

CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE

DATED THIS THE 23rd DAY OF JULY, 1987

Present : Hon'ble Sri Ch.Ramakrishna Rao,

Member(J)

Hon'ble Sri P.Srinivasan

Member(A)

APPLICATION No. 1630/86(F)

A.Adinarayana,
Travelling Ticket Examiner/Sc.,
MYS Division,
Bangalore

...

Applicant

(Sri S.M.Babu

...

Advocate)

Vs.

The Divisional Personal Officer,
Southern Railway,
Mysore.

The Sr.Divisional Commercial
Superintendent,
Southern Railway,
Bangalore.

The Chief Personal Officer,
Southern Railway, Madras.

...

Respondents

(Sri M.Sreerangaiah

...

Advocate)

This application has come up before the court today.

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

ORDER

This is an application under Section 19 of the Administrative Tribunal's Act, 1985('Act'). The applicant who is working as Travelling Ticket Examiner(TTE) in the Southern Railway, Mysore Division, complains in this application that his seniority for the purpose of further promotion has been unduly depressed, thereby affecting his prospects for further promotion. The applicant started service in the Railways as a Class-IV official and was appointed as Ticket Collector(TC) in Class III on an ad hoc basis by an order dated 16.12.1972. He continued as TC



in that capacity/^{title was}regularised in that post w.e.f. 19.1.1980. He was promoted to the next higher post of Travelling Ticket Collector(TTC) w.e.f.16.2.1981. The next promotion for a TTC is to the post of Head Ticket Collector(HTC)/Conductor. In July, 1983, the Divisional Office of the Southern Railway at Mysore announced that selections to the posts of HTC/Conductor/TTI would be held shortly and eligible persons were asked to be in readiness to appear for the selection at short notice. A list of eligible persons in the order of seniority was set out in letter dated 23.7.1983(Annexure-M) by which the announcement was made. The applicant was shown at Sl.No.44 in the list. Thereafter, he represented to the authorities that his seniority had been wrongly shown and that was because the seniority in the grade of TC assigned to him ^{as was} on the basis that he had been regularly appointed to that post from 19.1.1980 while it should have been with reference to the date of his continuous service in that post from 22.12.1972. This request was rejected by the Senior Divisional Personnel Officer(SDPO) in the letter dated 22/23.12.1983. In this letter, the SDPO stated that his appointment as TC in December, 1972 was purely on an adhoc basis, subject to reversion and that he was regularly appointed as TC only from 19.1.1980 which therefore was the date to be taken into account for determining his seniority as TC. As a consequence, his serial number in the list of eligible candidates for selection to the posts of HTC/Conductor/TTI was 44. The applicant is aggrieved with this reply and contends that his seniority in the grade of TC should have been reckoned from the date from which he was continuously officiating in that post, i.e., December, 1972 and that all further promotions and seniority in higher posts should be regulated accordingly.

2. Sri S.M.Babu, learned counsel for the applicant, contends that there is the authority of the Supreme Court to hold that

P. S. Babu

when a person is appointed to a post, not in a fortuitous ^Mvacancy, and officiates in ^{M such}use a post continuously for a number of years whether termed temporary or adhoc his seniority in the said post should be reckoned from the date from which he continuously officiated in that post. Sri Babu relies in this connection on the decision rendered by this Tribunal in A.No.1491/86 disposed of on 22.6.1987. That was an application filed by a certain Sheikh Rehman, TTE, whose case was in all respects similar to that of the applicant, since both Sheikh Rehman and the applicant were promoted as TCs by the same order.

3. Sri M.Sreerangaiah, learned counsel for the respondents, raises a preliminary objection, that this application is barred by limitation. According to him, the cause of action in this case arose in 1972 when the applicant was promoted as TC, or in 1979 when the applicant was asked to undergo training for regular promotion as TC. or in any case, not after 1980 when he was absorbed in a regular vacancy as TC. Thus, the cause of action having arisen well before 1.11.1982, this Tribunal cannot entertain the application at all, much less condone the delay in filing the application. He agrees that otherwise the facts of this case are in pari materia with those in Sheikh Rehman's case decided by this Tribunal, on 22.6.1987, and on which Sri Babu has placed reliance.

