

CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE BENCHAPPLICATION No. 876/86(F)COMMERCIAL COMPLEX, (BDA)
INDIRANAGAR,
BANGALORE-560 038.

(WP.NO.)

DATED: 15 JUN 1987

APPLICANT

Vs

RESPONDENTS

Shri M.S. Ramanujachar

The Secy, M/o Railways and 2 Ors

TO

1. Shri M.S. Ramanujachar
Sri Andal Mandir Temple Street (Road)
Vanivilas Mohalla
Mysore - 2
2. Shri M. Narayana Swamy
Advocate
844 (Upstairs)
V Block
Rajaji Nagar
Bangalore - 560 010
3. The Secretary
Ministry of Railways
Rail Bhavan
New Delhi-110 001

4. The General Manager
Southern Railway
Park Town
Madras - 600 003
5. The Divisional Railway
Manager (Personnel)
Southern Railway
Mysore
6. Shri A.N. Venugopal
Central Govt. Stng Counsel
High Court Buildings
Bangalore - 560 001

Immd
B
28/6/87

SUBJECT: SENDING COPIES OF ORDER PASSED BY THE
BENCH IN APPLICATION NO. 876/86(F)

.....

Please find enclosed herewith the copy of the Order
passed by this Tribunal in the above said Application on

04-6-87ENCL: As above.

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15/6/87

o/c

P. S.
DEPUTY REGISTRAR
(JUDICIAL)

CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE

DATED THIS THE 4TH DAY OF JUNE, 1987

Hon'ble Shri Justice K.S. Puttaswamy, Vice-Chairman
Present: and
Hon'ble Shri P. Srinivasan, Member (A).

APPLICATION NO. 876/86

Shri M.S. Ramanujachar,
S/o R. Sundara Tatachar,
aged 63 years,
residing at Sri Andal
Mandir Temple Street (Road),
Vanivilas Mohalla,
Mysore-2.

..... Applicant

(Shri M. Narayana Swamy, Amicus curiae)

v.

1. The Chairman & Ex-officio
& Secretary to Government,
Ministry of Railways,
Rail Bhavan, New Delhi-1.
2. The General Manager,
Southern Railway,
Park Town, Madras-3.
3. The Divisional Railway
Manager (Personnel),
Southern Railway,
Mysore.

..... Respondents

(Shri A.N. Venugopal, Advocate)

This application having come up for hearing
to-day, Vice-Chairman made the following.

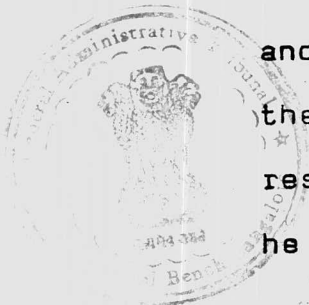
O R D E R

This is an application made by the applicant
under Section 19 of the Administrative Tribunals
Act 1985 (Act).



2. On 8.8.1944 the applicant joined service as a Commercial Clerk (CC) in the erstwhile Mysore State Railway (MSR). The MSR with the personnel working was integrated with the Indian Railways (IR) from 1.4.1960, from which day he was working as a CC in the IR.

3. On 22.5.1953, the applicant was promoted as Assistant Station Master ('ASM') evidently subject to Medical Examination. In the medical examination to the post of ASM he was found unsuitable for that post and he was therefore reverted as an Office Clerk ('CC') with effect from 1.11.1954, instead of as a CC. On such reversion, the applicant represented to restore him as a CC and regulate his promotions on that basis which was not acceded to, for a long time. But as late as on 3.11.1978 the Divisional Personnel Officer Mysore (DPO) by his order of that date (Annexure-B) acceded to that and his consequential claims for retrospective promotions to the post of Senior Clerk and Senior Head Commercial Clerk from 1.4.1956 and 28.11.1967 respectively however denying him monetary benefits for periods anterior to that order. Again on 26.4.82 (Annexure-C) the DPO made another order granting retrospective promotions to the cadre of CC III & II from 5.7.1976 & 1.1.79. respectively however denying monetary benefits, though he had retired from service on 31.1.1981 on attaining



superannuation. But in the computation of pension, the benefit of retrospective promotions has been extended to the applicant.

