequential seniority also to the SC/ST candidates who got accelerated promotion on the basis of reservation. Consequently the DOPT, Govt. of India and the Railway Board have issued separate Office Memorandum and letter dated 21.1.2002 respectively. According to these Memorandum/Letter w.e.f. 17.6.1995, the SC/ST government servants shall, on their promotion by virtue of rule of reservation/roster, be entitled to consequential seniority also. It was also stipulated in the said Memorandum that the seniority of

Government servants determined in the light of O.M dated 30.1.1997 shall be revised as if that O.M was never issued. Similarly the Railway Board's said letter also says that the "Seniority of the Railway servants determined in the light of para 319A ibid shall be revised as if this para never existed. However, as indicated in the opening para of this letter since the earlier instructions issued pursuant to Hon'ble Supreme Court's judgment in Virpal Singh Chauhan's case(JT 1995(7) SC 231) as incorporated in para 319A ibid were effective from 10.2.95 and in the light of revised instructions now being issued being made effective from 17.6.95, the question as to how the cases falling between 10.2.95 and 16.6.95 should be regulated, is under consideration in consultation with the Department of Personnel & Training. Therefore,separate instructions in this regard will follow."

142 We have considered the factual position in this case. The impugned Annexure.A1 Seniority List of CTTIs/CTIs as on 1.11.2000 dated 21.11.2000 was issued in pursuance to the Tribunal's order in OA 544/96 dated 20.1.2000 and OA 1417/96 dated 20.1.2000 filed by some of the party respondents in this OA. Both these orders are identical. Direction of the Tribunal was to determine the seniority of SC/ST employees and the general category employees on the basis of the latest pronouncements of the Apex Court on the subject and Railway Board letter dated 21.8.97.. This letter was issued after the judgment of the Apex Court in Virpal Singh Chauhan's case pronounced on 10.10.95, according to which the roster point

promotee getting accelerated promotion will not get accelerated seniority. Of course, the 85th Amendment of the Constitution has reversed this position with retrospective effect from 17.6.1995 and promotions to SC/ST employees made in accordance with the quota reserved for them will also get consequential seniority. But the position of law laid down in Ajit Singh II decided on 16.9.99 remained unchanged. According to that judgment, the promotions made in excess of roster point before 10.2.1995 will not get seniority. This is the position even today. Therefore, the respondents are liable to review the promotions made before10.2.1995 for the limited purpose of finding out the excess promotions of SC/ST employees made and take them out from the seniority list till they reaches their turn. The respondents 1 to4 shall carry out such an exercise and take consequential action within three months from the date of receipt of this order. This OA is disposed of in the above lines. There shall be no order as to costs.

O.A 305/01, OA 457/01, OA 568/01 and OA 640/01:

143 These O.As are identical in nature. The applicants in all these O.As are aggrieved by the letter dated 13.2.2001 issued by the Divisional Office, Personnel Branch, Palghat regarding revision of seniority in the category of Chief Commercial Clerks in scale Rs. 5500-9000 in pursuance of the directions of this Tribunal in the common order in OA 1061/97 and OA 246/96 dated 8.3.2000, which reads as under:

> "Now that the Apex Court has finally determined the issues in Ajith Singh and others (II) Vs. State of Punjab and

others, (1999) 7 SCC 209), the applications have now to be disposed of directing the Railway administration to revise the seniority and to adjust the promotions in accordance with the guidelines contained in the above judgment of the Supreme Court.

In the result, in the light of what is stated above, all these applications are disposed of directing the respondents Railway Administration to take up the revision of the seniority in these case in accordance with the guidelines contained in the judgment of the Supreme Court in Ajith Singh and others (II) Vs. State of Punjab and others (1999) 7 SCC 209) as expeditiously a possible.

144 The applicant in OA 305/2001 submitted that the seniority of Chief Commercial Clerks was revised vide the Annexure. A.XII dated 30.9.97 pursuant to the judgment of the Hon'ble Supreme Court in Virpal Singh Chauhan (supra). The ranking in the revised seniority list of the applicants are shown below.

