

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE BENCH, BANGALORE

DATED THIS THE 11TH DAY OF MARCH, 1987

Present: Hon'ble Shri Justice K.S. Puttaswamy,
and Vice-Chairman
Hon'ble Shri L.H.A. Rego, Member (A)

APPLICATION NOS.1494 & 1495/86

1. T. Narayanan,
S/o K. Koran,
aged about 41 years,
Head Clerk, Hassan-Mangalore
Railway Project,
Southern Railways,
(Executive Engineer's Office),
Bangalore Contonment,
Bangalore.

Applicant in
A. No.1494/86

2. S.V. Chandrasekhara Panickker,
S/o V.N. Viswanatha Panickker,
aged 39 years, Senior Clerk,
Executive Engineer's Office,
(Construction), Southern
Railways, Ernakulam.

Applicant in
A. No.1495/86

(Shri Munir Ahmed, Advocate)

v.

1. The Union of India, represented
by the Secretary, Railway Board,
New Delhi.
2. The General Manager, Southern
Railways, represented by the
Chief Personnel Officer, Madras.
3. The Divisional Railway Manager,
Southern Railway, Mysore.
4. The Chief Engineer (Construction)
Southern Railway,
Bangalore Contonment, Bangalore.

Common respondents

(Shri A.N. Venugopal, Advocate)


These applications having come up for hearing
to-day Vice-Chairman made the following.

O R D E R

These are transferred applications and are received from the High Court of Karnataka under Section 29 of the Administrative Tribunals Act, 1985.


2. T. Narayanan and S.V. Chandrasekhar Panickker, Applicants in A. Nos. 1494 and 1495 of 1986 corresponding to W.P. Nos 11834 and 11835 of 1985 joined service as Junior Clerks on 25.9.1964 and 17.9.1965 respectively in the then Mysore Division of the Southern Railway. For reasons that are not necessary to notice in detail, these applicants were promoted as Senior Clerks on an ad-hoc basis on 23.2.1981 and 20.3.1973 respectively, and have been working in that capacity since then.

3. Sriyuths K. Anandamurthy, C. Balasubramaniam and C.G. Parthasarathy, who are stated to be juniors to the applicants were promoted as Senior Clerks from 1.9.1979 on a regular basis, on which ground they also urged for regular promotions from that very date. On an examination of the same, the Senior Divisional Personnel Officer (DPO) by his Office Order No.PG/31/83 dated 1.3.1983 (Annexure-A) accorded regular proforma promotion to the applicants also, from 1.9.1979.



Sometime thereafter, the DPO re-examined the matter in depth and found K. Anandamurthy, C. Balasubramanian and C.G. Parthasarathy had been promoted only on an ad-hoc and not on a regular basis. On this fact-situation, the DPO by his Order No. PG/106/85 dated 1.7.1985 (Annexure-B) rescinded his earlier Order dated 1.3.1983 (Annexure-A) made in favour of the applicants and three others with whom we are not concerned. In Writ Petitions Nos. 11834 and 11835 of 1985 filed on 31.7.1985, the applicants challenged the said order of the DPO. On 1.8.1985 Doddakalegowda J, issued rule nisi and stayed the operation of the said order as against the applicants, and the two applications in question, have on transfer have been registered as Applications Nos. 1494 and 1495 of 1986.

4. Among others, the applicants have urged that their juniors had been promoted as Senior Clerks on a regular basis earlier to them and therefore, the proforma promotions accorded to them from 1.9.1979 were valid and that there were no grounds to rescind the earlier order made in their favour on 1.3.1983. Secondly the applicants have urged that the continuance of ad-hoc promotions indefinitely, was contrary to the instructions contained in the Circular No.105 of 1980 of Railway Board (Annexure-C) and was illegal.




5. In their reply, the respondents have supported the order made by the DPO on 1.7.1985, (Annexure-B) on the very grounds set out in his order.

6. Before we examine the merits of the contentions, it is necessary to notice one more development which had not been specifically pleaded in the applications.

7. At the hearing, the applicants, urged that many of their juniors, had been further promoted as Head Clerks also on an ad-hoc basis. In answer to this, the respondents produced material to show, that the applicants had also been promoted as Head Clerks on 27.5.1983 and 18.1.1985 respectively on an ad-hoc basis. On this information furnished by the respondents, the applicants did not pursue this aspect any further.


8. Shri Munir Ahmed, learned counsel for the applicants contends, that the ad-hoc promotions given to his clients and others were being indefinitely continued by the Railway Administration in a fancy-free manner contrary to the instructions contained in Railway Board Circular No. 105/80 and that we should therefore direct the Railway Administration to review all the earlier promotions and grant regular promotions in respect of the cadres of Senior Clerks and Head Clerks.



9. Shri A.N. Venugopal, learned counsel for the respondents contends, that the ad/hoc promotions and their continuance was necessitated by exigency of public service and that every effort will be made by his clients to review all the earlier promotions and grant regular promotions to all eligible officials including the applicants with all such expedition as is possible in the circumstances.

10. We have noticed that the applicant in A.No. 1495 of 1986 had been continued as a Senior Clerk on an ad/hoc basis from 23.9.1973. In the case of the other applicant he had been continued on an ad/hoc basis from 23.2.1981.

11. In its Circular No.105/80 (Vide para 1 of the Guidelines) the Railway Board had impressed on the Railway Administration, not to continue ad/hoc promotions save in exceptional cases, beyond six months. We need hardly iterate that this salutary and binding direction of the Railway Board should have been observed both in letter as well as in spirit by the Railway Administration. Even otherwise, we are of the view, that continuance of ad/hoc promotions ad infinitum is **detrimental** to the interests of the officials as also the administration itself. In these circumstances, we consider it proper to direct respondents 3 and 4 and the DPO who is sub-ordinate to them, to review all




the earlier ad/hoc promotions in the cadres of Senior Clerks and Head Clerks and consider the cases of applicants and other eligible officials for regular promotion, from the dates they are entitled to the same, in those cadres.

12. Shri Munir Ahmed, seeks for a direction, that the applicants should not be disturbed from the posts they are holding on this date, till the matter is reviewed is done and promotions are granted on a regular basis. In support of his contention Shri Ahmed relies on the ruling of the Supreme Court in GURNAM SINGH v. STATE OF RAJASTHAN 1971 SLR 799. and a ruling rendered by one of us viz., Puttaswamy, J. as a judge of the High Court in VIJAYADEVARAJ URS v. G.V. RAO 1982 Mysore Law Journal page 399.

13. Shri Venugopal in our opinion does not rightly oppose this request of Shri Ahmed.

14. We are of the view that the applicants who have been holding the post of Head Clerks for some time past, should be allowed to continue to hold them till a review is undertaken and a regular promotions are granted.



15. Apart from the above contentions noticed and dealt by us, Shri Munir Ahmed, did not urge any other contentions.

16. In the light of our foregoing discussion we direct respondents 2 to 4 or such other officer who is subordinate to them and is competent to review all the earlier ad-hoc promotions in the cadres of Senior Clerks and Head Clerks of the Mysore and Bangalore Divisions of Southern Railway, and grant regular promotions in those cadres either retrospectively or prospectively as the circumstances justify with all such expedition as is possible in the circumstances and in any event within a period of six months from the date of receipt of this order of this Tribunal. But, till then, the applicants shall be continued in the posts they are now holding.

17. Applications are disposed of in the above terms. But, in the circumstances of the cases, we direct the parties to bear their own costs.

18. Let this order be communicated to all the parties concerned within 15 days from this day.

K.S. Prakash
Vice-Chairman 11/3/1987

[Signature]
Member (A) 11.3.1987