

This Order has been reviewed  
vide order in RA. 3/2003.

CENTRAL ADMINISTRATIVE  
ERNAKULAM BENCH

OA 334/2001

Friday this the 10th day of January, 2003.

C O R A M

HON'BLE MR.G.RAMAKRISHNAN, ADMINISTRATIVE MEMBER  
HON'BLE MR.K.V.SACHIDANANDAN, JUDICIAL MEMBER

C.P.Venugopalan  
S/o M.V.Krishnan Nambiar  
Teacher Grade II  
Railway High School  
Palakkad.  
Residing at 272/A  
Railway Colony  
Palakkad.

Applicant

[By advocate Mr.M.R.Rajendran Nair]

Versus

1. Union of India represented by  
The Secretary to the Government of India  
Ministry of Railways  
New Delhi.
2. The General Manager  
Southern Railway  
Madras.
3. The Chief Personnel Officer  
Southern Railway  
Madras.
4. The Senior Divisional Personnel Officer  
Palakkad Division  
Palakkad.
5. The Headmaster  
Railway High School  
Palakkad.

Respondents.

[By advocate Mrs.Sumathi Dandapani R1-4)

The application having been heard on 10th January, 2003,  
the Tribunal on the same day delivered the following:

O R D E R

HON'BLE MR.G.RAMAKRISHNAN, ADMINISTRATIVE MEMBER

Applicant, a teacher Grade II in the Railway Mixed High School, Palakkad, Southern Railway, aggrieved by the denial of promotion to the Senior Grade due to him with effect from 1995, filed this Original Application seeking the following reliefs:



- i) To declare that the applicant is entitled to be promoted to Senior Grade with effect from June 1995, when the applicant completed 12 years of service in the basic grade, and
- ii) To direct the respondents to grant promotion to him to the Senior Grade with effect from 1995.
- iii) Grant such other reliefs as may be prayed for and the Court may deem fit to grant and
- iv) Grant the cost of this Original Application.

2. According to the averments of the applicant in the OA, he was appointed on a regular basis as a teacher Grade II in Railway Mixed High School, Palakkad, Southern Railway on 15.6.83. The Departmental Promotion Committee met in 1996 to consider those eligible to be considered for promotion to the Senior Grade on the basis of completion of 12 years in the respective basic grades. Applicant submitted that when he was not considered, he submitted a representation dated 16.6.97 to the Chief Personnel Officer. When the DPC met in 1997, his name was considered with effect from 1.4.96 based on improved performance and he received A-1 reply dated 29.7.97 issued by the Chief Personal Officer. Applicant submitted A-2 representation dated 21.8.97 to the President stating his grievance. He did not get any reply. Later the Employees Union submitted A-3 representation dated 4.6.99 to the General Manager, Southern Railway stating the grievances of the applicant. The General Secretary of the Employees Union got A-4 reply dated 6.7.99. The applicant again sent A-5 reminder dated 12.8.2000 to the President stating that the claim of the applicant was yet to be considered. Under these circumstances, the applicant filed this OA seeking the above reliefs. According to him, the action of the respondents in not giving his due promotion with effect from June 1995, even though he was fully qualified and eligible without assigning any reason

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was arbitrary, illegal and unjust. He had an expectation that he would be considered along with others who were promoted in the year 1995 and there was nothing which disentitled him to be promoted.

3. Respondents filed reply statement resisting the claim of the applicant. Relying on R-1 letter dated 11.1.98, the respondents submitted that the senior grade and selection grade to teachers would be given only after screening regarding satisfactory performance by an appropriate departmental promotion committee and satisfactory performance being assessed by perusal of service register and confidential reports. It was submitted that the case of the applicant for grant of senior grade with effect from 15.6.95, the date on which he completed 12 years of service was considered and placed before the DPC along with the other eligible candidates during 1996. The DPC after screening did not recommend the case of the applicant for grant of senior grade for the reason that there was an adverse entry in his CR for the period ending 31.3.94 and also he was censured as per SR entry during 1995. His case was placed before the subsequent DPC in the year 1997. The DPC reviewed his case for grant of senior grade and recommended senior grade with effect from 1.4.96 based on his improved performance. The representation made by the applicant for non grant of senior grade with effect from 15.6.95 by his letter dated 16.6.97 was replied by A-1 letter and the said letter was not under challenge in this OA. He subsequently met the higher authorities on various occasions and expressed his grievance. He was explained the reasons for his non-granting of senior grade in detail. As there was no merit in his continued

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representation despite reasoned reply given by the administration, no further reply was given to his further representation. It was submitted that as there was no merit in the OA, the OA was liable to be dismissed.

4. Heard the learned counsel for the parties. We have given careful consideration to the submissions made by the learned counsel for the parties and the rival pleadings and have also perused the documents brought on record. There is no dispute amongst the parties that the applicant had completed 12 years of service on 15.6.95 The provisions of the Railway Board's letter dated 11.1.88 (Annexure R-1) govern the grant of senior and selection grades to Railway school teachers. Paragraph 4 of the said letter reads as under;

"4. The allotment of the revised scales, as in the Annexure will be subject to the following conditions:

- (i) While senior grade to Primary School teachers, Trained Graduate teachers/Headmasters of Primary Schools and Post Graduate teachers, Headmasters of Middle Schools will be granted after 12 years in the basic grade, the selection grade (non-functional) will be granted after 12 years of service in the senior grade and will be further subject to the attainment of the prescribed level of qualification, viz. Trained Graduate teacher's qualification in respect of Primary School teachers and Post Graduate teacher's qualification in respect of Trained Graduate teachers. Both the conditions, viz. completion of 12 years service in the senior grade and acquisition of the prescribed level of additional qualification, must be satisfied for becoming eligible to the selection grade in these cases. For the Vice Principals/Headmasters of Secondary Schools, there will be only senior grade after 12 years and no selection grade.
- (ii) The number of posts in selection grade (non-functional) for Primary School teachers, Trained Graduate teachers/Headmasters of Primary School, Post Graduate teacher, Headmaster of Middle School will be restricted to 20% of the number of posts in the senior grade of the respective cadre.