Ist applicant	- Rank No.4
2nd applicant	-Rank No.12
3rd applicant	-Rank No.15: and
4th applicant	-Rank No.8

The said seniority list has been challenged vide OA 246/96 and 1041/96 and the Tribunal disposed of the O.As along with other cases directing the Railway Administration to consider the case of the applicants in the light of Ajit Singh II (supra). According to the applicant, the respondents now in utter violation of the principles enunciated by the Hon'ble Supreme Court and in disregard to the seniority and without analyzing the individual case, passed order revising seniority by placing the applicants far below their juniors on the simple ground that the applicants belongs to Scheduled Caste. It is not the principle as understood by Ajit Singh II that all SC employees should be reverted or placed below in the list regardless

of their nature of selection and promotion, their panel precedence etc. The revision of seniority is illegal in as much as the same is done so blindly without any guidelines, and without any rhyme or reason or on any criteria or principle. As per the decision in Virpal Singh Chauhan which was affirmed in Ajit Singh II it had been categorically held by the Hon'ble Supreme Court that the eligible SC candidates can compete in the open merit and if they are selected, their number shall not be computed for the purpose of quota for the reserved candidates. The applicants Nos. 1 and 2 were selected on the basis of merit in the entry cadre and applicants No.3 and 4 were appointed on compassionate grounds. Since the applicants are not selected from the reserved quota and their further promotions were on the basis of merit and empanelment, Ajit Singh II dictum is not applicable in their cases. They submitted that the Supreme Court in Virpal Singh's case categorically held that the promotion has to be made on the basis of number of posts and not on the basis of number of vacancies. The revision of seniority list was accordingly made in consonance with the said judgment. Even after the said revision, the applicant- I was ranked as 4 and other applicants were ranked as No.12 15 and 8 respectively in the list. They further submitted that according to Ajith Singh-II judgment (para 89) promotions made in excess before 10.2.95 are protected but such promotees are not entitled to claim seniority. According to them the following conditions precedent are to be fulfilled for review of such promotions made after 10.2.95:

i)There was excess reservation exceeding quota.
ii)What was the quota fixed as on10.2.95 ad who are the persons whose seniority is to be revised.
iii)The promotee Scheduled caste were promoted as against roster points or reserved posts.

They have contended that the first condition of having excess reservation exceeding the quota was not applicable in their case. Secondly, all the applicants are selected and promoted to unreserved vacancies on their merit. Therefore, Ajit Sngh II is not applicable in their cases. According to them, assuming but not admitting that there was excess reservation, the order of the Railway Administration shall reflect which is the quota as on 10.2.95 and who are the persons promoted in excess of quota and thereby to render their seniority liable to be revised or reconsidered. In the absence of these essential aspects in the order, the order has rendered itself illegal and arbitrary. The applicants further submitted that they belong to 1991 and 1993 panel and as per the dictum in Virpal Singh case itself, earlier panel prepared for selection post should be given preference to a later panel. However, by the impugned order, the applicants were placed below their raw juniors who were no where in the panel in 1991 or 1993 and they are empanelled in the later years. Therefore by the impugned order the panel precedence, as ordered by the Hon'ble Supreme Court have been given a go-bye.

145 The respondents in their reply submitted that the first applicant was initially engaged as CLR porter in Group D on 23.9.72. He was appointed as Temporary Porter in scale Rs. 196-232 on 17.3.77. He was promoted as Commercial Clerk in scale Rs. 260-

430 by 2.7.78 and subsequently promoted to scale Rs. 425-640 from 1.1.84. He was selected and empanelled for promotion as Chief Commercial Clerk and posted with effect from 1.4.91. Thereafter, he was empanelled for promotion as Commercial Supervisor and posted to Madukarai from 13.1.99.

146 The second applicant was initially appointed in scale Rs. 196-232 in Traffic Department on 1.3.72 and was posted as Commercial Clerk in scale 260-430 on 19.6.78/21.6.78. He was promoted to scale Rs. 425-640 from 1.1.84 and then to the scale of Rs. 1600-2660 from 25.1.93. He was selected and empanelled for promotion as Commercial Supervisor in scale Rs. 6500-10500 w.e.f. 27.1.99.

147 The third applicant was appointed a Substitute Khalasi in Mechanical Branch w.e.f. 18.10.78 in scale 196-232 on compassionate grounds. He was posted as a Commercial Clerk from 1.2.81 and promoted as Sr. Commercial Clerk, Head Commercial Clerk and Chief Commercial clerk respectively on 30.1.86,3.4.90 and 1.4.93. Having been selected he was posted as Chief Booking Supervisor fro 13.2.99. He was posted as Dy. Station Manager/Commercial/Coimbatore from September, 1999.

