

CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

O.As 552/90, 483/91, 992/92, 1793/92, 375/93, 401/93
430/93, 603/93, 622/93, 626/93, 990/93, 1283/93
2078/93 and 2240/93.

Tuesday this the 6th day of September, 1994

CORAM

HON'BLE MR.JUSTICE CHETTUR SANKARAN NAIR, VICE CHAIRMAN
HON'BLE MR. P.V.VENKATAKRISHNAN, ADMINISTRATIVE MEMBER
O.A.552/90

1. C.Pankajshan, Chief Goods Clerk,
Calicut Railway Station, Calicut.
2. T.Bala Raman, Chief Parcel Clerk,
Calicut Railway Station, Calicut.
3. V.K.Bhuvanadasan, Head Booking Clerk,
Tirur Railway Station, Tirur.
4. K.P.Vijaya Raghavan,
Head Goods Clerk,
Calicut Railway Station, Calicut.
5. M.Balagopalan, Head Booking Clerk,
Calicut Railway Station, Calicut.
6. P.V.Sreenivasan, Head Goods Clerk
Calicut Railway Station, Calicut.
7. M.Ramakrishnan, Head Booking Clerk,
Calicut Railway Station, Calicut. Applicants

(By Advocate Mr. V.K.Raveendran)

Vs.

1. Union of India represented by
the Ministry of Railways, N.Delhi.
2. The Divisional Railway Manager,
Palghat Division, Southern Railway,
Palghat.
3. The Senior Divisional Personnel
Officer, Palghat Division, Southern
Railway, Palghat.
4. P.M.Balakrishnan, Chief Booking
Clerk, Calicut Railway Station,
Calicut.
5. M.Madhavan, Head Parcel Clerk,
Calicut Railway Station,
Calicut.
6. Union of Ind represented by Secretary
to Government of India, Deptt. of
Personnel & Training, Public Grievances
and Pension, New Delhi. Respondents

By Advocate Mr. M.C.Cherian for R.1to3)

.....2



O.A. 483/91

1. P.V. Varghese, Chief Commercial Clerk Gr.II
Southern Railway, Ernakulam Junction.
2. K.Gopinathan Nair, Chier Commercial Clerk
Grade II, Southern Railway, Kalamassery.
3. P.K.Chandrasekharan Pillai, Chief Commercial Clerk,
Grade II, Southern Railway, Ernakulam Junction.
4. E.A.Sathyanesan, Chief Commercial Clerk Gr.II
Southern Railway, Cochin Harbour Terminus.

(Applicants)

(By Advocate Mr.P.V.Mohanam)

Vs.

1. Railway Board, through its Chairman,
Rail Bhavan, New Delhi.
2. General Manager, Southern Railway, Madras.
3. Divisional Railway Manager, Southern Railway,
Thiruvananthapuram.
4. C.P.Natarajan, Chief Commercial Clerk
Grade II, Southern Railway, Kollam.
5. A.K.Pramode, Chief Commercial Clerk,
Grade II, Southern Railway, Thiruvananthapuram.
6. V.Subramanian, Chief Commercial Clerk
Grade II, Southern Railway,
Nagercoil Junction.
7. C.Jayachandran, I Chief Commercial Clerk
Grade II, Southern Railway, Kanyakumari.
8. R.V.Danial, Chief Commercial Clerk Gr.II
Southern Railway, Kottayam.
9. Daniel Joseph, Chief Commercial Clerk
Grade II, Southern Railway Ernakulam Jn.
10. M.Shanmugham, Chief Commercial Clerk,
Southern Railway, Nagercoil Jn.
11. Sam George, Chief Commercial Clerk,
S.Railway, Ernakulam.
12. R.Vijayan, Chief Commercial Clerk,
S.Railway, Mavelikkara.
13. N. Mohanan, Chief Commercial Clerk,
Southern Railway, Irimpanam. Respondents

(By Advocates: Mrs.Sumati Dandapani (B. 1to3)
Mr. V.N.Prabhakaran (R.8,9,11 and 12)
Mr.M.Surendran (R.4,5,6 and 7).

-: 3 :-

O.A.992/92

James Figardo, Chief Commercial Clerk Gr.II,
Irimpanam, Southern Railway.

