

CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE BENCH
* * * * *

REGISTERED

Commercial Complex(BDA)
Indira Nagar
Bangalore - 560 038

Dated : 25-2-87

Application No.s 424 to 427 /86(T), 1013 to 1015/86
and 1079/86(T)

W.P. Nos 21528 to 31/83, 19470 to 72/83 and
13060/83

Applicant

TVY Raman and others

To

1. TVY Raman,
Head Travelling Ticket Examiner,
South Central Railway, at present
attached to Hubli, Distt. Dharwar.
2. SH Nirgatti,
Head Travelling Ticket Examiner,
South Central Railway, Belgaum,
Hubli Division, Hubli.
3. NNV Subramanyam,
Head Travelling Ticket Examiner,
South Central Railway,
Hubli Division, Hubli.
4. GS Raju,
Head Travelling Ticket Examiner
(Train Examiner), Miraj,
Distt. Sangali.

Applicants in
A.Nos 424 to

427/86(T)

Subject : SENDING COPIES OF ORDER PASSED BY THE BENCH IN
APPLICATION NO. 424 to 427/86(T), 1013 to 1015/86(T) and
1079/86(T)

Please find enclosed herewith the copy of the Order/~~Index~~ passed by this Tribunal in the above said Application on 20-02-1987.

Encl : As above

Copy
Date: 16/2/87
or (C)

B. V. Venkateshwar
Dy. Registrar
SECTION OFFICER
(JUDICIAL)

5. TC Sahadevan,
Head Travelling Ticket Examiner,
762/B Vinobhanagar,
Gadag Road, Hubli.
6. VN Rajapurohit,
Kempwadkar Joshi Wada,
Brahmanpuri, Miraj-416410
7. R. Chandram,
Head Travelling Ticket Examiner,
South Central Railways,
Hubli, Distt. Dharwad.
8. JE Padmanabhan,
Travelling Ticket Examiner,
South Central Railways,
Belgaum.
9. The Chief Personnel Officer,
South Central Railways,
Rail Nilayam,
Secunderabad (AP).
10. Divisional Railway Manager,
South Central Railways,
Hubli Division,
Hubli, Distt. Dharwad.
11. Divisional Personnel Officer,
South Central Railways,
Hubli, Distt. Dharwad.
12. JE Padmanabhan,
Travelling Ticket Examiner,
South Central Railways,
Belgaum.
13. Secretary, Ministry of Railways,
New Delhi.
14. The General Manager,
South Central Railways,
Secunderabad, (AP),
15. The Divisional Railway Manager,
South Central Railway,
Hubli Division, Hubli.
16. Sh RU Goulay, Advocate,
90/1, 2nd Block, Near Ganesh
Mandir, Post Office Road,
Thyagarajanagar,
Bangalore-560 028.

Applicants in A.Nos.
1013 to 1015/86(T)

Applicant in A.No.
1079/86(T)

Respondents in A.Nos.
424 to 427/86(T), and
1013 to 1015/86(T)

Respondent in A.No
424 to 427/86(T)

Respondents in A.No
1079/86(T)

Advocate for Applicants in
A.Nos
424 to 427/86(T) and
1013 to 1015/86(T)

CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE BENCH
* * * * *

Commercial Complex(BDA)
Indiranagar
Bangalore - 560 038

Dated : 13-10-87

IA I IN APPLICATION NOS. 424 to 427, 1013 to 1015 & 1079/86(T)

Applicants

Shri T.V.Y. Raman & 7 Ors

v/s

The Chief Personnel Officer, S.C. Railways
& Ors

To

1. Shri T.V.Y. Raman
13, North Madavalagam
Thiruvaiyaru
Pin 613204
2. Shri S.H. Mirgatti
Head Travelling Ticket Examiner
South Central Railway
Belgaum
3. Shri NVV Subramanyam
Head Travelling Ticket Examiner
South Central Railway
Hubli Division, Hubli
4. Shri G.S. Raju
Head Travelling Ticket Examiner
(Train Examiner), Miraj
Dist. Sangli
5. Shri T.C. Sahadevan
Head Travelling Ticket Examiner
762/B, Vinobhanagar
Gadag Road, Hubli
6. Shri V.N. Rajapurohit
Kempwadkar Joshi Wada
Brahmanpuri
Miraj - 416410
7. Shri R. Chandran
Head Travelling Ticket Examiner
South Central Railway
Hubli, Dist. Bharwad
8. Shri J.E. Padmanabhan
Travelling Ticket Examiner
South Central Railway,
Belgaum
9. Shri RU Goulay
Advocate
90/1, 2nd Block(Near Ganesh Mandir)
Post Office Road
Thyagarajanagar
Bangalore - 560 028
10. The Chief Personnel Officer
South Central Railway
Rail Nilayam
Secunderabad (A.P.)
11. The Divisional Railway Manager
South Central Railway
Hubli Division
Hubli
Dist. Bharwad
12. The Divisional Personnel Officer
South Central Railway
Hubli, Dist. Bharwad
13. The Secretary
Ministry of Railways
Rail Bhavan
New Delhi - 110 001
14. The General Manager
South Central Railway
Secunderabad (A.P.)