4. On making more than one representation to the authority for extending financial benefits from the dates of respective promotions, which did not evoke any reply, the applicant has approached this Tribunal on 23.4.1986 for a direction to the respondents for payment of arrears of pay and allowances due to him from time to time.

5. The applicant has urged that the denial of monetary benefits from the respective dates of retrospective promotions was wholly illegal and unjust.

6. In their reply, the respondents in supporting the orders made by the DPO, have urged that the application made on 23.4.1986 was not maintainable and was barred by time.

7. On more than one occasion, the applicant appeared in person and argued his case. But still as we found considerable difficulty to appreciate his case, we requested Shri M. Narayana Swamy, an Advocate to appear for the applicant and to assist us as amicus curiae. Accordingly Sri Narayana Swamy has appeared as a amicus curiae for the applicant. After Shri Narayana Swamy concluded his arguments we have also heard the applicant.



8. Shri Narayana Swamy contends that it is a case in which the respondents had withheld the amounts legitimately due to the applicant as ruled in Sheikh Mehboob v. Railway Board & Others (1982 (1) K.L.J. P.131) and the application was well in time. In support of his later contention, Shri Narayana Swamy strongly relies on the ruling of the High Court of Karnataka in S.P. Rao v State of Mysore (1972 M.L.J. P.173).

9. Sri A.N. Venugopal, learned counsel for the respondents in supporting the orders of the DPO, contends that this application made on 23.4. 1986 in respect of a grievance which arose prior to 1.11.1982 was not maintainable and was barred by time as held by the Principal Bench of this Tribunal in V.K. MEHRA v. SECRETARY, M/O INFORMATION & BROADCASTING, NEW DELHI (1986 ATR p.203) and by us in THIMMA v. THE DIVISIONAL RAILWAY MANAGER, BANGALORE DIVISION, BANGALORE. In the very nature of things, it is necessary to examine this objection of Shri Venugopal first and then the merits, if that becomes necessary.

10. We have earlier noticed the nature of the two orders made by the DPO on 3.11.1978 and 26.4.19882. In these orders, the DPO in express and unequivocal terms had rejected the claim of the applicant for monetary benefits anterior to those orders. On the

language employed in these orders, there cannot be any doubt on the DPO expressly denying the monetary benefits if any due to the applicant at all. We therefore find it difficult to hold that the amounts due to the applicant had been withheld as urged by Shri Narayana swamy. On this finding, it also follows that the ratio in S.P. RAO'S case does not also bear on the point.

11. Without any doubt the monetary claims made in this application flow or arise from the orders made by the DPO on 3.11.1978 and 26.4.1982. The basis on the claim itself is founded on those two orders.

12. With the above analysis, we must now read Section 21 of the Act and the same reads thus:

Limitation - (1) A Tribunal shall not admit an application,-

- (a) in a case where a final order such as is mentioned in clause (a) of sub-section (2) of Section 20 has been made in connection with the grievance unless the application is made, within one year from the date on which such final order has been made;
- (b) in a case where an appeal or representation such as is mentioned in clause (b) of Section 20 has been made and a period of six months had expired thereafter without such final order having been made, within one year from the date of expiry of the said period of six months.



(2) Notwithstanding anything contained in sub-section (1), where-

- (a) the grievance in respect of which an application is made had arisen by reason of any order made at any time during the period of three years immediately preceeding the date on which the jurisdiction, powers and authority of the Tribunal becomes exercisable under this Act in respect of the matter to which such order relates; and
- (b) no proceedings for the redressal of such grievance had been commenced before the said date before any High Court,

the application shall be entertained by the Tribunal if it is made within the period referred to in clause (a), or, as the case may be, clause (b), of sub-section (1) or within a period of six months from the said date, whichever period expires later.