.... Applicant

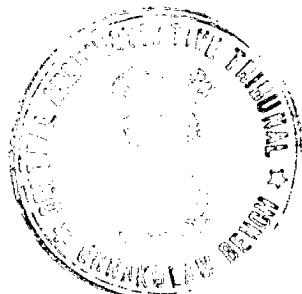
(By Advocate Mr. P.V.Mohanan)

Vs.

1. Railway Board through its Chairman, Rail Bhavan,
New Delhi.
2. General Manager, Southern Railway, Madras.
3. Divisional Railway Manager, Southern Railway,
Thiruvananthapuram.
4. C.P.Natarajan, Chief Commercial Clerk Gr.II
Southern Railway, Kollam.
5. A.K.Pramode, Chief Commercial Clerk Grade II
Southern Railway, Thiruvananthapuram.
6. V.Subramanian, Chief Commercial Clerk Gr.II
Southern Railway, Nagercoil Junction.
7. C.Jayachandran, I Cheif Commercial Clerk Gr.II
Southern Railway, Kanyakumari.
8. R.V.Daniel, Chief Commercial Clerk Gr.II
Southern Railway, Kottayam.
9. Daniel Joseph, Chief Commercial Clerk Gr.II
Southern Railway, Ernakulam Junction.
10. M.Shanmugham, Chief Commercial Clerk,
Southern Railway, Nagercoil Junction.
11. Sam George, Chief Commercial Clerk,
Southern Railway, Ernakulam.
12. R.Vijayan, Chief Commercial Clerk,
Mavelikkara, Southern Railway.
13. N.Mohanan, Chief Commercial Clerk,
Southern Railway, Irimpanam.

(By Advocates: Smt. Sumati Dandapani (R.1to3)

Mr. K.N.Balakrishnan Nair
(R.8,9,11 and 13)



.....4

O.A. 1793/92

1. M. Krishnan Namboodiri, Station Master Gr.II
Parli Railway Station, Palghat Division.
2. C.Venu, Safety Councillor,
Division Office, Palghat Division,
3. V.V.Gopalakrishnan, Station Master Gr.II
Kumbala Railway Station, Palghat Division.
4. K.Pradeep Kumar, Station Master Gr.III
Tellicherry Railway Station,
Palghat Division.
5. T.K.Pradeep Kumar, Station Master
Grade III, Mahe Railway Station,
Palghat Division, Palghat. Applicants

(By Advocate Mr. V.K. Ravindran)

vs.

1. Union of India represented by the Secretary, Ministry of Railways, New Delhi.
2. The General Manager, Southern Railway, Madras.
3. The Divisional Railway Manager Palghat Division, Southern Railway, Palghat.
4. The Senior Divisional Personnel Officer, Palghat Division, Southern Railway, Palghat.
5. K.P Divakaran, Station Master Grade II, Cannnore Railway Station, P.O. Kannoor.
6. G.Saravanan, Station Master Grade III, Dasampatti Railway Station, Palghat Division of Southern Railway, Dasampatti, Tamilnadu. Respondents

(By Advocate Mr. M.C.Cherian (R.1 to4)



..... 5

O.A. 375/93

1. G. Somanathan Nair, Traffic Inspector, Headquarters, Southern Railway, Palakkad.
2. M. T. Narayanan Shetty, Station Master Kasargod Railway Station.
3. P. Balakrishnan, Traffic Inspector, Cannanore, Railway Station.
4. C. Narayanan Nambiar, Station Master Cannanore.
5. S. P. Vijaya Pisharody, Sujasree, PO. Kulappully, Shornur-2 Station Master Kanoor Railway Station.
6. K. M. Venkatachalam, Station Supdt. Coimbatore 87 C Railway Colony Coimbatore.
7. C. K. Karunakaran, S. M. I. Kalleri, Kalathinal House, Peruvattor PO Quilandi.
8. V. Nandakumaran, Station Master Grade I, Mettupalayam, No. 44, Railway Quarters, Mettupalayam. ... Applicants

(By Advocates M/s M.R. Rajendran Nair & P.V. Asha)

Vs.

