

CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE BENCH

REGISTERED

Commercial Complex(BDA)
Indira Nagar,
BANGALORE- 560 038.

Dated 27 NOV 1986

Application No. 1352 to 54 /86(T), 1355 to 62/86, 1364/86,
1725 to 28/86(T)
WP No. 5738 to 40/84, 5905 to 12/84, 6876/84, 5764 to 67/84

Applicant
Victor Paul & 15 ors.

Vs. The Divnl. Rly. Manager, S.Rly. & Mysore
Divn. Mysore & anr.

To

1. S/Shri Victor Paul,
2. Shankar Naik,
3. Dubla Naika
4. Moniuddin Sheriff,
5. K. Mahadev,
6. G. Anand,
7. Dastagir Baig,
8. M. Xavier,
9. Francis Xavier,
10. K. Manjappa,
11. Ningaiah,
12. MC Krishnappa
13. N. Subramanya
14. Mohd. Khasim Sab,
15. T. Murugan,
16. ME Anthony,
- C/o Shri SG Bhat.
- Advocate for applicants.
17. Shri SG Bhat,
- 31-12th Block, KPUEst,
- BANGALORE-20.

18. The Divnl. Rly. Manager,
Southern Rly., Mysore Divn.
MYSORE.

19. The Divnl. Mechanical Engineer,
Southern Rly., Mysore Divn.
MYSORE.

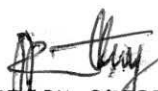
20. Shri AN Venugopal,
Central Govt. Stng. Counsel, H.C.Pldgs.
BANGALORE.

SUBJECT: Sending copies of Order passed by the Bench in
Application No. as above.

....

Please find enclosed herewith the copy of the Order/
Interim Order passed by this Tribunal in the above said Application
No. as above on 7-11-86.

Encl: as above.


SECTION OFFICER
(JUDICIAL)

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE BENCH; BANGALORE

DATED THIS THE SEVENTH DAY OF NOVEMBER 1986

Present: Hon'ble Justice K.S. Puttaswamy ... Vice Chairman

Hon'ble Shri P. Srinivasan ... Member (A)

APPLICATION NOS. 1352 TO 54/86, 1355 TO 62/86
1364/86, 1725 TO 1728/86(T).

1. Shri Victor Paul,
Fireman 'C', Southern Railway,
Arasikere Depot, Arasikere,
District Hassan
2. Shri Shankar Naika,
Fireman 'C', Southern Railway,
Arasikere Depot, Arasikere,
District Hassan
3. Shri Dublanaika,
Fireman 'C', Southern Railway,
Harihar Depot, Harihar.
4. Mohiuddin Sheriff,
Fireman 'C', Southern Railway,
Arasikere Depot, Arasikere.
5. Shri K. Mahadev,
Fireman 'C' Southern Railway,
Arasikere Depot, Arasikere.
6. Shri G. Anand,
Fireman 'C', Southern Railway,
Arasikere Depot, Arasikere.
7. Shri Dastagir Baig,
Fireman 'C', Southern Railway,
Arasikere Depot, Arasikere.
8. Shri M. Xavier,
Fireman 'C', Southern Railway,
Arasikere Depot, Arasikere.
9. Francis Xavier,
Fireman 'C', Southern Railway,
Arasikere Depot, Arasikere.
10. Shri K. Manjappa,
Fireman 'C' Southern Railway,
Arasikere Depot, Arasikere.
11. Shri Ningiah,
Fireman 'C' Southern Railway,
Arasikere Depot, Arasikere.
12. Shri M.C. Krishnappa,
Fireman 'C', Southern Railway,
Arasikere Depot, Arasikere.
13. Shri N. Subramanya,
Fireman 'C' Southern Railway,
Arasikere Depot, Arasikere.
14. Shri Mohammed Khazim Sab,
Fireman C, Arasikere Depot,
Southern Railway, Arasikere.

P. Srinivasan



15. Shri T. Muragan,
Fireman 'C' Southern Railway,
Arasikere Depot, Arasikere.

16. Shri M.E. Anthony,
Fireman 'C' Southern Railway,
Arasikere Depot, Arasikere.

... Applicants

(Shri S.G. Bhat, Advocate)

vs

1. Divisional Railway Manager,
Southern Railway, Mysore Division,
Mysore.

2. Divisional Mechanical Engineer,
Southern Railway, Mysore Division,
Mysore.

... Respondents

(Shri A.N. Venugopal, Advocate)

The application came up for hearing on 24-10-1986.

