

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE BENCH BANGALORE

DATED THIS THE 18TH NOVEMBER 1986

Present: Hon'ble Shri Ch. Ramakrishna Rao,

Member(J)

Hon'ble Shri P. Srinivasan,

Member(A)

Application No. 836 to 840/86

Shri S. Sachidananda,
Shri H.N. Putteswamy,
Shri V.P. Dwarakanath,
Shri S. Arasaiah,
Shri R. Srinivasa,
Firemen 'C', S.B.C.,
Southern Railway,
BANGALORE-1

)

Applicants

(Shri M.S. Anandaramu, Advocate)
Vs.

1. The Union of India represented by the Secretary to the Government of India, Ministry of Railways, Rail Bhavan, New Delhi.
2. The General Manager, Southern Railway Park Town, Madras.
3. The Senior Divisional Personnel Officer, Southern Railway, Mysore Division, MYSORE - 1. and others

Respondents

(Shri M. Sreerangaiah, Advocate)

The application has come up for hearing before this Tribunal, to-day, Member (A) made the following:-

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ORDER

This composite application by five applicants originated as a writ petition before the High Court of Karnataka (HCK) and **was** subsequently transferred to this Tribunal for disposal.

2. All the five applicants before us joined service in the Southern Railways as Casual Khalasis during the years 1970 to 1973. Applicants 1 and 2 are said to be scheduled caste candidates. They were redesignated as Engine Cleaners from 10.7.1979, except the first applicant who was so redesignated in June, 1980. All of them were promoted from the post of Engine Cleaner to that of Fireman 'C' between 11.4.1980 to 1.9.1980. However, by order dated 7.11.1981 (annexure-E), all of them were reverted back as Engine Cleaners. The explanation for their reversion as found in the order itself may be reproduced here:

" In terms of the decision taken in the joint meeting held with the representatives of SREs and SRMU on 1.5.1981, regarding assigning seniority of Engine Cleaners based on Khalasis seniority w.e.f. 1.7.1971, a review was made in respect of promotions made to the category of Firemen 'C' in scale Rs. 210-270 and it was found that the following officiating FM(C) are juniors to many of the Engine cleaners, who have not ~~yet~~ been promoted as FM(C). Consequently, the following are reverted as ECs in scale Rs. 196-232 with immediate effect."

P. L. 248

It is the above order which is under challenge in this composite application.

2. Shri M.S. Anandaramu, learned counsel for the applicants, admits that the issue raised in this composite application is covered by two decisions of this Tribunal rendered in A. Nos. 829 to 833/86, and A. Nos. 1352 to 1362/86, 1364/86, & 1725 to 1728/86 (T). He, however, wants us to note the submission made in the application that normally seniority of non-gazetted staff in the Railways is **reckoned** (Rule 311 of the Manual) **from** the dates from which they are appointed to a grade. His clients' were converted as Engine Cleaners prior to the respondents 26 to 54 impleaded in his interlocutory application dated 7.12.1981 filed before **the Court,** **High/** and **they were also promoted as Firemen** before the respondents. Thus, by virtue of their earlier appointment, the applicants were senior to respondents both in the cadre of Engine Cleaners and Firemen 'C', and they should not have been reverted **in order to promote** respondents 26 to 54. He also drew our attention to paragraph 2 of the application in which it is stated that Engine Cleaners should have higher qualifications than Khalasis. The applicants having been redesignated as Engine Cleaners since they had ^{the} higher qualifications, their seniority in the grade of Engine Cleaners should have been counted from the date of their conversion which, as we have stated earlier, was earlier than **those** of the respondents.

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3. Shri M. Sreerangaiah, learned counsel for the respondents, opposes the claim of Shri Anandaramu.

4. As we have stated earlier, the issue raised in this composite application has been settled by this Tribunal in two Judgments delivered on 7.11.1986, in the Applications referred to in paragraph 2, to which one of us was a party. Since the order of reversion of the applicants is the same as in the above referred applications, and since we have upheld the reversion in our order disposing of those applications, the present application has also to be rejected. The principle of seniority based on the date of appointment, in our opinion, does not help the applicants before us. The post of Khalasi and Engine Cleaner carry the same scale of pay. Some persons, subject to qualifications of age, aptitude, education, ~~medical~~^{fitness} etc., are, from time to time, redesignated as Engine Cleaners. What the authorities decided and conveyed in their letter dated 7.11.1981 by which the applicants were reverted was that the seniority of Engine Cleaners ~~fixxxxxxx~~ would be the same as their relative seniority as Khalasis. This is apparently on the recognition that both posts carry the same pay scale. As we have stated in the orders referred^{to}/supra, we do not find anything wrong with this principle^{an} of seniority. It is true that a person has to pass/ap^{an}titude test before he becomes an Engine Cleaner; but ~~xxx~~ it had been


P. S. Sreerangaiah


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represented to the authorities that by a haphazard method of holding the aptitude tests, junior Khalasis were being made Engine Cleaners while their seniors who had not been asked to take the aptitude test at the time and got the opportunity of taking the test only later, for no fault of theirs, were so converted only later. In view of this, the revised rule of seniority was announced in the impugned letter dated 7.11.1981.

Shri Anandaramu also draws our attention to items (a) and (b) of paragraph 3 of the reply to the application, which sets out general principles of seniority in non-gazetted posts, and pleads that these principles have not been followed. As we have already explained above, we are of the opinion that no principle of seniority has been violated by the order dated 7.11.1981, which only states that relative seniority of persons in the posts of Engine Cleaners would be the same as their relative seniority as Khalasis, both posts carrying the same scale of pay we have, therefore, no hesitation in rejecting this composite application as having no merit.

5. In the result, the application is dismissed, but in the circumstances, with no order as to costs.


(CH. RAMAKRISHNA RAO)
MEMBER (J)
18.11.1986


(P. SRINIVASAN)
MEMBER (A)
18.11.1986

dms.