1. Union of India, represented by Secretary to Government, Ministry of Railways, New Delhi.
2. The General Manager, Southern Railway, Madras.
3. The Divisional Railway Manager, Southern Railway, Palakkad.
4. The Senior Divisional Personnel Officer, Southern Railway, Palakkad. ... Respondents

(By Advocate Mr. P.A. Mohammed)



....6

O.A. 401/93

1. K.G.Muraleedhran, Head Clerk, Divisional Office, Southern Railway, Palghat.
2. K.Remavathy, Head Clerk, Divisional Office, Southern Railway, Palghat.
3. P.Mallika, Head Clerk, Divisional Office, Southern Railway, Palghat.
4. T.Chandrasekharan, Head Clerk, Divisional Office, Southern Railway, Palghat.
5. T.Meenakshi Kutty, Head Clerk, Divisional Office, Southern Railway, Palghat.
6. NA. Margret, Head Clerk, Divisional Office, Southern Railway, Palghat.
7. Annama Philip, Head Clerk, Divisional Office, Southern Railway, Palghat.
8. C.Girija, Head Clerk, Divisional Office, Southern Railway, Palghat.
9. M.R.Venugopal, Head Clerk, Divisional Office, Southern Railway, Palghat.
10. P.E.Viswanathan, Head Clerk, Divisional Office, Southern Railway, Palghat.

.... Applicants

(By Advocate Mr. P.V.Mohanan)

Vs.

1. Union of India, represented by the Secretary, Ministry of Railways, New Delhi.
2. The Chief Personnel Office, Southern Railway, Park Town, Madras.
3. The Divisional Personnel Officer, Southern Railway, Palakkad Division, Palakkad.
4. E.K.Kunhiraman, Head Clerk, DSC/RPF Palghat Division, Palghat.
5. Smt. K.Pushpalatha, Head Clerk, Palghat Divn.S.Railway, Palghat.
6. Mr.Chandran Palliyalil, Head Clerk, Southern Railway, Palghat.
7. Smt. MC.Ambika Sujatha, Head Clerk Southern Railway, Palghat Division.
8. Smt. M.K.Leela, Head Clerk, Southern Railway, Palghat Division.
9. Mr.T.K.Sivadasan, Head Clerk, Southern Railway, Palghat.
10. Mr.M.Eswaran, Head Clerk, Southern Railway, Palghat Division. ----Respondents

(By Advocates Mr. Thomas Mathew Nellimootil (R.1to3)
Mr. CP Sudhakara Prasad(R.4to 10)



O.A.430/93

V.B.Sankaran Unni Menon
Station Master Grade II
Anangur Railway Station,
Palghat Division.

... Applicant

(By Advocate Mr. M.R.Rajendran Nair)

Vs.

1. Union of India, represented by
Secretary to Government of India,
Ministry of Railways, New Delhi.
2. The General Manager,
Southern Railway, Madras.3.
3. Senior Divisional Personnel Officer,
Southern Railway, Palghat Division,
Palghat.2.

... Respondents

(By Advocate Mr. P.A.Mohammed)

O.A.No.603/93

1. P.Vijayan, Chief Goods Clerk,
Southern Railway, Palghat Division.
2. T.K.Vasudevan, Chief Goods Clerk,
Southern Railway, Palghat Town Rly.Station.
3. P.Sankaran, Chief Booking Clerk,
Southern Railway, Palghat Town Rly.Station.
4. K.R.Subramanian, Chief Goods Clerk
Southern Railway, Palghat Division. Applicants

(By Advocate Mr.P.V.Mohanam)

Vs.

1. Union of India represented by
Secretary to Government,
Ministry of Railway, New Delhi.
2. The General Manager, Southern Railway,
Madras.3.
3. The Senior Divisional Personnel Officer,
Southern Railway, Palghat Division,
Palghat.2.

.... Respondents

(By Advocate Mr.Thomas Mathew Nellimootil)



.....8

-: 8 :-

O.A.622/93

1. Pothen Joseph, Chief Clerk, Office of the Varriage and Wagon Supdt. S.Railway, Mangalore.
2. E.M.Antony, Chief Clerk in Office of the Sr.Divisional Mechanical Engineer, Southern Railway, Palakkad.
3. K.P. Sudhakaran, Chief Clerk in the office of the Sr.Divisional Mechanical Engineer, S.Railway, Palghat.
4. D.Sthyanathan, Chief Clerk in the Office of the Sr.Divisional Mechanical Engineer (Diesel), Southern Railway Erode.
5. P.N.Vasudevan, Chief Clerk in the Office of the Sr.Divisional Mechanical Engineer, Southern Railway, Palakkad.
6. P.Prabhakaran, Chief Clerk in the Office of the Loco Foreman Loco Shed, Southern Railway, Coonoor.
7. T.V.Prabhakaran, Chief Clerk in the Office of CPRC, Southern Railway, Palakkad.

