

CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE

DATED THIS THE 29th DAY OF JULY, 1987

Present : Hon'ble Sri Ch.Ramakrishna Rao

Member (J)

Hon'ble Sri P.Srinivasan

Member (A)

A.No.1374/86 & 1428 to 1431/86

1. S.B.Patil, ... as in 1374/86.
Material Clerk,
O/o the Additional Chief
Mechanical Engineer,
Rly.Workshop, South
Central Rly, Hubli. ...
2. Ketha Stephen, ... as in 1428/86.
Material Checker,
Machine Shop,
Railway Workshop,
SC Rly, Hubli.
3. Vijaya Bhagirath Rao Sattigari, ... as in 1429/86
Material Checker, Foundry
Shop, Railway Workshop,
Se Rly, Hubli.
4. Rangaswamy Bandam, ... as in 1930/86.
Material Checker,
Paint Shop, Railway Workshop,
SC Rly, Hubli.
5. B.Prabhakara, ... as in 1431/86.
Material Checker,
Yard Workshop,
Rly Workshop,
SCRly, Hubli. ...

Applicants

(Sri M.Narayanaswamy ... Advocate)

Vs.

1. The General Manager,
South Central Railway,
Secunderabad.
2. The Additional Chief Mechanical
Engineer, South Central Rly,
Rly, Workshop, Hubli.
3. P.Sivam,
Senior Clerk, Yard Shop,
South Central Rly Workshop,
Hubli.
4. V.M.Gangadharan,
Senior Clerk,
Carriage Shop,
South Central Rly Workshop,
Hubli.
5. M?V.Xavier,
Adrena Operator,
Planning Officer,
South Central Railway Workshop,
Hubli.

P. S. 185

Registered A/D

CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE BENCH

Applicant 1374/86(T)
Applicant (W.P.)

XXXXXX

3913/84

) Versus

Commercial Complex(BDA)
Indira Nagar, Bangalore.38

To S.B. Patil

Respondent

General Manager, South Central
Railway, Secunderabad (Andhra Pradesh)

Sri R.U.Gouley, Advocate for R-6, and 9 Ors.
90/1, 2nd Block, Near Ganesh Mandhir, Post Office Road,
Thyagarajpet, Bangalore-28.

Court of Karnataka, Bangalore, as above on the file of Hon'ble High
Court of Karnataka, Bangalore, transferred to this Tribunal under Section 29
of the Administrative Act, 1985, and registered in this Tribunal as
Application No. 1374/86 is posted before the Bench on 4.12.1986
for fixing the date for final hearing.

2. You are directed to appear on the aforesaid date at 10.30 AM
failing which further proceedings will be held in your absence.

By Order of the Tribunal.

Dated 28th, August 86

S. S. (Section Officer)
J. B. (J. B.)
. Judicial. O/C Pres

6. B.V.Narasimhulu,
Head Clerk, Yard Shop,
South Central Rly Workshop,
Hubli.

7. K.Barnabas,
Senior Clerk,
Basic Training Centre,
South Central Rly Workshop,
Hubli.

8. R.H.Wai,
Senior Clerk,
Time Office,
South Central Rly Workshop,
Hubli.

9. K.K.Bellary,
Senior Clerk,
Foundry Shop,
South Central Rly Workshop,
Hubli.

10. G.T.Chitragar,
Senior Clerk,
Smithy Shop,
South Central Rly Workshop,
Hubli.

11. The Secretary,
Rly Beard,
Rly Bhavan,
New Delhi.

12. Chief Personal Officer,
Headquarters Office,
Personal Branch,
Secunderabad. ...

Respondents

(Sri M.Sreerangaiah ... Advocate)

These applications have come up before the court today.

Hon'ble Sri P.Srinivasan, Member(A) made the following :

ORDER

All these applications which originated as W.Ps. before the High Court of Karnataka involve common issues and they are, therefore, disposed of by this common order.

