

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL  
BANGALORE BENCH, BANGALORE

TODAY THE TWENTYFOURTH OF FEBRUARY, 1987

Present: Hon'ble Shri Ch. Ramakrishna Rao - Member(J)  
Hon'ble Shri L.H.A. Rego - Member(A)

APPLICATIONS NO. 1454 and 1455 of 1986(T)  
(W.P.Nos. 6629 and 6630 of 1985 respectively)

1. H.P. Appaji
  2. K.M. Kannaiyan
- ..Applicants
- ( Smt. G.S. Anasuya, Advocate)

VERSUS

1. Divnl. Railway Manager,  
Bangalore Divn.  
Southern Railway,  
Bangalore-23.
  2. Divnl. Mechanical Engineer,  
Bangalore Divn.  
Southern Railway,  
Bangalore-23.
  3. Divnl. Personnel Officer,  
Bangalore Divn.  
Southern Railways,  
Bangalore-23.
  4. M.V. Venugopal,  
Driver 'A' M.R.815,  
Southern Railways,  
Bangalore Divn.  
Bangalore.
  5. Muniswamy,  
Driver 'A' M.R. 676,/ASK,  
S.B.C.Division,  
Bangalore.
- ..Respondents
- ( Shri M.Sreerangaiah, Advocate)

O R D E R

These two applications are transferred by the High Court of Judicature, Karnataka, to this Bench, under Sec.29 of the Administrative Tribunals Act, 1985, wherein it is prayed, that respondents(R)1 to 3 be directed to promote the applicants to the cadre of Driver 'A', place them over R.4 and 5 in that cadre, in the order of seniority and grant them consequential relief. As both these applications are analogous in facts and law, we propose to dispose them of, by a common order.

2. The following is the background leading to these applications. Applicants(A) 1 and 2, were first appointed as Cleaners in the Southern Railway on 27-12-1953 and 8-9-1954 respectively. Their relevant service curriculum vitae, till the material point of time, is as follows:

Sl.No.	Category of post in the Southern Railway.	Date of appointment/Promotion	
		Applicant No.1 (A1)	Applicant No.2 (A2)
1.	2.	3.	4.
i)	Cleaner(Khalasi)	27-12-1953	9-9-1954
ii)	Fireman 'C' Grade	1958	1962
iii)	Fireman 'B' Grade	1961	1970
iv)	Diesel Assistant	1970	1972
v)	Shunter 'B' Grade	1973	?
vi)	Driver 'C' Grade	1978	11-2-1977
vii)	Driver 'B' Grade	<del>22-11-1984</del> 22- 9-1951	1980
viii)	Driver 'A' Grade	12-11-1984 } to date. }	?

3. A-1 and A2 state, that they belong to the Scheduled Caste(SC). A-1 claims, that he is entitled to the benefits of promotion made available to SCs and Scheduled Tribes(STs), in the Railways, under the Circulars dated 27-4-1959 and 12-6-1959 of the Railway Board, in the posts reserved for them. He alleges, that though he belonged to the SC, Adikarnataka, his caste remained to be entered as such, in his Service Register(SR), on account of which, he was deprived of his legitimate opportunity of promotion.

4. A-1 states, that in 1981, he was reverted without reason from the post of Driver 'B' Grade to that of 'C' Grade, to make place for one Shri M. Subramanyam. He refers to the Provisional Seniority List(PSL), of Drivers Grade 'C' (Pay Scale:Rs.330-560) drawn up by R-3 as on 15-9-1981, under his letter dated 21-4-1980 (Annexure-A), wherein he states, that he appears at Sl.No.207, whereas R4 and 5 appear at S.Nos.216 and 218 respectively. While R4 and 25 have been shown in this PSL, as belonging to SC, ~~and~~ A-1 has not been shown so. A-1 states, that he represented

thereon to

thereon to R3 on 16-5-1981, for necessary correction. In reply, the office of R3 informed him, by letter dated 1-2-1982 (Annexure-B), that it was admitted with effect from 4-1-1982, that he belonged to the SC, Adikarnataka, based on the certificates<sup>del</sup> issued by the Tahsildar, Channapatna Taluk. In pursuance thereof, action was taken to make the necessary entry in the SR of A-1.

5. A-1 alleges, that despite correction of his caste as above, in his SR, R-3 did not restore his promotion to that of Driver 'B' Grade, the evidence of which, he refers<sup>del</sup> to the communication dated 13-10-1982 (Annexure-C) from R-3, wherein he says, that the appellation S.C., was not shown in bracket against his name, in spite of correction of his caste in the SR, as aforementioned. He submits, that consequently, R4 and R5 superseded him on 17-9-1982, for promotion to the post of Driver 'A' Grade, though they were juniors to him, according to the PSL.