... Applicants

(By Advocate Mr. Ashok M Cherian)

Vs.

1. Union of India, represented by the Secretary Ministry of Railway,s, New Delhi.
2. The Chief Personnel Officer, Southern Railway, Park Town, Madras.
3. Chief Mechanical Engineer, Southern Railway, Park Town, Madras.
4. The Sr.Divisional Personnel Officer, Southern Railway, Palghat.
5. K.K.Madhavan, Office Superintendent, Office of the Carriage & Wagon Supdt. Southern Railway, Palghat.
6. Babu Choorakuzhi, Office Supdt. Office of the Carriage & Wagon Supdt. (Crew Booking Point), Southern Railway, Shornur.
7. Sarojini Rajasekharan, Office Supdt. O/o Divisional Mechanical Engineer (Diesel) Southern Railway, Erode.
8. C.H.Govinda Naik, Office Supdt. Office of the Carriage & Wagon Supdt. Southern Railway, Salem Junction, Salem.
9. C.Murugesan, Chief Clerk, C/o Divisional Mechanical Engineer/Diesel, Southern Railway, Erode.



-: 9:-

10. S.Sankaran, Chief Clerk C/o Sr.Divisional Mechanical Engineer, Southern Railway, Trivandrum.
11. N.Sanneerappa, Chief Clerk, C/o Senior Divisional Mechanical Engineer/D/Mysore, Southern Railway, Mysore.
12. K.P.Raveendran, Chief Clerk, C/o Sr. Divisional Mechanical Engineer/D Madurai, Southern Railway, Madurai.
13. C.Unnippavoo, Chief Clerk, S/o Sr.Divisional Mechanical Engineer/D Southern Railway, Palghat.
14. Sampath Kumar, Chief Clerk, C/o Senior Divisional Mechanical Engineer's Office, Southern Railway, Palghat.
15. Muthukrishnan, Chief Clerk, C/o Sr.Divisional Mechanical Engineer/O, Southern Railway, Madurai.
16. A.Maharani, Chief Clerk, C/o Senior Divisional Mechanical Engineer/O, Southern Railway, Thiruchirapally.
17. K.Karikalocholan, Chief Clerk, Chief Power Controller's Office, Southern Railway Divl.Office, Thiruchirappally-620001.
18. E.Pandian, Chief Clerk, C/o Sr.Divisional Mechanical Engineer/O, Southern Railway, Thiruchirapally.
19. K.Dorali, Chief Clerk, C/o Sr.Divisional Mechanical Engineer/O, Southern Railway, Thiruchirapally. Respondents

(By Advocate Mr. Thomas Mathew Nellimootil for R.1to4.

O.A.626/93

1. R.Mallika, CWS, DED, Head Clerk Palghat Division, Southern Railway.
2. N.Mammon Joseph, Head Clerk, C.P.R.C. Palghat Division.
3. Prakash Worrl Spadigam, Head Clerk, C.T.X.R.O. Calicut Palghat Division, Southern Railway.
4. P.Arumugham, Head Clerk, Senior D.M.E. Palghat Division, Southern Railway.
5. K.M.Krishnamoorthy, Head Clerk, D.S.L. O Erode, Palghat Division.
6. U.K.Vijayan, Head Clerk, Senior D.M.E. Palghat Division, Southern Railway.
7. E.M. Morris, Head Clerk, C.P.R.C. Palghat Division, Southern Railway.

.... Applicants

(By Advocate Mr. P.V.Mohanan)

....10

-: 10 :-

Vs.

1. Union of India represented by
Secretary to Government,
Ministry of Railways, New Delhi.
2. The General Manager,
Southern Railway, Madras.
3. The Senior Divisional Personnel
Officer, Southern Railway,
Palghat Division, Palghat. Respondents
(By Advocate Mr. K. Karthikeya Panicker)

O.A. 990/93

1. P.J.Job, Station Master Gr.I
Southern Railway, Kottayam.
2. M.Ajith, Traffic Inspector
Southern Railway, Quilon.
3. A.K.Muraleedhara Kurup,
Station Master Gr.I,
Southern Railway, Thiruvalla.
4. P.M.Thommy, Station Master III
Southern Railway, Piravam Road.
5. K.A.George, Station Master Gr.III
Southern Railway, Changanacheri.
6. Thomas Abraham, Station Master
gr.III, Southern Railway,
Changanacheri.
7. K.V.John, Station Master Gr.III
Southern Railway, Chingavanam,. Applicants
(By Advocate Mr. R. Santhoshkumar)

Vs.