2. The applicants were appointed as Khalasis and Laskars in the South Central Railway ('SCR') on the following dates.

P. S. - 116

	<u>Khalasi</u>	<u>Laskar</u>
S.B.Patil	18.11.69	24.12.76
Ketha Stephen	15.11.62	16.3.77
V.B.Sattigeri	10.6.75	21.5.77
B.Rangaswamy	2.12.76	2.11.78
B.Prabhakara	1t.9.70/15./15.9.1970	

Thereafter all of them were promoted as Material Checkers between 1.3.78 and 1.4.81. Applicant in A.No.1374/86 was further promoted as Material Clerk on ad hoc basis on 14.10.80. Respondents 3 to 10 were appointed as Khalasis on various dates from 1.5.1954 to 6.10.68. They were also appointed as Laskars on various dates between 5.10.62 and 8.3.72. One of them received further promotion as Junior Clerk ('JC') - a post carrying the same scale of pay as Material Clerk on 18.1.69, four on 1.4.1971 and remaining four in 1972 all on ad hoc basis. Their promotion being in excess of the promotion quota of 33 1/3 per cent they were treated as ad hoc even though they had passed the requisite selection test before such promotion as JC. They were treated as JC on ad hoc basis till regular appointees from the direct recruitment quotas became available. Subsequently by an order dated 14.8.81 (Annexure E), the Headquarters Officer, SCR agreed to regularise the appointment of the respondents in their posts as JCs. 5 of them were adjusted against promotion quotas from 1972 to 1981 and the remaining 5 were to be adjusted in future promotion vacancies to arise thereafter (Annexure D and E). However, for the purpose of seniority they were reckoned to have become regular JCs w.e.f.1.8.1976 (Annexure F). The applicants complain that since they were promoted on regular basis from the posts of Laskar to posts of Material Checker, the respondents who were promoted directly as Junier Clerks only on an ad hoc basis but had not been

P.S. De

promoted to the intermediate post of Material Checker (either ad hoc or regularly) could not have been regularised as Junior Clerks before them (applicants) and given seniority in that grade from 1.8.1976. They want us to quash the orders at Annexure E & F to which we have made reference above.

3. Sri M.Narayana Swamy, learned counsel for the applicants, submitted that respondents 3 to 10 were promoted as JC's in 1972 and earlier on a purely ad hoc basis. After 1972, in 1978 the avenue of promotion of class IV employees was altered. They had to become Material Checkers first and only thereafter could they be promoted as Material Clerks/Junior Clerks. The applicants were promoted as Material Checkers on a regular basis between 1978 and 1980 but not respondents 3 to 10. The proper thing which the respondents should have done was to consider respondents 3 to 10 for promotion in the first place to the post of Material Checkers and then to posts of Material Clerks/Junior Clerks which were equivalent posts. By regularising the respondents in the posts of JC, their ad hoc services in that post had been taken into account and the regular promotion received by the applicants to posts of Material Checkers had been ignored. When the avenue (of promotion)chart was introduced in 1978, Respondents 3 to 10 were still Class IV officials, though officiating as Junior Clerks on ad hoc basis. He, therefore, pleaded that the orders regularising respondents 3 to 10 in promotion vacancies of Junior Clerks which arose from 1972 onwards and giving them seniority as if they were regularised from 1.8.1976 deserved to be quashed.

4. Sri M.Sreerangaiah, learned counsel for the respondents, submitted in the first place that respondents 3 to 10 were senior

P.S.B.

and Laskay,

to the applicants in the grade of Khalasis, having been appointed M. Hoss in that grade several years before the applicants. The respondents were promoted as JC's as early as 1969, 1970, 1971 and 1972. They were promoted only after they had passed the necessary selection test. Since direct recruits from the Railway Service Commission were not available and the posts of JC's had to be filled up, respondents 3 to 10 were promoted on an ad hoc basis with a tacit understanding that they would be regularised against regular vacancies arising in future. Therefore, the question of their being promoted as Material Checkers under the new avenue chart of 1978 did not arise. What the respondents 1, 2, 11 & 12 did was to regularise these respondents, who were otherwise duly qualified for promotion, in the posts of JC's as and when promotion vacancies arose between 1972 and 1981 and subsequently also. The position stated in Annexure F to the application regularising the applicants from 1.8.1976 has since been altered. The Headquarters office of the South Central Railway had clarified subsequently that the respondent 3 to 10 were regularised only from 14.8.81 and not from 1.8.76. Therefore the grievance raised in the application against their regularisation from an earlier date i.e. 1.8.1976 did not survive. Sri Sreerangaiah, further urged that irrespective of their date of regularisation, respondents 3 to 10 having been senior to the applicants as Khalasis and having passed the qualifying test for promotion as JC in 1972 and earlier, they would certainly have to rank senior to the applicants in the grade of JC/Material Clerk.

5. Having heard counsel on both sides, we are of the opinion that prayer (a) in application No. 1374 of 1986, and Nos. 1423 to 1431 of 1986 no longer survives for consideration because the date of regularisation of respondents 3 to 10 has since been changed to 14.8.1981. We are also of the view that

T. S. Y

the applicants can have no grievance against higher seniority being given to respondents 3 to 10 in the grade of Junier Clerk/ Material Clerk because all the respondents were senior to the applicants as Khalasis, had passed the selection for promotion as JC's as early as in 1972 and before and were promoted as JC's (through an ad hoc basis) in 1972 and earlier on that basis only.