6. A-1 avers, that he was promoted as Driver 'A' Grade, by R-2, on 12-11-1984 (Annexure-D) purely on an ad-hoc basis, in the pay scale of Rs.550-700. He refers to the communication dated 20.4.1983, from R-1 (Annexure-E), in regard to fixation of pay of Driver 'A' Grade, in the above pay scale, wherein, he says, his name does not figure. He states, that he submitted a series of representations thereon, to the respondents for redress, but to no avail.

7. A-2 narrates his case alike to that of A-1, pointing out to show<sup>del</sup>, as to how he was senior to R4 and R5, who like A-1 and A2, belonged to SC and were appointed as Cleanser<sup>del</sup> (Khalasis), in the Southern Railway, but from later dates viz. 8-3-1958 and 29-3-1956 respectively and were thus junior to him. A-2 submits, that while his ranking in the Seniority List was at Sl.No.99, that of R4 and R5 was<sup>del</sup> <sup>at</sup> S.Nos.191 and 173<sup>del</sup> respectively. Furthermore,

he submits, that <sup>he</sup> whereas, he was promoted to the post of Driver 'C' Grade on 11-2-1977, R4 and R5 were so promoted, on 11-4-1979 and 19-4-1979 respectively. He therefore, claims, that he was ~~xxxx~~ senior to R4 and R5 and alleges, that inspite of this, he was not considered for promotion to the post of Driver 'A' Grade, unlike R4 and R5. He submitted a representation thereon, on 14-9-1982 and 22-9-1982 to R3 (Annexures J and H respectively).

8. As the representation of both the applicants went unheeded, they filed writ petitions in the High Court of Judicature, Karnatka, which have since been transferred to this Bench and are now before us for consideration.

9. In presenting the case of the two applicants, their learned Counsel contended, that R1 ~~xxx~~ to R3 erred in overlooking the promotion of A-1, to the post of Driver 'A' Grade, even though R3 had admitted his caste as SC and directed, that the same be entered in his SR and A-1 was senior in rank to R4 and R5 in the PSL and that A2 was also not granted promotion to the same grade, even though he was senior to R4 and R5.

10. Learned Counsel for the respondents refuted each of the above contentions. He submitted that all promotions granted until the issue of the PSL, by R3, under his letter dated 22-9-1981 (Annexure-A), were subject to review, in the light of the decision of the High Court of Karnatka, in Writ Petitions Nos. 4701 and 4702 and Writ Appeals Nos. 348 and 493 of 1978. Prior to this, Shri M. Subramanyam (Referred to in the applications) was senior to A-1 but subsequent to issue of the above PSL on 22-9-1981, the seniority of A-1 was restored and he was placed above Shri M. Subramanyam. In compliance with the directions of the High Court, a PSL of Drivers Grade 'C', in the pay scale of Rs. 330-560, was issued by R-3 as on 15-9-1981 (Annexure-A), wherein A-1 has been ranked at S.No. 207, as against R4 and R5, who are shown at S.Nos. 216 and 218 respectively.

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11. Counsel for the respondents clarified, that the claim of A-1, that <sup>he</sup> he belonged to SC, was not established by him earlier than 4-1-1982 and therefore, the entry "SC", was not shown against his name in the PSL, drawn as on 15-9-1981, in respect of Drivers Grade 'C'.

12. He averred, that R4 and R5 were on 17-9-1982, considered for promotion as Driver, Grade 'A', in the restructured posts of Drivers as on 1-5-1981, <sup>against</sup> against the posts earmarked for SCs, but A-1 could not be considered for the same, as his claim as belonging to SC, was established not earlier than 4-1-1982.

13. Counsel for the respondents affirmed, that R4 and R5 were senior to A-1. They were promoted later to the post of Driver 'C', <sup>for</sup> for ~~not~~ fault of theirs and for no blemish in their service record but on account of administrative delay, in the issue of the requisite LM-16 certificates. They were thus ranked above A-1 in the PSL, as on 15-9-1981, in respect of Drivers Grade 'C' (Annexure-A).

14. As regards A-2, Counsel for the respondents clarified, that for the very reasons stated in para-13 supra and specified in the remarks column of the PSL of Drivers Grade 'C', as on 15-9-1981, (Annexure-A) R4 and R5 were not junior to him.

15. Counsel for respondents brought to our notice, that A-1 was held guilty in a departmental enquiry, for his negligence, which resulted in derailment of a goods train, for which he was removed from service, with effect from 31-12-1985, but in his appeal, the punishment was modified on compassionate grounds, to that of reduction in rank as a Shunter, on a monthly pay of Rs.400/- till his retirement. A-1 was therefore, reinstated on 18-7-1982, with instructions that his services be utilised, as a Crew Controller only, till his retirement on 30-9-1989.