15. Shri S.R. Bennurmath
Advocate
57, Lexmi Nivas, 5th Cross
Vasanth Nagar
Bangalore - 560 052

16. Shri M. Sreerangaiah
Railway Advocate
3, S.P. Buildings, 10th Cross
Cubbonpet Main Road
Bangalore - 560 002

Subject : SENDING COPIES OF ORDER PASSED BY THE BENCH

Please find enclosed herewith the copy of ORDER passed by this Tribunal
in the above said applications on 25-9-87

Encl : As above

Hari
SECTION OFFICER
(JUDICIAL)

In the Central Administrative
Tribunal Bangalore Bench,
Bangalore

ORDER SHEET

Application No. 424 to 427, 1013 to 1015
E 1079/85(T) ~~order~~

Applicant

Shri T.V.Y. Raman & Ors

Advocate for Applicant

Shri R.U. Goulay

Respondent

V/s The Chief Personnel Officer, SC Rly & Ors

Advocate for Respondent

Shri M. Sreerangaiah

Appno 424 to 427 186

Date Office Notes C/I No 1023 of 10/15/86
Orders of Tribunal

KSPVC/LHARM(A)

25.9.87.

Orders on I.A.No.1 - Application
for extension of time:-

In this application, the respondents 1 to 3 have sought for extension of time for complying with the directions made by this Tribunal in favour of the applicants on 20.2.1987 till the end of October, 1987. I.A.No.1 is rightly not opposed by Shri Goulay, counsel for the applicant. Even otherwise, the facts and circumstances in this case justify the extension of time sought for complying with the order of this Tribunal till the end of October, 1987. We, therefore, allow I.A.No.1 and extend the time for complying with the directions issued in A.Nos. 424 to 427 of 1986 till the end of October, 1987. But in the circumstances of the case, we direct the parties to bear their own costs.

VICE CHAIRMAN
dms.

✓ 25.9.87
MEMBER(A)

-True Copy-



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SECTION OFFICER 18/10
CENTRAL ADMINISTRATIVE TRIBUNAL
ADDITIONAL BENCH
BANGALORE

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE BENCH: BANGALORE

DATED THE 20 TH DAY OF FEBRUARY 1987.

PRESENT:

THE HON'BLE MR. JUSTICE K.S. PUTTASWAMY .. VICE CHAIRMAN
THE HON'BLE MR. L.H.A. REGO .. MEMBER

APPLICATION NOs. 424 to 427, 1013 to 1015

And 1079 OF 1986.

APPLICATIONS 424 TO 427 OF 1986:

1. Sri T.V.Y.Raman, 55 years,
Head Travelling Ticket Examiner,
South Central Railway, at present
attached to Hubli, Dist.Dharwad.
2. Sri S.H.Nirgatti, 54 years
working as Head Travelling Ticket-
Examiner, S.C.Railway, Belgaum
Hubli Division, Hubli
3. Sri N.V.V.Subramanyam, 54 years
Head Travelling Ticket Examiner,
S.C.Railway, Hubli Division, Hubli.
4. Sri G.S.Raju, 55 years,
Head Travelling Ticket Examiner
(Train Conductor), Miraj, Dist.Sangli. Applicants

(By Shri R.U.Goulay, Advocate for the applicants)

Vs.

1. The Chief Personnel Officer
South Central Railways,
Rail Nilayam, Secunderabad, A.P.
2. Divisional Railway Manager,
South Central Railway, Hubli Division,
Hubli, Dist.Dharwad.

Respondents
(contd...)



3. Divisional Personnel Officer
S.C.Railways, Hubli, Dist.Dharwad.

4. J.E.Padmanabhan, 51 years,
Service, R/o Belgaum. ..

Respondents.

