

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/e the Additional Chief  
Mechanical Engineer,  
Rly.Workshop, South  
Central Rly, Hubli. ...

2. Kotha 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, Foundary  
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,  
Adrema Operator,  
Planning Officer,  
South Central Railway Workshop,  
Hubli.

P. Srinivasan

Registered A/D

CENTRAL ADMINISTRATIVE TRIBUNAL  
BANGALORE BENCH

Applicant 1374/86(T)  
Applicant (W.P. ~~xxxxxx~~) Versus:  
3913/84

Commercial Complex(BDA)  
Indira Nagar, Bangalore.38

To S.B.Patil

Respondent

General Manager, South Central  
Railway, Secunderabad (Andhra Pradesh)  
and 2 Drs.

Sri R.U.Goulay, Advocate for R-6, 7 & 8  
90/1, 2nd Block, Near Ganesh Mandhir, Post Office Road,  
Thyagarajpet, Bangalore-28.

Application No. ~~1374/86~~ 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. Your 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.

*Issued  
R  
2/8*  
Dated 28th August 86

*S. S. S.*  
*P. S. S.*  
( Section Officer )  
Judicial. *o/c pres*

6. BV. 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,  
Foundary Shop,  
South Central Rly Workshop,  
Hubli.
  10. G. T. Chitrakar,  
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.
- ( Sri M. Sreerangaiah                      ... Advocate )

Respondents

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.



	<u>Khalasi</u>	<u>Laskar</u>
S.B.Patil	18.11.69	24.12.76
Kotha 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 Junior Clerks only on an ad hoc basis but had not been

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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 JCs 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. Sreerangaiah

to the applicants in the grade of Khalasis <sup>and Laskars,</sup> having been appointed <sup>M</sup> ~~in that grade~~ <sup>as those</sup> several years before the applicants. The respondents were promoted as JCs 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 JCs 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 JCs 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

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the applicants can have no grievance against higher seniority being given to respondents 3 to 10 in the grade of Junior Clerk/ Material Clerk because all the respondents were senior to the applicants as Khalasis, had passed the selection for promotion as JCs as early as in 1972 and before and were promoted as JCs (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 ie., 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 ie., 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. - 42

CENTRAL ADMINISTRATIVE TRIBUNAL  
BANGALORE BENCH  
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Commercial Complex(BDA)  
Indiranagar  
Bangalore - 560 038

Dated : 13/8/87

Application Nos

1374/<sup>86</sup>~~85~~ & 1428 to 1431<sup>86</sup>(T)

W.P. Nos.

3913/84 & 4345 to 4348/85)

Applicants

Respondents

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 Kotha Stephen  
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 Rangaewamy 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. Gangadharam  
Senior Clerk  
Carriage Shop  
South Central Railway Workshop  
Hubli
11. Shri M.V. Xavier  
Adrema Operator  
Planning Officer  
South Central Railway Workshop  
Hubli
12. Shri V. Naresimhulu  
Head Clerk, Yard Shop  
South Central Railway  
Workshop  
Hubli

RECEIVED 14/8/87

*Final*  
*B*  
17/8/87

d/c

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  
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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

*[Signature]*  
DEPUTY REGISTRAR  
(JUDICIAL)

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BANGALORE

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*[Handwritten signature]*

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P. S. S.

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