16. Counsel pointed out, that the case of A-1 suffers from inordinate delay and laches, on which grounds alone, his ~~tax~~ <sup>his</sup> application is liable to be dismissed.

17. We have examined carefully the pleadings of both sides and also perused the material placed before us. From the evidence on record, it is clear, that A-1 bestirred himself far too belatedly i.e. after nearly 3 decades, to prove that he belonged to the SC and this claim of his was established not earlier than 4-1-1982. Counsel for the respondents affirmed, that A-1 has not been denied the benefit of promotion from that date, in regard to concessions available to SCs. We have ascertained the veracity of this statement. A-1 cannot at this belated stage, on account of his own default, claim promotion on grounds of caste as SC. His claim is clearly hit by laches. We cannot also be oblivious of the fact, that in the recent past, he was involved in a case of grave negligence in duty, for which he was awarded initially the extreme punishment of removal from service but later, in appeal, <sup>he</sup> ~~he~~ was reinstated on compassionate grounds, with an amended lighter punishment, confining him to stationery duty, as a safety measure.

18. R4 and R5 were senior to A2 by their own right, as their seniority could not be affected, on account of delay in the issue of the requisite LM-16 Certificates, for which, they were in no way responsible, as the delay was occasioned for administrative reasons.

19. In fine, both the applications fail and we dismiss them accordingly. No order as to costs.

  
(CH. RAMAKRISHNA RAO)  
(MEMBER(J))

  
( L.H.A. REGO ) 24.2.1987  
(MEMBER(A))



S. Settharaman 4.2.87  
Partly Allowed (C)  
Issued on 18/3/87  
Dismissed (C)

G. M. Bikk 4.2.87  
Dismissed (C)  
Issued on 4/3/87

M. R. Jarakat 4.2.87  
Dismissed (C)  
Issued on 6/3/87

Y. S. Panduranga 5.2.87  
Dismissed  
Issued on 21/3/87

B. V. Nagaraj 5.2.87  
Dismissed (C)  
Issued on 22/4/87

Allowed 5.2.87  
Dismissed (C)  
Issued on 14/4/87

Chandulal 9.2.87  
Dismissed (C)  
Issued on 3/3/87

D. Chennappa 9.2.87  
Dismissed (C)  
Issued on 9/10

K. Modhappan 9.2.87  
Dismissed (C)  
Issued on 5/3/87

Balwanth 9.2.87  
Allowed (C)  
Issued on 3/3/87

~~R. A. Sathyan~~ 10.2.87  
Dismissed (C)  
Issued on 27/2/87

A.No. 1718/86 (F)

A.No. 1008/86 (C)  
(WP: 18739/83)

A.No. 1651/86 (C)  
(WP: 5730/85)

A.No. 1581/86 (C)  
(WP: 15127/85)

A.No. 1740/86 (F)

A.No. 1405/86 (C)  
(WP: 4129/84)

A.No. 1869/86 (C) (WP: 8546/84)  
A.No. 1703/86 (F)

A.No. 1831/86 (C)  
(WP: 16939/83)

A.No. 1892/86 (C)  
(WP: 18520/84)

A.No. 175/86 (C)  
(WP: 10795/81)

A.No. 737/86 (F)

59 60	Ans. 2061/86 (F)		10.2.87	Rejected (C)
60 61	Ans. 1694/86 (T) (WP. 10041/85)	C. V. Appu	12.2.87	Disposed of (C) issued on 4/3/87
62	<del>Ans. 1289/86 (T)</del> <del>(WP. 1606/85)</del>		<del>12.2.87</del>	
62 63	Ans. ORA No. 7/87 (in Ans. 1456/86 (F))		16.2.87	Partly Allowed (C)
63 64	Ans. 8/87 in Ans. 776/86 (T)	D. K. Gihwari	16.2.87	Rejected (C) issued on 16-4-87
64 65	Ans. 468/86 (F)	<del>K. Satyanarayana</del> <del>issued on 16/3/87</del>	16.2.87	Partly allowed (C)
64 65	Ans. 873/86 (F)	K. K. Hanthannarayana	17.2.87	Partly allowed (C) issued on 31/3/87
65 66	IA in Ans. 170 & 171/86 (T) (WP. 3443/79 & 3446/79)	L. Maniswamy & and	17.2.87	Disposed of (C) Issued on 9/4/87
66 67	Ans. 1222/86 (T) (WP. 16024/85)	V. R. Logmalan	17.2.87	Dismissed (C) issued on 30/2/87
67 68	Ans. 1404/86 (F)		18.2.87	Disposed of (C)
68	<del>Ans. 1370/86 (T)</del> <del>(WP. 5481/84)</del> (JR)			
68 69	A. No. 1530/86 (T) (WP No. 15309/85)	V. Rajeev Shetty	19.2.87	Allowed (C) issued on 18/3/87