1. Union of India through the
Secretary, Ministry of Railways,
Railway Board, New Delhi.
2. The General Manager,
Southern Railway, Madras.3.
3. The Chief Personnel Officer,
Southern Railway, Madras.3.
4. The Divisional Personnel Officer,
Southern Railway,
Trivandrum.14. Respondents
(By Advocate Mr. K. Karthikeya Panicker)

-: 11 :-

O.A.1283/93

1. P.J.Job, Station Supdt.
Southern Railway, Kottayam.
2. V.K.Krishnan Nair,
Station Supdt.
Southern Railway,
Chenganacheri. Applicants

(By Advocate Mr. R.Santhoshkumar)

Vs.

1. Union of India through the Secretary
to the Ministry of Railways,
Railway Board, New Delhi.
2. The Chief Personnel Officer,
Southern Railway, Madras.3.
3. The Divisional Personnel Officer,
Southern Railway, Trivandrum.14.
4. A.C.Subramanian, Station Supdt. Southern Railway
Trichur.
5. K.Sathyadevan -do- Kochuveli
6. George John -do- Ernakulam South.
7. S.Anandan Deputy Station Supdt. S.Railway
Trivandrum Central.
8. K.Sudhakaran, Station Supdt. S.Railway,
Cochin Harbour Terminus.
9. K.K.Janardhanan, Deputy Station Supdt.
Southern Railway, Trivandrum Central.
10. C.Velappan, Station Supdt. S.Railway
Cape Comerin (Kanyakumari).
11. K.K.Krishnan, Station Supdt. S.Railway,
Kalamasseri.
12. C.Perumal, Station Supdt. S.Railway, Nagercoil.
13. K.K.Karunkaran, Station Sudt. S.Railway, Alwaye.
14. K.Ravindran, Station Supdt. Southern Railway,
Chengannur. Respondents

(By Advocate Mr. P.A.Mohammed (R.1to3)

M.K.Robin Raj (R.7 to 14)

P.Chaly & M.L.Sajeevan (R.4 to 6)

.....12



-: 12 :-

O.A. 2078/93

P.O.Variath, Chief Commercial Clerk
Grade II, Southern Railway,
Ernakulam Town (Palaty (Koonathai))
Thuravoor PO, Via. Angamaly.) Applicant

(By Advocates M/s M.R.Rajendran Nair/K.S.Ajayaghosh)

Vs.

1. Divisional Personnel Officer,
Southern Railway, Trivandrum.
2. Chief Personnel Officer,
Southern Railway, Madras.
3. The General Manager, Southern Railway,
Madras.
4. The Railway Board represented by
its Secretary, New Delhi. Respondents

(By Advocate Mr. P.A. Mohammed)

O.A. No. 2240/93

K.N.Rajagopalan,
Chief Commercial Clerk,
Grade III, Ernakulam Junction. Applicant

(By Advocate Mr. M.R.Rajendran Nair)

Vs.

1. Divisional Personnel Officer,
Southern Railway, Trivandrum.
2. Chief Personnel Officer,
Southern Railway, Madras.
3. The General Manager,
Southern Railway, Madras.
4. The Railway Board represented
by its Secretary, New Delhi. Respondents

(By Advocate Mr. P.A. Mohammed)



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ORDER

CHETTUR SANKARAN NAIR(J), VICE CHAIRMAN:

Though different reliefs are sought by the different applicants before us, the core questions arising for consideration are:

- (a) whether reservation is to be applied on the cadre strength or on the vacancies arising; and
- (b) whether seniority in the lower post among employees belonging to non-reserved and reserved category would be reflected in the higher post, irrespective of earlier promotions obtained by employees belonging to a reserved category.