(Sri P.S.Padmarajaiah, Senior Central Govt. Standing Counsel
for respondents 1 to 3)

APPLICATIONS:1013 to 1015/86:

1. Sri T.C.Sahadevan,
53 years,
Head Travelling Ticket Examiner,
Hubli S.C.Railways, Hubli
Dist.Dharwad.

2. Sri V.N.Rajapurohit,
Major, Head T.T.E.
S.C.Railways, Hubli.

3. Shri R.Chandran,
Major, Head T.T.E.
S.C.Railways, Hubli. ..

Applicants

(Sri.R.U.Goulay, Advocate for the applicants)

-vs.-

1. The Chief Personnel Officer,
S.C.Railways, Rail Nilayam,
Secunderabad, A.P.

2. The Divisional Railway Manager
S.C.Railway Hubli, Divn.Hubli

3. The Divisional Personnel Officer,
S.C.Railways, Hubli, Dist.Dharwad

Respondents.

(By Sri M.Srirangaiah, Advocate for respondents)

APPLICATION NO.1079 of 1986:

Sri J.E.Padmanabhan, Major,
Service, Belgaum. ..

Applicant

(By Sri S.R.Bannurmath, Advocate for the applicant)

-vs.-

-vs.-

1. The Union of India by its Secretary for Railways, New Delhi.
2. The General Manager, South Central Railway, Secunderabad, A.P.
3. The Divisional Railway Manager, South Central Railway, Hubli Division, Hubli. Respondents.

(By Sri M.Sreerangaiah, Advocate for the respts.)

These Applications coming on for hearing this day, Hon'ble Shri L.H.A.Rego, Member, made the following:

ORDER

There are in all eight applications transferred to this Bench by the High Court of Judicature, Karnataka, under Section 29 of the Administrative Tribunals Act, 1985 ('Act' for short), wherein the main prayer is as follows:

I. Application Nos. 424 to 427 & 1013 to 1015 of 1986(T):

(i) That the order dated 20-10-1983 passed by the Divisional Railway Manager, Hubli ('DRM' for short) cancelling the Gradation List published under his letter dated 17-6-1983 and replacing it by the Gradation List published under his letter dated 20-12-1982 be quashed;

(ii) That the respondents be directed to give effect to the Gradation List published by the DRM under his above letter dated 17-6-1983; and

(iii)



(iii) That the respondents be given an interim direction, that pending disposal of these applications, the applicants may not be reverted from the post of Head Travelling Ticket Examiners ('Head TTEs') to which they were promoted.

II. Application No. 1079 of 1986(T):

- (i) That the respondents be directed to publish the Final Gradation List of TTEs and Senior Ticket Collectors (STCs) in the pay-scale of Rs. 330-560 within a stipulated period; and
- (ii) That till the publication of the Final Gradation List, the respondents be prohibited from granting promotion in accordance with the Provisional Gradation List published by the DRM under his aforesaid letter dated 17-6-1983.

2. After filing the above writ petitions, the applicants in Applications Nos. 424 to 427 and 1013 to 1015 of 1986, had filed a series of interlocutory applications between 1984 to 1986 in the High Court of Karnataka, stating that though the Hon'ble Court had granted interim relief, by staying the order dated 29-10-1983 of the DRM, thereby restoring the 1983 Combined Gradation List, which was in favour of the applicants, the respondents had ignored the case of the applicants, for promotion to the higher posts, on the basis of the restored 1983

Combined Gradation List, by granting promotion to their juniors. They, therefore, prayed that the respondents be directed to accord them promotion to the higher posts, in place of their juniors, subject to the result of the writ petitions, as also to permit them to appear for the examination for selection to the higher posts.

3. As all these applications are analogous or allied in facts and in the point of law involved, we have heard them together and we propose to dispose them of by a common order.