Member (A) made the following:

ORDER

All these applications originated as writ petitions before the High Court of Karnataka before being transferred to this Tribunal for adjudication and disposal. In the writ petitions as originally filed, it is stated that they are similar to writ petition Nos. 27680 to 27684 of 1981 which were also received on transfer by this Tribunal and taken on file as application Nos. 829 to 833/86. The said applications 829 to 833 were heard on 3-10-86 when Shri S.G.Bhat, learned counsel, appeared for the applicants and Shri A.N. Venugopal, learned counsel, appeared for the respondents Railways and Shri M.Raghavendra Achar for the individual respondents. We reserved judgment in respect of these applications and that judgment has been delivered today.

2. Shri S.G.Bhat, learned counsel for the applicants, confirmed that the case of the applicants here was the same as these in applications 829 to 833 and that therefore the judgement delivered in these applications would apply to the present applications also.

3. Since we have, by our separate order pronounced today, dismissed application Nos. 829 to 833 for the reasons stated therein, all these applications have also to fail.

P. S. - 4c



4. We may, however, before parting with these applications, refer to an additional argument put forward by Shri S.C. Bhat, when these applications were heard. Like the applicants in application Nos. 829 to 833/86, the applicants covered by this order also became junior in the cadre of Engine Cleaners to others who had not been promoted as Firemen 'C' in terms of an order dated 7-11-1981. This order dated 7-11-1981 which appeared as Annexure E in the application Nos. 829 to 833/86, has been dealt with elaborately in our order disposing of these applications which has been delivered by us today. In that order, it was stated that according to a decision taken in a joint meeting held with representatives of certain Workers' Unions on 1-5-81, seniority in the cadre of Engine Cleaners was to be regulated according to the seniority of the same persons in the cadre of Khalasis with effect from 1-7-1979. Some of the applicants before us here were re-designated as engine cleaners by an order dated 10-7-1979. Shri Bhat pointed out that though the order changing the designation was issued on 10-7-1979, the process of conversion started earlier when these persons took trade tests and qualified therein and that was before 1-7-1979. Merely because orders re-designating them as engine cleaners were passed after 1-7-1979, they cannot be brought under the new dispensation introduced with effect from 1-7-1979; their promotion should effectively be treated as having been made prior to 1-7-1979 when they underwent trade tests before redesignation as Engine Cleaners. If that were done, some of the applicants in the present applications would fall outside the scope of the said letter dated 7-11-1981 and they could not be made junior to others who may have become engine cleaners after 1-7-1979 but were their seniors in the cadre of Khalasis.

5. We have considered the submission of Shri Bhat set out above and are unable to agree with his contention. The letter dated 7-11-1981 regulates seniority of Engine Cleaners with effect from 1-7-1979 and whoever became an Engine Cleaner after that date would be governed by the principle of seniority set out therein.

P. S. Bhat



That some persons though appointed as Engine Cleaners after 1-7-1979 were subjected to trade tests for the purpose earlier is neither here nor there. Merely qualifying in a trade test does not amount to appointment and therefore what is relevant here is the date of actual appointment which, it is admitted, was after 1-7-1979 in respect of all the applicants before us. Therefore, since we have upheld the principle of seniority set out in the letter dated 7-11-1981 and the resultant reversion of junior persons in application Nos. 829 to 833/86, the same decision should hold good here. Some of the applicants here were reverted to yield place to their seniors in the grade of Khalasis and others were reverted because vacancies of Firemen 'C' had become surplus and they happened to be junior-most among those working as Firemen 'C'. Following our order in application Nos. 829 to 833/86, these reversions have to be upheld.

6. In the result, all these applications are dismissed.
There will be no order as to costs.

VICE-CHAIRMAN
7.11.86

MEMBER(A)
7.11.86

True copy
R. Chinnay 27/11/86
SECTION OFFICER
CENTRAL ADMINISTRATIVE TRIBUNAL
ADDITIONAL BENCH
BANGALORE