6. There is one mere prayer in A.Nos.1428 to 1431/86 and that is, that the avenue chart(Annexure O) should be quashed. According to this avenue chart which is said to have been brought out in 1984, two channels of promotion were provided for persons working in class IV posts i.e., to the post of Junier Clerk directly as well as to the lower post of Material Checker. The avenue chart of 1978 referred to earlier had, on the other hand provided only one channel of promotion i.e., to the post of Material Checker after which only a person could become Junier Clerk/Material Clerk. According to the avenue chart (Annexure O) of 1984, a class IV official with 3 years of service could be considered for promotion as Junier Clerk while a Material Checker who had to put in five years of service in that grade could only be promoted as a Material Clerk- a post in the same scale of pay as Junier Clerk. Material Checker being a promotional post for a class IV official, to stipulate a minimum of 5 years' service for Material Checker as against only 3 years for class IV officials for promotion to the same scale of pay was discriminatory. When the matter was heard, Sri M.Narayanaswamy explained that so far no cause of action had arisen to the applicants as a result of this amended avenue chart at Annexure O. We, therefore, do not deal with this ground. The applicants will be at liberty to come up to this Tribunal if and when they are adversely affected by the operation of this avenue chart.

P. S. B.

CENTRAL ADMINISTRATIVE TRIBUNAL

BANGALORE BENCH

* * * * *

Commercial Complex(BDA)

Indiranagar

Bangalore - 560 038

Dated : 13/8/87

Application No. 1374/^{S6} & 1428 to 1431(⁸⁶T)

W.P. Nos. 3913/84 & 4345 to 4348/85)

Applicants

Shri S.B. Patil & 4 Ors

V/s The GM, SC Railway & 11 Ors

To

1. Shri S.B. Patil
Material Clerk
Office of the Additional Chief
Mechanical Engineer
Railway Workshop
South Central Railway
Hubli

2. Shri Ketha Stephan
Material Checker
Machine Shop
Railway Workshop
South Central Railway
Hubli

3. Shri Vijaya Bhagirath Rao Sattigeri
Material Checker
Foundry Shop
Railway Workshop
South Central Railway
Hubli

4. Shri Rangaswamy Bandam
Material Checker
Paint Shop, Railway Workshop
South Central Railway
Hubli

5. Shri B. Prabhakara
Material Checker
Yard Shop, Railway Workshop
South Central Railway
Hubli

6. Shri M. Narayanaswamy
Advocate
844 (Upstairs)
Vth Block, Rajajinagar
Bangalore - 560 010

7. The General Manager
South Central Railway
Secunderabad (A.P.)

8. The Additional Chief Mechanical
Engineer
Railway Workshop
South Central Railway
Hubli

9. Shri P. Sivam
Senior Clerk, Yard Shop
South Central Railway Workshop
Hubli

10. Shri V.M. Gangadharan
Senior Clerk
Carriage Shop
South Central Railway Workshop
Hubli

11. Shri M.V. Xavier
Adrena Operator
Planning Officer
South Central Railway Workshop
Hubli

12. Shri V. Narasimhulu
Head Clerk, Yard Shop
South Central Railway
Workshop
Hubli

RECEIVED 14/8/87

Prin

B
17/8/87

dc

13. Shri K. Barnabas
Senior Clerk
Basic Training Centre
South Central Railway Workshop
Hubli

14. Shri R.H. Wai
Senior Clerk
Time Office
South Central Railway Workshop
Hubli

15. Shri K.K. Bellary
Senior Clerk
Foundry Shop
South Central Railway Workshop
Hubli

16. Shri G.T. Chitragar
Senior Clerk
Smithy Shop
South Central Railway Workshop
Hubli

17. The Secretary
Railway Board
Railway Bhavan
New Delhi

18. The Chief Personnel Officer
Headquarters Office
South Central Railway
Secunderabad (A.P.)

19. 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 application on 29-7-87.