4. The relevant facts minimally necessary to bring out the questions of law urged before us are as follows:

According to the instructions contained in the letter dated 30-7-1966 from the General Manager, Southern Railways, Madras, it was decided to merge the Ticket - Checking and the Ticket Collecting Staff with effect from 1-1-1965, on the following principles:

- i) Those confirmed as on 1-1-1965 were to be given protection in the grade in which they were confirmed. The intention was to retain such staff in the respective higher grades, even though they may not be sufficiently senior to get into that grade, on the basis of the combined seniority list, keeping those who should be fitted into that grade according to the revised seniority position, in the lower grade till such time future vacancies arise. However, they were to be given their due position in seniority on promotion to the higher grade.



ii) The date of appointment as Ticket Collectors (TCs) in the pay scale of Rs.60-130(DS)/Rs.110-180(AS) i.e., the initial recruitment grade was to be the criterion.

iii) The directly recruited TTEs were to be placed below all the substantive and officiating TTEs in the pay scale of Rs.130-212 (AS) on the date of their appointment.

iv) The date of issue of the office order promoting the TCs as TTEs was to be taken into account as against the date of promotion, in case where the TCs were not relieved in time to join as TTEs and in the meanwhile the directly recruited TTEs had joined duty.

v) As the date of appointment as TC was to be taken as the criterion for the purpose of merger, the question of protection of seniority of the TCs and the TTEs inter se, prior to their merger would not arise.

5. A Combined Gradation List (CGL, for short) was drawn up, in respect of the grades viz., Rs.130-212 and Rs.150-240, Railway Divisionwise. The CGL of the staff, in the posts of TTE 'A' Grade and STCs in the grade of Rs.150-240 was to be drawn according to the instructions of the General Manager, Southern Railways, for selecting incumbents to the higher grade of Rs.250-380. The CGL was to be treated as provisional and circulated to all concerned to give it wide publicity, and to obtain their representation if any.

6. The following is a comparative diagrammatic chart, showing the channel of promotion in the cadres of Station Staff (Ticket Checking Staff) and Line Staff (Ticket Collecting Staff) prior to merger, with effect from 1-1-1965 and thereafter:

A. PRIOR TO MERGER

STATION STAFF

Ticket Collector(TC)
(Gr.Rs.110-180)

Senior Ticket Collector(STC)
(Gr.Rs.150-240)

Head Ticket Collector(HTC)
(Gr. Rs.250-380)

LINE STAFF

Travelling Ticket Examiner 'B'
(TTE 'B'),(Gr.Rs.130-212)

Travelling Ticket Examiner 'A'
(TTE 'A')
(Grade Rs.150-240)

Travelling Ticket Inspector(TTI)
(Gr. Rs.250-380)

B. AFTER MERGER

Duty (1)	Post (2)	Grade (Rs.) (3)
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Station	TC	110-180
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Line	TTE 'B'	130-212
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Station	STC	130-240
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Line	TTE 'A'	150-240
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Station	HTC	250-380
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Line	TTI	250-350
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7. The pay scales of the above grades, were revised as under, with effect from 1-1-1973, pursuant to the recommendation of the IIIrd Pay Commission:

ORIGINAL SCALE (Rs.)	REVISED SCALE (Rs.)
110-180	260-400
130-212	330-560
150-240	330-560
250-330	425-640

8. Prior to merger, the Station and Line Staff were virtually in water-tight compartments, except that at the initial stage, a TC in the Station Staff, could opt for the intermediate post of TTE 'B' in the Line Staff, before returning to his parent stream in the Station Staff, at the post of STC and progressing onwards in that stream. Consequent to merger of the Station and Line Staff, with effect from 1-1-1965, the channel of promotion was alternated between Station and Line Duty in a common stream.

9. Pursuant to the recommendations of the IIIrd Pay-Commission, the two grades of TTE 'B' (Rs.150-240) and 'A' (Rs.130-212) in the original pay scale (OS) were amalgamated into one grade, namely that of Rs.330-560 with effect from 1-1-1973. Consequently, a provisional CGL of

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Ticket

Ticket Checking and Ticket Collecting Staff in the revised amalgamated grade of Rs.330-560, was drawn up by the DRM as on 1-12-1982 and circulated on 20-12-1982 to all concerned. While drawing up this CGL, the incumbents in the higher erstwhile grade of Rs.150-240, were placed above those who were in the lower erstwhile grade of Rs.130-212. The criterion for drawing up this CGL was the date of promotion to the respective two grades viz., Rs.150-240(OS) and Rs.130-212(OS). For ease of reference, we shall designate this Gradation List as the 1982 CGL. The concerned staff was given a period of 20 days from the date of notification of the CGL, to submit their representation in order to finalise the CGL.