- (iii) The senior grade and selection grade (non-functional) shall be given only after screening regarding satisfactory performance by an appropriate Departmental Promotion Committee.
- (iv) Every teacher would be required to participate in an in-service training programme of at least 3 weeks duration before he/she passes an efficiency bar or is promoted to senior grade or selection grade, once in every six years; provided that, where arrangements for such training cannot be made, the appointing authority may exempt a category of teachers for a specific period of time. The Ministry of Railways would like it to be ensured that suitable in service training programmes of the prescribed duration are introduced so that the need for a special dispensation will arise in the rarest of rare cases.
- (v) Although for purposes of grant of selection grade, Primary School teachers and Trained Graduate teachers will be required to obtain higher qualifications, they will not be required to shift to an institution of higher level.
- (vi) Appointment to the posts of Principals, Vice Principals and Headmasters will be made in all schools on the basis of merit"

5. We find from the above that a Railway school teacher is entitled to senior grade only after 12 years in the basic grade. Further the senior grade would be given only after screening regarding the satisfactory performance by an appropriate Departmental Promotion Committee. In addition, a teacher would be required to participate in an in-service training programme of at least 3 weeks duration before he/she is promoted to senior grade. As far as the applicant in the present OA is concerned, the respondents' case is that the applicant's performance was not satisfactory as reflected in his Annual Confidential Reports and hence the DPC had not considered him fit for grant of senior grade on the due date i.e. 12.6.95 and that his case was placed before the subsequent DPC for review. The subsequent DPC had reviewed his case and had granted him the senior grade with effect from 1.4.96. From the pleadings in the OA, we find that the applicant has not disputed that he was served with a charge

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memo on 15.11.91, that he was suspended in 1992, and that a second major penalty charge sheet was issued on 19.3.92. He also averred that in his Confidential Reports for 1994, there was an adverse remark and he had also been imposed with a penalty of 'censure'. When these are admitted by the applicant and the DPC had met in 1996 to consider him for grant of senior grade with effect from 15.6.95 and found him not fit for grant of senior grade and had recommended that his case should be reviewed by the next DPC, this Tribunal cannot find any infirmity in the same in the face of factual position regarding his performance as admitted by the applicant. This Tribunal cannot also grant a declaration and direction as sought for by the applicant through the reliefs sought in this OA because it is now well settled that Court/Tribunals while exercising the powers of judicial review cannot generally act as review DPCs/appellate authorities.

6. In the result, we hold that the applicant is not entitled for the reliefs sought for and accordingly we dismiss this OA with no order as to costs.

Dated 10th January, 2003.



K.V. SACHIDANANDAN  
JUDICIAL MEMBER

aa.



G. RAMAKRISHNAN  
ADMINISTRATIVE MEMBER

SUBJECT:- DENIAL OF PROMOTION-TEACHER GRADE II, RAILWAY HIGH SCHOOL, PALAKKAD-SOUTHERN RAILWAY.

BEFORE THE HONOURABLE CENTRAL ADMINISTRATIVE TRIBUNAL,  
ERNAKULAM BENCH.

O.A.No.

334 of 2001.

C.P. Venugopalan

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Applicant.

vs.

Union of India & others

:

Respondents.

I N D E X.

=====  
Sl.No. Particulars. Page Nos.

COMPILATION No.I:-

1. Original Application.

1 to 4

COMPILATION No.II:-

2. Annexure--A1 true copy of letter No.  
P(W)535/XIV/RS/Sr.Grade dated 29.7.97  
issued by the Chief Personnel Officer,  
Headquarters Office,Chennai to the applicant.

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3. Annexure--A2 true copy of the representation  
dated 21.8.97 submitted by the applicant to  
the Honourable President, Indian Union.

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4. Annexure-A3 true copy of the representation  
No.194/A dated 4.6.1999 submitted by the  
General Secretary of Southern Railway  
Employees Union,Madras to the 2nd respondent.

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5. Annexure--A4 true copy of the letter No.  
P(W)594/RS/PNM/Other reference Vol.IV dated  
6.7.1999 issued by the 3rd respondent.

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6. Annexure--A5 true copy of the reminder dated  
12.8.2000 submitted by the applicant to the  
Hon'ble President, Union of India, New Delhi.

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7	Miscellaneous Application for production of Document	15 - 17
8	Annexure A6-- A true copy of the representation addressed to the 3 <sup>rd</sup> respondent by the General Secretary SREU.	18
9	Annexure A7--A true copy of the petition dated 25.11.1996 submitted by the applicant before the General Manager's Open Court	19 - 21
10	Annexure A8--A true copy of the letter dated 26.4.2000 addressed to 3 <sup>rd</sup> respondent from the General Secretary SRES	22

11. Reply statement by R1-4

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12. Annexure R1

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