Encl : As above

Enclosed
DEPUTY REGISTRAR
(JUDICIAL) *→*

CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE

DATED THIS THE 29th DAY OF JULY, 1987

Present : Hon'ble Sri Ch.Ramakrishna Rao

Member (C)

Hon'ble Sri P.Srinivasan

Member (A)

A.No.1374/86 & 1428 to 1431/86

1. S.B.Patil, ... as in 1374/86.
Material Clerk,
O/o the Additional Chief
Mechanical Engineer,
Rly.Workshop, South
Central Rly, Hubli. ...
2. Ketha Stephen, ... as in 1428/86.
Material Checker,
Machine Shop,
Railway Workshop,
SC Rly, Hubli.
3. Vijaya Bhagirath Rao Sattigeri, ... as in 1429/86
Material Checker, Foundry
Shop, Railway Workshop,
Sc Rly, Hubli.
4. Rangaswamy Bandam, ... as in 1930/86.
Material Checker,
Paint Shop, Railway Workshop,
SC Rly, Hubli.
5. B.Prabhakara, ... as in 1431/86.
Material Checker,
Yard Workshop,
Rly Workshop,
SCRly, Hubli. ...

Applicants

(Sri M.Narayanaswamy ... Advocate)

Vs.

- 1.The General Manager,
South Central Railway,
Secunderabad.
2. The Additional Chief Mechanical
Engineer, South Central Rly,
Rly, Workshop, Hubli.
3. P.Sivam,
Senior Clerk, Yard Shop,
South Central Rly Workshop,
Hubli.
4. V.M.Gangadharan,
Senior Clerk,
Carriage Shop,
South Central Rly Workshop,
Hubli.
5. M?V.Xavier,
Adrena Operator,
Planning Officer,
South Central Railway Workshop,
Hubli.



6. W.Narasimhulu,
Head Clerk, Yard Shop,
South Central Rly Workshop,
Hubli.

7. K.Barnabas,
Senior Clerk,
Basic Training Centre,
South Central Rly Workshop,
Hubli.

8. R.H.Jai,
Senior Clerk,
Time Office,
South Central Rly Workshop,
Hubli.

9. K.K.Bellary,
Senior Clerk,
Foundry Shop,
South Central Rly Workshop,
Hubli.

10.G.T.Chitragar,
Senior Clerk,
Smithy Shop,
South Central Rly Workshop,
Hubli.

11.The Secretary,
Rly Board,
Rly Bhavan,
New Delhi.

12.Chief Personal Officer,
Headquarters Office,
Personal Branch,
Secunderabad.

...

Respondents

(Sri M.Sreerangiah ... Advocate)

These applications have come up before the court today.

Hon'ble Sri P.Srinivasan, Member(A) made the following :

O R D E R

All these applications which originated as W.Ps. before
the High Court of Karnataka involve common issues and they are,
therefore, disposed of by this common order.

2. The applicants were appointed as Khalasis and Laskars
in the South Central Railway ('SCR') on the following dates.

P. S. S. B.

	<u>Khalasi</u>	<u>Laskar</u>
S.B.Patil	18.11.69	24.12.76
Ketha Stephen	15.11.62	16.3.77
V.B.Sattigeri	10.5.75	21.5.77
B.Rangaswamy	2.12.76	2.11.78
B.Prabhakara	1t.9.70/15./15.9.1970	

Thereafter all of them were promoted as Material Checkers between 1.3.78 and 1.4.81. Applicant in A.No.1374/86 was further promoted as Material Clerk on ad hoc basis on 14.10.80. Respondents 3 to 10 were appointed as Khalasis on various dates, from 1.5.1954 to 5.10.68. They were also appointed as Laskars on various dates between 5.10.62 and 8.3.72. One of them received further promotion as Junior Clerk ('JC') - a post carrying the same scale of pay as Material Clerk on 18.1.69, four on 1.4.1971 and remaining four in 1972 all on ad hoc basis. Their promotion being in excess of the promotion quota of 33 1/3 per cent they were treated as ad hoc even though they had passed the requisite selection test before such promotion as JC. They were treated as JC on ad hoc basis till regular appointees from the direct recruitment quota became available. Subsequently by an order dated 14.8.81 (Annexure E), the Headquarters Officer, SCR agreed to regularise the appointment of the respondents in their posts as JCs. 5 of them were adjusted against promotion quotas from 1972 to 1981 and the remaining 3 were to be adjusted in future promotion vacancies to arise thereafter (Annexure D and E). However, for the purpose of seniority they were reckoned to have become regular JCs w.e.f.1.8.1976 (Annexure F). The applicants complain that since they were promoted on regular basis from the posts of Laskar to posts of Material Checker, the respondents who were promoted directly as Junior Clerks only on an ad hoc basis but had not been



P.S. -

promoted to the intermediate post of Material Checker (either ad hoc or regularly) could not have been regularised as Junior Clerks before them (applicants) and given seniority in that grade from 1.8.1976. They want us to quash the orders at Annexures E & F to which we have made reference above.