10. As some of the recognised Railway labour organisations, had represented against the 1982 CGL, the DRM considered the same and on 17-6-1983 another provisional CGL was drawn up, in respect of the above amalgamated grade of Rs.330-560, in supersession of the 1982 CGL. Representations were invited from the staff in the same manner as in the case of the 1982 CGL, to help finalise the new CGL, which in order to facilitate reference we may designate as the 1983 CGL.

11. The Chief Personnel Officer, South Central Railway (CPO, for short), on review of the 1983 CGL, noticed that



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it was not in conformity with the instructions issued by the Railway Board in its letter dated 22-1-1965, to the effect, that if an employee refused promotion to a higher post, he would be considered ineligible for promotion for a period of one year and that he would be assigned seniority, from the date of his re-promotion after completion of one year and all persons promoted earlier to him, would rank senior to him, regardless of his position in the lower grade. The CPU is said to have directed, that the 1983 CGL be cancelled. Accordingly, the 1983 CGL is said to have been annulled by the DRB, under his Order dated 20-10-1983, who stated therein, that the 1982 CGL superseded by the 1983 CGL, would continue to be in force. This action is seen to have been taken by the DRB, without affording an opportunity to the employees concerned, to submit their representations, if any, as he is seen to have done, when he drew up the 1982 and 1983 CGLs initially.

12. The applicants in Applications Nos. 424 to 427 and 1013 to 1015 of 1986, are seen to have been aggrieved by the above impugned order dated 20-10-1983, passed by the DRB, as it threatened their reversion, as some of them had declined the offer of promotion to higher posts. The applicant in Application No. 1079 of 1986, is seen to be aggrieved with grant of promotions without finalisation

of the 1983 CGL. They, therefore, filed writ petitions in the High Court of Judicature, Karnataka, in 1983, which have since been transferred to this Bench and are now the subject matter before us.

13. The following are the salient service details of the applicants in the various applications before us:

I. Application Nos. 424 to 427 of 1986(T):

All the applicants were initially appointed as TCs in the Southern Railway. The first, third and the fourth applicants came to be eventually promoted as Head-TTEs in 1983, while the second applicant who belonged to the scheduled caste, came to be so promoted in 1979, under the "reserved quota".

II. Application Nos. 1013 to 1015 of 1986(T):

The second and third applicants were initially appointed as TCs in the Southern Railway, while the first applicant was recruited as TTE 'B'. The first applicant, was eventually promoted as Head TTE, in the pay-scale of Rs.425-640 in 1981, while the second applicant was promoted to a similar post in 1983. The third applicant who belonged to the scheduled caste, was promoted to the said post in 1979.

III. Application No. 1079 of 1986(T):

The applicant was appointed as TC in 1957 and as TTE 'B' in 1966. It is stated, that he had expressed his



willingness

willingness to avail of promotion to the post of STC, in pursuance of the letter dated 8-7-1971 from the DRM. But, some of the seniormost TTE 'Bs', who were eligible for promotion to this post, had declined the same, as a result of which, they should have lost their seniority in accordance with the following stipulation in the Circular dated 8-7-1971, from the DRM, in the light of the instructions contained in the aforementioned Letter dated 22-1-1965 from the Railway Board:

"If anyone is not willing to be considered for promotion as STC, in the grade Rs.150-240, he will not be considered again for promotion to the higher grade, before the expiry of one year from the date of his unwillingness for promotion and he will also lose seniority over all juniors promoted in the meanwhile."

The applicant is claiming seniority on this basis, over those who had declined promotion to the post of STC and prays that the CGL be finalised at the earliest, to protect his seniority and ensure his due promotion.

14. The applicants in Applications Nos. 424 to 427 and 1013 to 1015 of 1986, are said to have declined promotion from the intermediate grade of TTE 'B' (Rs.130-212 OS) to the higher grade of STC (Rs.150-240 OS) and though they were senior in the recruitment grade, they lost their seniority on account

of the stipulation in the above Circular dated 8-7-1971, from the DRM (relevant portion reproduced in para-13 supra) in terms of the instructions contained in the letter of 21-1-1965, of the Railway Board which are extracted below:

"Effects of refusal of promotion on transfer -
Stoppage of promotion - Non Gazetted Staff.

It has been brought to the notice of the Board that in the case of non-gazetted staff refusing to carry out transfers of promotion to other Stations due to different reasons. Railway Administrations have imposed varying conditions in regard to their further promotion. The Board have carefully examined the practice obtaining on different Railways and have decided that the undermentioned principles governing such type of cases should be followed by all Railway Administrations.