2. Different Benches of this Tribunal as also the Allahabad High Court have taken the view that reservation is to be applied on the cadre strength. Some of the decisions taking this view are, J.C. Malick & others vs. Union of India and others (Allahabad High Court), 1978 (1) SLR, 844; Vir Pal Singh Chauhan and others vs. Union of India and others, (1987) 4 ATC 685(CAT); G.C. Jain & others vs. Divisional Railway Manager, Central Railway, Jabalpur and another, 1986 Lab I.C. 1809(CAT); Joginder Singh Sethi vs. Punjab Govt. & others, 1983(1) SLR 442 (Punjab and Haryana High Court); Kameswar Sharma and others vs. Union of India and others, (1990) 12 ATC 26(CAT); Ramchandra vs. Union of India and others, (1988) 9 ATC 592(CAT) and so on. Appeals are pending against these decisions before the Supreme Court. C.A.No. 2017/78 is one of those appeals. The Supreme Court however directed to implement the decision of the Allahabad High Court in J.C. Malick, 1978 (1) SLR 844 pending



decision of the Civil Appeal. The Allahabad Bench of this Tribunal in Vir Pal Singh Chauhan vs. Union of India, (1987) 4 ATC 685 stated the position in unambiguous language:-

"it is clear that reservation is to be made on the basis of posts and not on the basis of vacancies".

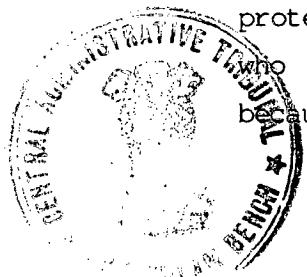
We are bound by the uniform precedent and as we have noticed the operation of these has not been stayed by the Supreme Court.

3. The second question is whether seniority in the lower category would be carried over to the higher category, in spite of members belonging to the reserved category getting earlier promotions. The Madras Bench of this Tribunal in O.A.862/90(A3 in O.A.375/93) considered this question and came to the conclusion that the seniority position in the lower cadre, should be reflected in the higher cadre also. According to them fortuitous promotions, gained by application of reservation on arising vacancies, cannot so operate as to bring about excessive reservation or total reservation. The Bench therefore, directed:

"we direct respondents to revise the seniority in the category of Passenger Guards taking into account the actual date of promotion - the date on which they would have been granted promotion but for the preferential treatment based on reservation."

4. The Allahabad Bench of the Tribunal in Vir Pal Singh Chauhan's case, (1987)4 ATC 685 had also observed:

"promotion on the basis of roster can only be termed as fortuitous... a person who was junior and got promoted... by virtue of special provisions cannot claim protection of seniority against his erstwhile senior, who was waiting for his chance but could not be promoted because of the reservation."



5. Shri M.C.Cherian appearing for the Railways submitted that this view is no longer good law in the light of the decision of a Full Bench in V.Lakshminarayanan vs. Union of India and others, (1993) 24 ATC FB 420. We are unable to agree. Though the Full Bench expressed opinions on different issues, at the close of the order(paragraph 49) , the Full Bench stated:

"... though we have discussed contentions urged by parties, we accept the request of the learned Additional Solicitor General Shri V.R.Reddy and refrain from expressing our final conclusion on the issues arising in this case. We shall await the decision of the Supreme Court in Malick's case."

(emphasis supplied)

It eludes comprehension, why learned counsel cited this decision as an authority for any proposition. Shri P.A.Mohammed, also appearing for the Railways, cited another decision of the Calcutta Bench(Full Bench) of the Tribunal in Durgacharan Halder & others vs. Union of India and others (O.A.854/90). It was observed:

"as we have felt that this case should await the decision of the Supreme Court, we direct all the 5 cases to be listed for final hearing after the Supreme Court rendering its decision in C.A. 2017/78."

We read this, only as an order of adjournment and not as an order laying down any proposition.

6. Following the precedents, we hold:

- (a) that the principle of reservation operates on the cadre strength;
- (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.



Applying these principles, respondents -Railways will work out the reliefs. We are issuing the direction, as the apex Court thought that the judgments in force should be implemented. (Interim orders in C.A 2017/78).

6. These directions shall be carried out within six months from today.

7. Applications are allowed. Parties will bear their costs.

Dated the 6th September, 1994.

8/-
P.V. VENKATAKRISHNAN
ADMINISTRATIVE MEMBER

8/-
CHETTUR SANKARAN NAIR (J)
VICE CHAIRMAN

