

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE BENCH, BANGALORE

DATED THE TWENTYFOURTH OCTOBER 1986

Present: Hon'ble Shri CH.Ramakrishna Rao ... Member (J)
Hon'ble Shri P. Srinivasan ... Member (A)

APPLICATION NO.207/86(T)

Shri M.P.Jahagirdar,
Senior Clerk, District Electrical
Engineer's Office (Workshops),
South Central Railway,
Hubli.

... Applicant

(Shri Munir Ahmed, Advocate)

vs.

1. The Divisional Personnel Officer,
South Central Railway,
Hubli.
2. The General Manager,
South Central Railway,
Rail Nilayam, Secunderabad (A.P)
3. Shri S.S.Kelasangad,
Head Clerk, Train Lighting Workshops,
South Central Railway, Hubli.
4. Shri A.J.Joshi,
Senior Clerk, Train Lighting
Workshops, South Central Railway,
Hubli.

... Respondents

(Shri M.Sreerangaiah, Advocate)

This application came up before the Court for
hearing today. Hon'ble Member (A) made the following:

ORDER

This is a transferred application received from
the High Court of Karnataka. In the High Court, it was Writ
Petition No. 16003/79. The applicant is currently working
as Junior Clerk in the South Central Railway at Hubli. He was
appointed as temporary Junior Clerk in the South Central
Railway at Hubli, with effect from 9-7-1947 and thereafter
selected by the Railway Service Commission, he was
appointed as a regular Junior Clerk with effect from 1-10-48

The letter appointing him in the regular vacancy

P. Srinivasan

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Senior Clerk, District Electrical
Engineer's Office (Workshops),
South Central Railway,
Hubli. ... Applicant

(Shri Munir Ahmed, Advocate)

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Head Clerk, Train Lighting Workshops,
South Central Railway, Hubli.
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Senior Clerk, Train Lighting
Workshops, South Central Railway,
Hubli. ... Respondents

(Shri M.Sreerangaiah, Advocate)

This application came up before the Court for
hearing today. Hon'ble Member (A) made the following:

ORDER

This is a transferred application received from
the High Court of Karnataka. In the High Court, it was Writ
Petition No. 16003/79. The applicant is currently working
as Chief Clerk in the South Central Railway at Hubli. He was
appointed as temporary Junior Clerk in the South Central
Railway, Hubli, with effect from 9-7-1947 and thereafter
on being selected by the Railway Service Commission, he was
appointed as a regular Junior Clerk with effect from 1-10-48
(Exhibit B). The letter appointing him in the regular vacancy

P. Srinivasan

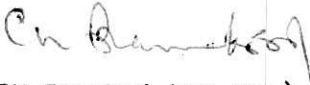
is dated 22-9-1948 and it states that he is appointed with effect from 1-10-1948. When he joined as temporary clerk on 9-7-1947, he was appointed in the accounts department. However, with effect from 1-10-48 i.e. date from which his appointment based on the selection by the Railway Service Commission took effect, he was posted to the Electrical Department. According to the learned counsel for the applicant Shri Munir Ahmed, this was a transfer from the Accounts Department to the Electrical Department. He says this on the basis of the entry in the applicant's service book.


The applicant's grievance in this application is that though he had continuous service as clerk from 9-7-1947, by a letter dated 13-3-1964 issued by the Divisional Superintendent, Personnel Branch, Hubli, he was placed below respondents 3 and 4 who respectively joined service as temporary clerks after the applicant i.e. on 9-10-1947 and 20-1-1948 respectively. His complaint is that they have been given credit for temporary service before selection by the Railway Service Commission while he was not.

As we have stated earlier, this application originated as a writ petition before the High Court filed in 1979. In dealing with this matter, therefore, we have to consider whether the writ petition had been filed within a reasonable time of the cause of action or whether it is hit by laches. As is mentioned earlier, the letter by which the applicant's seniority was put below respondents 3 and 4 was issued in March 1964. This writ petition was filed in October 1979 i.e. more than 15 years later. Shri Munir Ahmed strongly contended that this delay should be condoned because the applicant was pursuing departmental remedies during this period and only when all such remedies were exhausted, did he come before the High Court. We are not satisfied with this explanation. The delay of 15 years is too long to be condoned.