(a) The employee should give in writing his refusal and accept that he would not be eligible for promotion to that post for a period of one year. This will apply in the case of all promotions whether to selection or non-selection posts. In both these cases, an employee who refuses promotion for a year due to unavoidable domestic reasons, should not be transferred away for that year.

(b) At the end of the period of one year, if an employee again refuses promotion, his name shall be removed from the panel in the case of selection



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'selection' posts and he will be required to appear again for selection to that post. In the case of non-selection posts, he will again be debarred for a period of one year. If the employee refuses promotion second time to a selection/non-selection post (after the lapse of one year), it shall be open to the Administration to transfer him in the same grade to another station, should the administration deem it necessary to do so.

(c) The employee who refuses promotion will take his seniority from the date of his re-promotion and all the persons promoted earlier will rank senior to him, irrespective of his position in the panel in the case of selection posts or his relative seniority in the case of non-selection posts.

(d) It would be left to the Administration to entertain requests from the staff for postponement of promotion for very short periods on account of grave domestic difficulties or other humanitarian considerations. The employee concerned should be promoted after that period if there is a vacancy and his seniority will be fixed only from the date of his promotion."

15. Learned Counsel for the applicants in Applications Nos. 424 to 427 of 1986, mainly contends, that no promotion orders were issued on earlier occasions, in respect of the first and the third applicants and therefore, the question

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of

of their declining promotion did not arise; that the promotion of the second applicant was ad hoc and fortuitous in nature and therefore did not confer on him the benefit of seniority and a right to continue to hold the ad hoc post of promotion, and with this in view, the applicant was not desirous of accepting ad hoc promotion; that under these circumstances, persons whose willingness was sought and who were not promoted on ad hoc basis, were given an impression, that their seniority would not be affected in the future; that the instructions contained in Railway Board letter dated 21-1-1965, relating to loss of seniority, apply to only regular and not ad hoc promotions; that the 1983 CGL, could not have been challenged without notice to the applicants, whose seniority was affected and as such, its arbitrary cancellation is illegal, offending the principles of natural justice; that all the applicants in these applications, are now working as Head TTEs and are liable to be reverted, if the 1982 CGL is given effect to.

16. The contentions urged by the Counsel for the applicants in Applications Nos. 1013 to 1015 of 1986, are that ad hoc promotions would not count for seniority and any other advantage in service, for continuation and as such, should not affect the career of a senior, who declined such promotion; that the first applicant declined promotion on

these

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these grounds; that the second applicant could not avail of the ad hoc promotion, as he was not relieved within 30 days; that the third applicant requested for time to give his reply, about accepting the ad hoc promotion and therefore, his seniority could not have been affected. The Counsel reiterated the other contentions enumerated above, in regard to Applications Nos.424 to 427 of 1986.

17. The main ground urged by the Counsel for the applicant in Application No.1079 of 1986 is, that the promotion of juniors ad hoc, without finalising the CGL, affecting his service interests, is irregular and is opposed to principles of natural justice.

18. In the course of the hearing, Counsel for the applicants, in Applications Nos.424 to 427 and 1013 to 1015 of 1986(T) focussed his attack, primarily on the following grounds:

- (i) That the merger of the two cadres, namely, that of the Ticket Collecting (Station Staff) and Ticket Collecting (Line Staff), had in actuality not taken effect on 1-1-1965 and that these two channels operated distinctly apart.
- (ii) That the 1983 CGL, was cancelled summarily and the 1982 CGL restored, without giving adequate opportunity to the employees to submit their representations as was afforded when the 1982 and 1983 CGLs, were earlier provisionally drawn up.

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(iii)

(iii) That the instructions contained in the letter dated 22-1-1965 from the Railway Board to the effect, that if an employee refused promotion to a higher post, he would ^{be} considered ineligible for promotion for a period of one year and that he would consequently forfeit his seniority to that extent (as amplified in para-11 supra), would apply only to promotion to regular and not ad hoc vacancies and that in the case of the applicants, the vacancies offered on promotion, from the grade of TTE 'B' to that of STC, were not regular but ad hoc and therefore, the applicants would not be covered by the instructions issued by the Railway Board in their aforementioned letter dated 22-1-1965. Consequently, the applicants could not lose their seniority, when they declined ad hoc promotion, in the vacancies of STC offered by the DRM.



