

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE BENCH, BANGALORE

DATED THIS THE 21ST AUGUST, 1987

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

APPLICATION NO. 1373/86

Shri Abdul Matheen,
Major, Head Clerk,
Mechanical Work Shop,
South Central Railways
at Hubli, Dist. Dharwad.

Applicant

(Shri Chandrakant Goulay.... Advocate)
Vs.

1. The South Central Railways,
by its General Manager,
Secunderabad,
Andhra Pradesh State.
2. The Addl. Chief Mechanical
Engineer, S.C. Railways,
Hubli. Dist. Dharwad.
3. Shri P. Laxminarayan,
Chief Clerk,
Addl. Chief Mechanical Engineer,
Office, S.C. Railways, Hubli.
4. Sri.G.Haragopal,
Chief Clerk,
Office of Addl. Chief
Mechanical Engineer,
S.C. Railway, Hubli,
Dist. Dharwad

Respondents

(Shri Sreerangaiah.... Advocate)

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

O R D E R

We heard this case on 2.6.1987 and dictated
an order in the open court in the presence of

the parties and their learned counsel. But before the transcribed order was signed by us, Shri M. Sreerangaiah, learned counsel for respondents 1 and 2, filed a memo inter-alia stating that he had made an inaccurate statement and the same be corrected. In this view, we did not sign the order which had been typed and kept ready for our signature. We have again heard the parties today and proceed to make this order. We direct the earlier order, which has not been signed by us shall not be communicated to the parties.

2. This is a transferred application and is received from the High Court of Karnataka under Section 29 of the Administrative Tribunals Act, 1985.

3. As on 1.4.1982, the applicant was working as a Head Clerk in the Hubli Workshop of the South Central Railway.

4. Prior to 1.4.1982, the posts of Chief Clerk were classified as Zonal Posts, and the zone consisted of the following units:

- (i) CME's Office/SC.
- (ii) ACME's office/LGO
- (iii) ACME's office/UELS
- (iv) Dy. CME's office/RYPS.

The posts of Chief Clerks were filled by promotion of Head Clerks of units, for which purpose a common seniority list of Head Clerks of the units was maintained.

5. On 5.6.1982, the competent authority of the South Central Railway ('SCR') took a policy decision to classify the posts of Chief Clerks as unit-wise posts from 1.4.1982 to be filled by promotion of Head Clerks of the respective units (Annexure-A). But notwithstanding the same, the competent authority of the SCR by his order dated 16.1.1984 (Annexure-C) posted respondents 3 and 4, who were working in other units, as Chief Clerks of Hubli Workshop unit, without resorting to promotion from that very unit. Aggrieved by this order, the applicant approached the High Court on 26.3.1984 in Writ petition No. 5699/84 challenging the same and for a mandamus to respondents 1 and 2 to consider his case for promotion to the post of Chief Clerk of the unit.

6. In their reply, respondents 1 and 2 have asserted that respondents 3 and 4 have been retransferred to their original units on 25.6.1985 (Annexure-R.1).

7. In the order dated 25.6.1985 (Annexure-R.1), respondent Nos. 3 and 4 have been re-posted to their original units. When that is so, then the grievance of the applicant against their posting to Hubli unit no longer survives for consideration.

8. Shri Chandrakant Goulay, learned counsel for the applicant, contends that notwithstanding the reposting of respondents 3 and 4 to their

respective units, the case of the applicant for promotion to the post of Chief Clerk from the date he became entitled to, was required to be considered and promoted, in accordance with law.

9. Shri Sreerangaiah contends that the applicant had not passed the requisite departmental tests and therefore he had not rightly been promoted.

10. Whether the applicant had passed the departmental tests or not, and if so, whether he was eligible for promotion or not are all matters that must necessarily be examined and decided by the competent authorities, if not already done. In this view we consider proper to direct the authorities to examine the case of the applicant for promotion, if not already done, and pass appropriate orders as the circumstances justify.

11. In the light of our above discussion, we pass the following orders and directions :

(i) we dismiss this application in so far as it challenges posting of respondents 3 and 4 by office order dated 16.1.1984 (Annexure-C); and

(ii) We direct respondents 1 and 2 to consider the case of the applicant for promotion to the post of Chief Clerk, if not already done, in accordance with law and pass appropriate orders as the circumstances so justify.

REGISTERED

CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE BENCH
@@@@@@@

Commercial Complex (BDA),
Indiranagar,
Bangalore - 560 038

Dated : 31/8/87

APPLICATION NO 1373 /86(T)

W.P. NO 5699/84

Applicant

Shri Abdul Mathaeen V/s The GM, South Central Railways
Secunderabad & 3 Ors

To

1. Shri Abdul Mathaeen
Head Clerk
Mechanical Workshop
South Central Railways
Hubli
Dharwad District
2. Shri Chandrakant Goulay
Advocate
90/1, 2nd Block
Thyagarajanagar
Bangalore - 560 028
3. The General Manager
South Central Railways
Secunderabad (A.P.)
4. The Additional Chief Mechanical
Engineer
South Central Railways
Hubli, Dharwad District
5. Shri P. Laxminarayan
Chief Clerk
Addl Chief Mechanical Engineer Office
South Central Railway
Hubli
Dharwad District

Subject: SENDING COPIES OF ORDER PASSED BY THE BENCH

Please find enclosed herewith the copy of ORDER/STAN/

~~XXXXXXXXXX~~ ORDER passed by this Tribunal in the above said
application on 21-8-87.

B.V. Venkatesh
DEPUTY REGISTRAR
~~SECTION OFFICER~~
(JUDICIAL)

Encl : as above

6. Shri G. Maragopal
Chief Clerk
Office of the Additional Chief
Mechanical Engineer
South Central Railway
Hubli, Dharwad District
7. Shri M. Sreerangaiah
Railway Advocate
3, S.P. Buildings, 10th Cross
Cubbonpet Main Road
Bangalore - 560 002

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RECEIVED 7 Copies 01/9/87
Diary No. 1090/Ch/10
Final Date: 1-9-87

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12. Application is disposed of in the above terms.
But in the circumstances of the case, we direct
the parties to bear their own costs.



Sd/-

Sd/-

(K.S.PUTTASWAMY) 21/8/19 (P. SRINIVASAN)
VICE-CHAIRMAN MEMBER (A)

'True copy'

B.V. Venkatesh
DEPUTY REGISTRAR
CENTRAL ADMINISTRATIVE TRIBUNAL 31/8
ADDITIONAL BENCH
BANGALORE