(3) Notwithstanding anything contained in sub-section (1) or sub-section (2), an application may be admitted after the period of one year specified in clause (a) or clause (b) of sub-section (1) or, as the case may be, the period of six months specified in sub-section (2), if the applicant satisfies the Tribunal that he had sufficient cause for not making the application within such period.

On the scope of this Section in V.K. MEHRA'S case Madhava Reddy J, Hon'ble Chairman speaking for the Bench had expressed thus:

" The Administrative Tribunals Act does not vest any power or authority to take cognizance of a grievance arising out of an order made prior to 1.11.1982. The petitioner requests that the delay in filing this application be condoned. But the question is not at all one of condoning the delay in filing the petition. It is a question of the Tribunal having jurisdiction to entertain a petition in respect of grievance arising prior to 1.11.1982.



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3. In Regn. No.T-34/85 Capt. Lachman Singh v. Secretary, Ministry of Personnel and Training, we held:

" The period of three years laid down under sub-section (2) of Section 21, would have to be computed with reference to any order made on such a representation and not with reference to the earlier order..... the Tribunal would have jurisdiction under the sub-section(2) of Section 21 to entertain an application in respect of "any order" made between 1.11.1982 and 1.11.1985"

The limited power that is vested to condone the delay in filing the application within the period prescribed is under Section 21 provided the grievance is in respect of an order made within 3 years of the constitution of the Tribunal. Though the present petition is filed within six months of the constitution of the Tribunal in respect of an order made prior to 1.11.1985 as contemplated by sub-section (3) of Section 21, since it relates to a grievance arising out of an order dated 22.5.1981, a date more than 3 years immediately preceeding the constitution of the Tribunal, this Tribunal has no jurisdiction, power or authority to entertain the petition. This petition is, therefore, dismissed."

In Thimmaraja's case we have followed this ruling as also another ruling of Bombay Bench in PARAMU GOPINATHAN ACHARY v. UNION OF INDIA AND OTHERS (1986 ATC 514) that had expressed a similar view. On the ratio of the rulings in these cases that are binding on us - this



application made before us on 16.4.1986 to enforce claims which arose prior to 1.11.1982 is not maintainable and is clearly barred by time. But this does not prevent the respondents to take a sympathetic view on the claim of the applicant and extend such financial benefits as they ^{deem} fit in the circumstances.

13. On the above view, we cannot examine the merits of the claim made or the applicability or otherwise of the ruling in Sheikh Mehoob case. We therefore refrain to examine the merits.

14. We express our indebtedness to Shri M. Narayana Swamy, Advocate for assisting us as amicus curiae.

15. In the light of our above discussion, we hold that this application is liable to be dismissed. We therefore dismiss the application. But in the circumstances of the case, we direct the parties to bear their own costs.

Sd - - -

Vice-Chairman

4/6/87

Sd - - -

41-
Member (A)

Mrv.
15/6/87
SECTION OFFICER
CENTRAL ADMINISTRATIVE TRIBUNAL
ADDITIONAL BENCH
BANGALORE

True Copy

194/88
D. No. 4679/87 sec. iv-A
SUPREME COURT OF INDIA
NEW DELHI.

dated 6-4-88

From: The Additional Registrar,
Supreme Court of India,

To: ✓ The Registrar,
~~High Court of~~ Central Administrative Tribunal
~~at~~ Bangalore Bench, Bangalore

PETITION FOR SPECIAL LEAVE TO APPEAL (CIVIL) NO. 1277/88
(Petition under Article 136 of the Constitution of India for
Special Leave to Appeal to the Supreme Court from the Judgment
& Order dated 4-6-87 of the High Court of
Central Administrative Tribunal Bangalore Bench, Bangalore
in A. No. 876/86)

M. S. Ramanujachari

...Petitioner

-VS-

Chairman & Ex-Officio Secretary ...Respondent
& Ors.

Sir,

I am to inform you that the petition above-mentioned
for Special Leave to Appeal to this Court was filed on behalf
of the petitioner above-named from the Judgment and Order
of the High Court noted above and that the same was/were
dismissed by this Court on the 14th day of March

1988

Yours faithfully,

for ADDL. REGISTRAR