19. The learned Counsel for the respondents, emphatically repudiated these principal contentions one by one. According to him, the merger of both the cadres, namely, that of the Ticket Collecting and Ticket Checking staff, was complete and effective from 1-1-1965, as promotions were alternated from Station to Line duty, in the successive grades, as depicted in the Chart at 'B' in para-6 supra, so as to improve administrative efficiency, lest the incumbents strike deep roots in a particular cadre, with concomitant adverse effect

of vested interest, as was noticed prior to 1-1-1965.

The word "merger" was expressly used by the Railway Board, in its principal letter dated 30-7-1966, by which this amalgamation of the two cadres was brought about with effect from 1-1-1965 and the concerned Railway Officials had invariably referred to this expression, while issuing orders subsequently, relating to promotion and other service matters of the railway employees and of the applicants in particular. We have verified the factual position from the material placed before us, by the Counsel for the respondents and are satisfied, that the merger of the above two cadres had taken place de facto, with effect from 1-1-1965 and that the applicants came within its purview. We, therefore, negative the contention of the Counsel for the applicants (Shri Goulay) that merger of these two cadres had not taken place.

20. As regards the next contention, that the 1982 CGL, was cancelled summarily and that the 1983 CGL was restored, without affording a reasonable opportunity to the applicants, we have heard both sides. The Counsel for the respondents, could not convince us, as to how this was done, without giving due opportunity to the employees and particularly to the applicants in this case, to submit their representations within a specified period. The gradation list, has a crucial role to play in the service

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career of an employee, on which it can have far-reaching effect, if drawn up or revised with arbitrariness or caprice. It is apparent that in the case before us, the 1983 CGL was revoked and the 1982 CGL restored almost peremptorily, without giving reasonable opportunity to the employees to submit their representations, which is clearly violative of natural justice.

21. On our earlier finding, the order made by the DRM on 17-6-1983 superseding the earlier provisional gradation list published on 20-12-1982 (the 1982 CGL) normally calls for our interference. But, such a course is not called for, for the reason that the earlier gradation list published on 20-12-1982 was only a 'provisional' one, and in fact, ceased to exist, when it was superseded by the 1983 CGL, even though this CGL was provisional. In view of this, the right course to be adopted would be to direct the DRM, to draw at a Combined Gradation List as on 1-1-1965 and on such other dates as considered necessary by the Railway Administration taking into account our foregoing observations, circulate the same to all the employees concerned and give them adequate opportunity to submit their representations before finalising these gradation lists.

22. The last contention of Shri Goulay, that the instructions of the Railway Board in their aforementioned letter

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dated

dated 20-1-1965, regarding loss of seniority if the promotion offered was not availed of, applied only to regular and not ad hoc vacancies, does not accord with facts. In fact, the said letter of the Railway Board makes no such distinction. Besides, the communications addressed by the DRM, while offering the post of promotion to the applicants from the grade of TTE 'B' to that of STC were categorical in stipulating that the applicants would be liable to be considered ineligible, for promotion for one year, if they declined the offer of promotion made, with resultant loss of seniority. The promotion offered cannot be said to be ad hoc and it was not treated as such, in the communications addressed by the DRM to the applicants. The applicants were aware that the promotion to the grade of STC, would be subject to their passing the departmental test, within a period of 3 months from the date of promotion. The contention of Shri Goulay therefore, that the promotion offered was purely on an ad hoc basis and that the instructions contained in the aforementioned letter dated 22-1-1965 of the Railway Board, regarding loss of seniority, in the event of the offer of promotion having been declined, did not apply to the applicants is clearly ill-founded. In fact, it has not been shown to us that the applicants had submitted this as their grievance, in their written representation if any, addressed by them to the concerned Railway authorities earlier. Besides, the Counsel could not adduce any concrete

evidence

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evidence to show that the applicants were given to understand, as contended by them, that their seniority would not be affected in future if the promotion offered to them was declined.

23. We will even assume that the submission of Sri Goulay, that the promotions given to the applicants other than the applicant in A.No.1079 of 1986 were only ad hoc, is correct. But, that does not make any difference in the legal effect, in regard to those applicants declining promotion for the period specified in the order of promotion and to the seniority of those who accepted promotion in their place and worked in that capacity from the date of their promotion. When a civil servant declines his promotion, for whatever reason that may be, with which we are hardly concerned, he cannot turn round and contend on any legal principle, that he has not foregone his seniority and the promotees who had been promoted in his place, in the cadre, in which he declined promotion, should still be treated as his junior. We see no merit in this contention of Sri Goulay and therefore, we reject the same.