P. L. W.

Many events would have taken place in the meanwhile and a further period of 7 years have elapsed by now and if we consider the applicant's claim, we should be upsetting the course of things which had happened during the course of 22 years. Moreover, we find on a cursory look at the facts that there was some difference between the case of the applicant who on selection by the Railway Service Commission was immediately posted in another department i.e. Electrical Department while respondents 3 and 4 were on such selection posted in the same department, where they were working earlier and after a few months, they were transferred to another department. We are merely mentioning this to show that at this late stage, it is not even possible to ascertain whether any parallel can be drawn between the present case and those of the others. We, therefore, do not propose to enter into a consideration of the merits of the application because it has been badly delayed by over 15 years and is hit by laches. In the result, the application is dismissed. There will be no order as to costs.


(CH. Ramakrishna Rao)
Member (J)


(P. Srinivasan)
Member (A)

CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE BENCHREVIEW APPLICATION No. 33/86

IN APPLICATION NO. 207/86(T)

(WP.NO.)

COMMERCIAL COMPLEX, (BDA)
INDIRANAGAR,
BANGALORE-560 038.

DATED:

APPLICANT

Vs

RESPONDENTS

Shri M.P. Jahagirdar

TO

The Divisional Personnel Officer
SC Railway, Hubli & 3 Ors

1. Shri M.P. Jahagirdar
Senior Clerk
District Electrical Engineer's Office
(Workshops)
South Central Railway
Hubli
2. Shri Suresh S. Joshi
Advocate
15, 3rd Cross
Nehru Nagar
Bangalore
3. The Divisional Personnel Officer
South Central Railway
Hubli
4. The General Manager
South Central Railway
Rail Nilayam
Secunderabad (A.P.)

5. Shri S.S. Kalasengad
Retired Head Clerk
South Central Railway, Hubli
Near Railway Quarters
Keshavapur, Hubli - 23
6. Shri A.J. Joshi
Senior Clerk
Train Lighting Workshop
South Central Railway
Hubli
7. 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 IN APPLICATION NO. 33/86
REVIEW

....

Please find enclosed herewith the copy of the Order
passed by this Tribunal in the above said Application on29-6-87.ENCL: As above.For 
DEPUTY REGISTRAR
(JUDICIAL)

CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE

DATED THIS THE 29TH DAY OF JUNE, 1987

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

REVIEW APPLICATION NO. 33/86

Shri M.P. Jahagirdar,
Senior Clerk, District Electrical
Engineer's Office (Workshops),
South Central Railway,
Hubli.

.... Applicant

(Shri Suresh S. Joshi, Advocate)

v.

1. The Divisional Personnel Officer,
South Central Railway,
Hubli.

2. The General Manager,
South Central Railway,
Rail Nilayam, Secunderabad (A.P).

(3) S.S.Kelasangad,
major, Retd. Head
Clerk, Near Railway
Quarters, Keshavapur
Hubli-23.

4. Shri A.J. Joshi,
Senior Clerk, Train Lighting
Workshops, South Central Railway,
Hubli.

.... Respondents.

(Shri M. Sreerangaiah, Advocate)

This application having come up for hearing to-day,
Vice-Chairman made the following:

O R D E R

In this application made under Section 22(3) (f) of
the Administrative Tribunals Act, 1985 ('Act'), the
applicant has sought for review of the order made by this
Tribunal on 24.10.1986 dismissing his A. No. 207/86.
In A.No. 207/86, which was a transferred application
received from the High Court of Karnataka under Section 29



of the Act, the applicant had challenged the higher seniority accorded to respondents 3 and 4 from 1964. The Division Bench rejected the same on grounds of delay and laches.

2. Shri Suresh S. Joshi, learned counsel for the applicant contends that the reasoning and conclusion reached ignoring the order dated 3.10.1979 (Annexure-K) constitutes a patent error, and the same justifies a review.

3. We find that the Tribunal on a close examination of the claim had rejected the same on grounds of delay and laches. In reaching this conclusion, the Tribunal had not ignored the earlier orders, much less the order dated 3.10.1979 (Annexure-K). If that is so, then the very ground urged by the applicant does not constitute a patent error to justify a review. Even otherwise we are of the view that the applicant is really asking us to re-examine the order made by this Tribunal as if we are a court of appeal and come to a different conclusion, which cannot be done in a review.

4. On the foregoing discussion, we hold that this application is liable to be dismissed. We, therefore, dismiss this application. But in the circumstances of the case, we direct the parties to bear their own costs.



SECTION OFFICER
CENTRAL ADMINISTRATIVE TRIBUNAL
ADDITIONAL BENCH
BANGALORE

Vice-Chairman

29/6/87

Member (A)