

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE BENCH : BANGALORE

DATED THIS 26TH NOVEMBER 1986

Present

HON'BLE JUSTICE SHRI K.S. PUTTASWAMY : VICE-CHAIRMAN
HON'BLE SHRI L.H.A. REGO : MEMBER (AM)

Application No.556/1986(F)

Shri Anagur Bhasker,
Assistant Station Master,
Mangalore Railway Station,
Mangalore-575001.

... Applicant

1. The General Manager,
Southern Railway,
Park Town,
Madras-600003.

Respondents

2. The Divisional Railway Manager,
Southern Railway Divisional Office,
Palghat-678002.

(Shri M. Sreerangaiah, Advocate)

This application has come up for hearing before
this Tribunal today, the Hon'ble Justice Shri K.S. Puttaswamy,
Vice-Chairman made the following:

O R D E R

In this application made under Section 19 of the
Administrative Tribunals Act, 1985 (Act), the applicant has
challenged the memo/order No.J/P 608/VIII/3/Vol.XII dated
21.11.1983 (Annexure A1) of the Senior Divisional Personnel
Officer, Palghat of the Southern Railway (DPO).

2. At the material time, the applicant was working as an
Assistant Station Master (ASM).

3. In accordance with the Rules and orders regulating
selections to the posts of SMs and TIs in the then pay scale
of Rs.455-700, the DPO in his order dated 21.11.1983 (Annexure A1)
had promoted 58 persons in which the applicant is not one of them.
He claims that if the DPO had correctly ascertained the number
of vacancies to the promotional posts, their number would have
been 98 and not 58, in which event he should have been promoted

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on 21.11.1983 along with the other 58 persons. On this basis, he had sought for relief.

4. In their reply, the respondents have asserted that the number of vacancies available were only 60 and the applicant who had passed in the written and viva examination had not been promoted for want of seniority and that was legal.

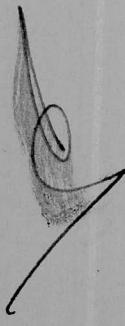
5. Shri Anagur Bhasker, the applicant who argued his own case, contends that in terms of the circulars/orders issued by the Railway Board on 3.9.1976 and 26.1.1985, the DPO should have held that there were 98 vacancies and promoted him also on 21.11.1983.

6. Shri M. Sreerangaiah, learned counsel for the respondents, contend that the DPO had correctly ascertained the vacancies and had promoted those who had passed the examination with due regard to their seniority.

7. At the hearing the respondents have also produced the original records which establish what has been stated by them in their reply.

8. While the applicant claim that there were 98 vacancies, the DPO claims that there were 60 vacancies at the material time. On the number of vacancies L must normally accept the say of the DPO rather than the say of the applicant. We are of the view that however extensive our powers are on service matters, the Act does not empower us to ascertain the number of vacancies and direct the Administration to increase the number of vacancies only to accommodate the applicant. On this short ground, the claim of the applicant calls for rejection.

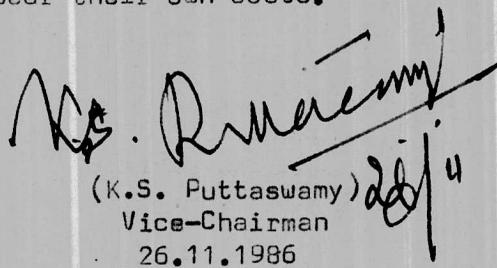
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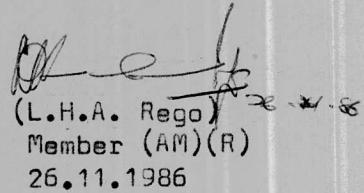


9. Shri Bhasker does not also dispute that those promoted by the DPO on 21.11.1983 had passed the examinations and they were all senior to him. When that is so, there is hardly any justifiable grievance for the applicant.

10. We are also informed by Shri Sreerangaiah that the applicant has been promoted in August 1983 with effect from 1.8.1982. Shri Bhasker does not dispute this submission of Shri Sreerangaiah. In this view also the claim of the applicant is wholly misconceived and unfounded.

11. On any view of the matter, the application is liable to be dismissed. We, therefore, dismiss this application. But in the circumstance of the case we direct the parties to bear their own costs.


(K.S. Puttaswamy) *26/11/86*
Vice-Chairman
26.11.1986


(L.H.A. Rego) *26.11.86*
Member (AM)(R)
26.11.1986

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