3. Sri M.Narayana Swamy, learned counsel for the applicants, submitted that respondents 3 to 10 were promoted as JC's in 1972 and earlier on a purely ad hoc basis. After 1972, in 1978 the avenue of promotion of class IV employees was altered. They had to become Material Checkers first and only thereafter could they be promoted as Material Clerks/Junior Clerks. The applicants were promoted as Material Checkers on a regular basis between 1973 and 1980 but not respondents 3 to 10. The proper thing which the respondents should have done was to consider respondents 3 to 10 for promotion in the first place to the post of Material Checkers and then to posts of Material Clerks/Junior Clerks which were equivalent posts. By regularising the respondents in the posts of JC, their ad hoc services in that post had been taken into account and the regular promotion received by the applicants to posts of Material Checkers had been ignored. When the avenue (of promotion)chart was introduced in 1973, Respondents 3 to 10 were still Class IV officials, though officiating as Junior Clerks on ad hoc basis. He, therefore, pleaded that the orders regularising respondents 3 to 10 in promotion vacancies of Junior Clerks which arose from 1972 onwards and giving them seniority as if they were regularised from 1.8.1976 deserved to be quashed.

4. Sri M.Sreerangaiah, learned counsel for the respondents, submitted in the first place that respondents 3 to 10 were senior

P.S.B.



and Lasham,

to the applicants in the grade of Khalasis having been appointed in that grade several years before the applicants. The respondents were promoted as JC's as early as 1969, 1970, 1971 and 1972. They were promoted only after they had passed the necessary selection test. Since direct recruits from the Railway Service Commission were not available and the posts of JC's had to be filled up, respondents 3 to 10 were promoted on an ad hoc basis with a tacit understanding that they would be regularised against regular vacancies arising in future. Therefore, the question of their being promoted as Material Checkers under the new avenue chart of 1978 did not arise. What the respondents 1, 2, 11 & 12 did was to regularise these respondents, who were otherwise duly qualified for promotion, in the posts of JC's as and when promotion vacancies arose between 1972 and 1981 and subsequently also. The position stated in Annexure F to the application regularising the applicants from 1.8.1976 has since been altered. The Headquarters office of the South Central Railway had clarified subsequently that the respondent 3 to 10 stood regularised only from 14.8.81 and not from 1.8.76. Therefore the grievance raised in the application against their regularisation from an earlier date i.e. 1.8.1976 did not survive. Sri Sreerangaiah, further urged that irrespective of their date of regularisation, respondents 3 to 10 having been senior to the applicants as Khalasis and having passed the qualifying test for promotion as JC in 1972 and earlier, they would certainly have to rank senior to the applicants in the grade of JC/Material Clerk.



5. Having heard counsel on both sides, we are of the opinion that prayer (a) in application No. 1374 of 1986, and Nos. 1423 to 1431 of 1986 no longer survives for consideration because the date of regularisation of respondents 3 to 10 has since been changed to 14.8.1981. We are also of the view that

T. S. - The

the applicants can have no grievance against higher seniority being given to respondent 3 to 10 in the grade of Junior Clerk/ Material Clerk because all the respondents were senior to the applicants as ~~thalasis~~, had passed the selection for promotion as DCs as early as in 1972 and before and were promoted as DCs (though on ad hoc basis) in 1972 and earlier on that basis only.

6. There is one more prayer in A.Nos.1428 to 1431/86 and that is, that the avenue chart(Annexure O) should be quashed. According to this avenue chart which is said to have been brought out in 1984, two channels of promotion were provided for persons working in class IV posts i.e., to the post of Junior Clerk directly as well as to the lower post of Material Checker. The avenue chart of 1978 referred to earlier had, on the other hand provided only one channel of promotion i.e., to the post of Material Checker after which only a person could become Junior Clerk/Material Clerk. According to the avenue chart (Annexure O) of 1984, a class IV official with 3 years of service could be considered for promotion as Junior Clerk while a Material Checker who had to put in five years of service in that grade could only be promoted as a Material Clerk- a post in the same scale of pay as Junior Clerk. Material Checker being a promotional post for a class IV official, to stipulate a minimum of 5 years' service for Material Checker as against only 3 years for class IV officials for promotion to the same scale of pay was discriminatory. When the matter was heard, Sri M.Narayanaswamy explained that so far no cause of action had arisen to the applicants as a result of this amended avenue chart at Annexure O. We, therefore, do not deal with this ground. The applicants will be at liberty to come up to this Tribunal if and when they are adversely affected by the operation of this avenue chart.

P. S. V