The 4th applicant was appointed as Porter in the Traffic Department from 1.10.77. He was posted as Commercial Clerk from 6.2.80 and promoted to higher grades and finally as Chief Commercial Supervisor in scale Rs. 6500-10500 from 10-.12.98.

148 The respondents submitted that the Supreme Court

clearly held that the excess roster point promtoees cannot claim seniority after 10.2.95. The first applicant was promoted from Commercial Clerk to Head Commercial Clerk without working as Senior Commercial Clerk against the SC shortfall vacancy. The second to fourth applicants were also promoted against shortfall of SC vacancies. As the applicants were promoted against SC shortfall vacancies the contention that they should be treated as unreserved is without any basis. They have submitted that the revision has been done based on the principles of seniority laid down by the Apex court to the effect that excess roster point promtoees cannot claim seniority in the promoted grade after 10.2.95. The promotion of the applicant as Chief Commercial Clerk has not been disturbed, but only his seniority has been revised. If a reserved community candidate has availed the benefit of caste status at any stage of his service, he will be treated as reserved community candidate only and principles of seniority enunciated by the Apex Court is squarely applicable. The applicants have not mentioned the names of the persons who have been placed above them and they have also been not made any such persons as party to the proceedings.

149 The applicant in OA 457/2001 is a Junior Commercial Clerk, Tirupur Good Shed, Southern Railway. He was appointed to the cadre of Chief Commercial Clerk on 26.11.1973. Later on, the applicant was promoted to the cadre of Senior Commercial Clerk on 5.4.1981 and again as Head Commercial Clerk on 7.8.1985 on account of cadre restructuring. On account of another restructuring

of cadre, he was promoted to the post of Chief Commercial Clerk w.e.f. 1.3.1993. In the common seniority list published during 1997, on the basis of the decision in Virpal Singh Chauhan, the applicant is at serial No.22 in the said list. The other contentions in this case are also similar to that of OA 305/2001.

150 In OA 568/2001 the applicants are Dr.Ambedkar Railway Employees scheduled Castes and Scheduled Tribes Welfare Association and two Station Managers working in Palakkad Division of Southern Railway. The first applicant association members are Scheduled Caste Community employees working as Station Managers. The 2nd applicant entered service as Assistant Station Master on 19.4.1978. The third applicant was appointed as Assistant Station Master on 16.8.78. Both of them have been promoted to the grade of Station Manager on adhoc basis vide order dated 10.7.98 and they have been promoted regularly thereafter. The contentions raised in this OA is similar to OA 305/2001.

151 Applicants five in numbers in OA 640/2001 are Chief Goods Supervisor, Chief Parcel Clerk, Chief Goods Clerk, Chief Booking Clerk and Chief Booking Clerk respectively. The first applicant was appointed as Junior Commercial Clerk on 5.12.1981, promoted as Senior Commercial Clerk on 1.1.84 and as Chief Commercial Clerk on 1.3.93. The second applicant joined as Junior Commercial Clerk on 29.10.82, promoted as Senior Commercial Clerk on 17.10.84, as Head Commercial Clerk on 5.9.88 and as Chief Commercial Clerk on 11.7.1994. The thrid applicant joined as

Junior Commercial Clerk on2 1.6.81, promoted as Head Booking Clerk on 22.10.84 and as Chief Goods Clerk on 1.3.1993, the 4th applicant applicant appointed as Junior Commercial Clerk on 23.12.1983, promoted as Head Clerk on 10.7.84 and as Chief Commercial Clerk on 1.3.1993. The 4th applicant joined as Junior Commercial Clerk on 2.2.1981, Head Commercial Clerk on 1.1.84 and as chief Commercial Clerk on 2.7.91. The contentions raised in this OA is similar to that of OA 305/2001 etc.

152 We have considered the rival contentions. We do not find any merits in the contentions of the applicants. The impugned order is in accordance with the judgment in Ajit Singh-II and we do not find any infirmity in it. O.A is therefore dismissed. No costs.

Dated this the Ist day of May, 2007

GEORGE PARACKEN
JUDICIAL MEMBER

SATHI NAIR
VICE CHAIRMAN

S.