

CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE BENCH

REGISTERED

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

Dated -3 DEC 1986

Application No. 224 /86(T)
WP No. 18786/79

Applicant

J.A.Rodrigues

To

Sh H.S.Jois, Advocate,
150/36, National High School Road,
Visvesvarapuram, Bangalore-4

Secretary, Ministry of Railways,
Rail Bhavan, New Delhi-1

The Divisional Personnel Officer,
Divisional Office, Personnel Branch,
Southern Railway, Mysore.

The Divisional Operating Supdt.,
Southern Railway,
Mysore City.

Sh N.S. Srinivasan, Advocate,
12, 2nd Floor, S.S.B.Mutt Buildings,
Tank Bund Road, Bangalore - 560 009.

SUBJECT: Sending copies of Order passed by the Bench in
Application No. 224/86(T)

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Please find enclosed herewith the copy of the Order/
Order passed by this Tribunal in the above said Application
No. 224/86(T) on 27-10-86.

Encl: as above.

Balu*

Hari
SECTION OFFICER
(JUDICIAL)

S.S.B.M.
O/L
Alis
Parul
17/12/86

IN THE CENTRAL ADMINISTRATIVE
TRIBUNAL ADDITIONAL BENCH,
BANGALORE

Applicant

J.A.Rodrigues

A. NO. 224/86(1)

Respondents

The Secretary
M/o. Railways, N.D.C.
& Qs

Order Sheet ()

Date

Office Notes

Orders of Tribunal

A.No. 224/86

27.x.86

KSP(VC)/LHAR

ORDER

In this transferred application received from the High Court of Karnataka under section 29 of the Administrative Tribunals Act 1985 (ACT), the applicant has challenged the memorandum dated 15.10.79 of the DPO, Divisional Office, Southern Railway, Personnel Branch, Mysore.

2. The applicant having regard to the outstanding performance was placed in the provisional selection list of SMS and ASMS prepared on 7/11 September 1979. On the basis of the empanelling he was also given promotion on 15.9.79. But the DPO in conformity with the Railway Board's directions issued on 25.7.79 has deleted the name of the applicant from the empanelled list of SMS and ASMS and has reverted him from the post. In their statement of objections the respondents have asserted that the applicant vide para 11) that the applicant has been promoted with effect from 29.8.80.

Ranganath

3. Shri H. J. Jois learned counsel for the applicant contends that the regular promotion given to the applicant should not have been undone by the authority on any ground much less to give effect to the circular instructions of the Railway Board. The action of the authorities is plainly arbitrary.

4. Shri A.N. Venugopal, learned counsel for the respondents contends that the circular instructions of the Railway Board were binding on the subordinate authority and the action of the subordinate authority was in conformity with the same and so long as the applicant had not challenged the binding circular this Tribunal cannot give any relief to the applicant. Shri Venugopal also contends that having regard to the later promotion of the applicant from 29.8.80, this is not a fit case for this Tribunal to examine the interesting questions raised by the applicant. In the very nature of things we propose to examine the later contention urged by Shri Venugopal.

Venugopal for



A 224186

Date	Office Notes	Orders of Tribunal
		<p><u>from overleaf</u></p> <p>5. Whatever may be the validity of the circular instructions and action taken by the DPO, the applicant has been promoted to the post within a short span of time on 29.8.80. The applicant has been holding the post and is continuing in that post. On these facts that are not in dispute, this is not a fit case in which we should embark on a detailed enquiry on the action of the authorities and pronounce on all or each of them. We are of view that the injustice, if any, done to the applicant has been remedied within a short span of time and this is not a fit case in which this Tribunal should unnecessarily spend its time on deciding matters that do not really benefit the applicant. In this view of the matter, we decline to examine the various interesting questions raised by the applicant which were highlighted passionately by the learned counsel for the applicant. and hold in in the circumstances this application is liable to be dismissed. With this view we dismiss the application of the applicant. But in the circumstances of the case, we direct the parties to bear their own costs.</p> <p><i>Mr. D. Meenakshi</i> Vice Chairman</p> <p><i>Member (AM)</i> 27. x. 80</p> <p><i>Trace copy</i></p> <p><i>Hall</i> SECTION OFFICER CENTRAL ADMINISTRATIVE TRIBUNAL ADDITIONAL BENCH BANGALORE</p>