4. We will first deal with the preliminary objection raised by Sri Sreerangaiah. We do not agree with him that the cause of action arose in 1972 or even in 1979. In 1972, the applicant was promoted as TC on an adhoc basis. In 1979, he was informed that he should undergo training, having been selected for regular promotion and in 1980 he was regularised as TC. What really affected the applicant adversely was the announcement made by the Divisional Office at Mysore about the impending selection for the posts of HTC/Conductor+TTI on 23.7.1983. The letter through which this announcement was made placed the applicant at Sl.No.44 while, according to him, his seniority should have been

P. S. Sreerangaiah

higher. Thereafter, the applicant had necessarily to make a representation to the Railway authorities which he did on 9.10.1983. A reasoned reply to this representation was given by respondent No.1 by letter dated 23.12.1983(Annexure-0). In our opinion, it is, at this point, that the applicant's grievance may be said to have arisen. U/s 21 of the Act, where a cause of action arose within 3 years before the constitution of this Tribunal, i.e., before 1.11.1985, an application can be filed within one year of the order giving rise to the grievance or within six months of the establishment of this Tribunal, whichever was later. Here, the later date would be six months from the date of constitution of this Tribunal. The application should, therefore, have been filed on or before 1.5.1986. It was, in fact, filed on 26.5.1986, about 25 days later. Sri Babu has explained that this short delay is due to the fact that the applicant was still pursuing the matter with the railway authorities and when he found that it was of no avail, he came to this Tribunal. He pleads that the delay should be condoned, particularly, because the applicant's case was identical in all respects with that of Sheikh Rehman and the applicant was entitled to the same relief as was given to Sheikh Rehman by this Tribunal while disposing of A.No.1491/86 on 22.6.1987. In view of this, we feel that this is a fit case for condonation of delay. We, therefore, condone the delay in filing the application.

5. As for the merits of the application, both sides are agreed that they are covered by the decision of this Tribunal in A.No.1491/86. As in that case we would direct the applicant to make a representation that he be confirmed as TC w.e.f. 16.12.1972, the date from which he officiated continuously in that post in terms of Railway Board's letter dated 2.12.1970. The respondents will consider the representation of the applicant on merits and take a decision thereon within 3 months from the date it is filed and regulate the seniority

P. S. V.

REGISTERED

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

Dated : 31/7/87

APPLICATION NO 1630 /86(F)

W.P. NO

Applicant

Shri A. Adinarayana

V/s The Divisional Personnel Officer,
Mysore & 2 Ors

To

1. Shri A. Adinarayana
Travelling Ticket Examiner/Sc
MYS Division
Southern Railway
Bangalore
2. Shri S.M. Babu
Advocate
242, Vth Main Road
Gandhinagar
Bangalore - 560 009
3. The Divisional Personnel Officer
Southern Railway
Mysore

4. The Senior Divisional Commercial
Superintendent
Southern Railway
Bangalore
5. The Chief Personnel Officer
Southern Railway
Park Town
Madras - 3
6. Shri M. Sreerengiah
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/~~STAY~~/
~~INTERIM ORDER~~ passed by this Tribunal in the above said
application on 23-7-87.

RECEIVED
3/8

Encl : as above

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

Received copy
Mysore
Adv R 3/8/87

CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE

DATED THIS THE 23rd DAY OF JULY, 1987

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Hon'ble Sri P.Srinivasan

Member(A)

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Applicant

(Sri S.M.Babu

... Advocate)

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P. S. V.

- 5 -

of the applicant for promotion as HTC/Conductor/TTI accordingly with all consequential benefits flowing therefrom.

6. In the result, the application is disposed of as indicated above. Parties to bear their own costs.



Sd---

MEMBER(J)

20.11.11

- True copy -

Sd-----

MEMBER(A)

20.11.11

R. V. Venkatesh Reddy
DEPUTY REGISTRAR
CENTRAL ADMINISTRATIVE TRIBUNAL
ADDITIONAL BENCH
BANGALORE
31/11