24. Shri Goulay pleaded, that the incumbents in the grade of TCs, who were junior to the applicants in the grade of TTE 'B' had stolen a march over the applicants, by availing of the offer of promotion to the grade of STCs declined by the applicants. The counsel for the respondents

admitted



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admitted, that the respondents who were promoted as STCs in the vacancies declined by the applicants, were junior to them but they became senior to the applicants, on account of default on the part of the latter, to avail of promotion in these vacancies, and in view of the instructions contained in the above letter dated 22-1-1965 from the Railway Board, regarding loss of seniority.

25. The question regarding seniority of the incumbents in the grade of TTE 'B' vis-a-vis the TCs, has been resolved by the High Court of Judicature, Karnataka, in a writ petition filed earlier before it, when it directed that the petitioners who had been appointed to or were promoted earlier to the grade of TTE 'B', be placed over the TCs as on the date of merger. This decision was confirmed in appeal, by a Division Bench of that High Court in THE CHAIRMAN, RAILWAY BOARD & ORS. -vs.- T.THAMMANNAN & ORS (Writ Appeal No.545 of 1980) decided on 4/5-6-1980. This Bench has concurred with that decision in Application No.326 of 1986.

26. Shri Goulay, then urged that the grades of TTE 'B', STC and TTE 'A' were identical, as they carried the same scale of pay and therefore, the question of promotion from the grade of TTE 'B' to STC would not arise. In fact, this contention is far too belated and has not been advanced in the application, on which grounds alone, it would not merit consideration. Nevertheless, we would point out, that the grade of TTE 'B'

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carried

carried a distinctly lower pay-scale of Rs.130-212, as compared to the pay-scale of Rs.150-240 of the other two grades viz., STC and TTE 'A', as on the date the opportunity of promotion to the grade of STC was offered to the applicants. In fact, the pay-scales for these three grades were revised with effect from 1-1-1973, pursuant to the recommendations of the IIIrd Pay Commission, to an identical pay-scale of Rs.330-560. Till then, the pay-scales were disparate in these grades and therefore, it could not be said that the grade of TTE 'B' was identical with that of STC. This is borne out by the following view taken by the Allahabad High Court in Civil Appeal No.1020 of 1966, dated 25-4-1969:


"All officials working in the same scale of pay in a department, although holding posts with different designations, shall be deemed to be holding posts in the same grade, because their rank in the same department, will be the same and equal to one another."

27. The Supreme Court concurred with this view of the Allahabad High Court in appeal, in H.N.S.BHATNAGAR -vs.- S.N.DIKSHIT & ANR. (AIR 1970 S.C. 40 (P.57 C 11)).

28. In view of the foregoing, the contentions raised by Shri Goulay fail, except in regard to cancellation

of

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of the 1983 CGL and restoration of the 1982 CGL, without affording reasonable opportunity to the applicants.

29. In the light of our above discussion, we make the following orders and directions:

(1) We declare that merger of the cadres of Ticket Collectors and Travelling Ticket Examiners actually took place, with effect from 1-1-1965, in terms of the orders made by the Railway Board in that behalf.

(2) We direct the respondents to draw up a Gradation List of the above merged or combined cadres, in terms of the orders of the Railway Board, as on 1-1-1965 and on such other further dates as considered necessary by the Railway Administration and finalise the same in accordance with law and with the observation made by us in this order, after giving due opportunity to all concerned, to file their representations/objections.

(3) We also direct the respondents to draw up a provisional combined gradation list, as on 1-1-1987, in order to project the up-to-date position regarding seniority, afford necessary opportunity to the applicants and others, to

file their representation/objections as they propose to file, within the time to be fixed by the DRM and finalise this gradation list in accordance with law and the observations made in this order, with all such expedition as is possible in the circumstances of the case and in any event within a period of six months from the date of receipt of the order of this Tribunal.

30. Applications are disposed of in the above terms. But, in the circumstances of the case, we direct the parties to bear their own costs.

31. Let this order be communicated to the parties within 15 days from this day.

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VICE CHAIRMAN:

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MEMBER (AM)(R) 20.2.1987

- True Copy -

P. V. Venkatesh Rao
DEPUTY REGISTRAR
CENTRAL ADMINISTRATIVE TRIBUNAL
ADDITIONAL BENCH
BANGALORE

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