

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE BENCH BANGALORE

DATED THIS THE 3RD NOVEMBER 1986

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

Hon'ble Mr. L.H.A. Rego -

Member

Application No.275/86

K.R. Raghavendra Rao,
Son of Raja Rao,
T.T.E. Southern Railways,
Bangalore City Railway Station,
Bangalore.

Applicant

(Shri M. Narayanaswamy, Advocate)

1. The General Manager(Personnel),
Southern Railways, Park Town,
Madras.
2. The Divisional Railway Manager,
Southern Railway, Mysore.
3. The Divisional Railway (Personnel)
Officer, Southern Railway, Mysore.
4. T. Thimmanna
Son of Thimmasetty, Major,
Travelling Ticket Examiner,
Southern Railway, Bangalore-23.
5. Gopalakrishnasetty,
Major, TTE, Southern Railway,
Bangalore-23.
6. S. Subramanyaraje Urs.,
Major, T.T.E, Southern Railway,
Mysore.
7. V. Chakrapani, Major,
T.T.E, Southern Railway, Bangalore-23.
8. S. Narayanaprasad, Major,
T.T.E. Southern Railway, Mysore.
9. Puttaswamy,
Major, T.T.E. Southern Railway, Mysore.
10. M.N. Srinivasamurthy,
Major, T.T.E. Southern Railway, Bangalore-23.
11. S. Arogyaswamy,
Major, T.T.E. Southern Railway, Bangalore-23.
12. K.M. Narayan Nambiar,
Major, T.T.E. Southern Railway,
Bangalore-23.

13. C.N. Anantha Rao,
Major, T.T.E. Southern Railway,
Bangalore-23.
14. B.H. Gilbert Paul Raj,
Major, T.T.E. Southern Railway, Bangalore-23.
15. M. Ramakrishnappa,
Major, T.T.E. Southern Railway, Bangalore-23.
16. M.A. Rahman Sheriff,
Major, T.T.E. Southern Railway, Bangalore-23.- Respondents

(Shri A.N. Venugopal, Advocate)

The application has come up for hearing before this Tribunal to-day, Vice-Chairman . . . made the following:

O R D E R

In this transferred application received from the High Court of Karnataka under Section 29 of the Administrative Tribunals Act of 1985(the Act), the applicant has challenged letter/order no.P(S)524/III/60(Pilot) dt. 8.2.1980 of the Chief Personnel Officer, Madras communicated to the applicant vide Y/P612/II/TCS of 21.2.80 by Divisional Personnel Officer, Mysore Division, Mysore(DPO).

2. On 6.5.1948 the applicant joined service in the erstwhile Mysore State Railways as a Station Clerk. On and from 1.4.1950 the Mysore State Railways were integrated with Indian Railways and on such integration, the post held by the applicant, viz., Station Clerk, was equated to the post of Ticket Collector of the Indian Railways. On 16.3.58, the applicant was promoted as a Travelling Ticket Examiner (TTE) which was treated as superior to the post of Ticket Collector.

...3/-

3. But from 1.1.65, the Railway Administration merged the cadres of Ticket Collectors and Travelling Ticket Examiners (TTEs) into one cadre of Ticket Checking Staff. On the basis of that merger of the 2 cadres, the DPO prepared a combined seniority list of the erstwhile two cadres as on 1.1.65 (Annexure 'B') assigning rank no. 62 to the applicant and respondent no. 4 herein challenged the same in W.P. no. 516 of 1973 before the High Court of Karnataka, which was then exercising jurisdiction over service matters. On 15.11.79, Rama Jois J disposed of the said Writ petition with the following directions:-

"For the reasons aforesaid I make the following ORDERS.

- 1) Rule made ABSOLUTE.
- 2) A WRIT IN THE NATURE OF MANDAMUS SHALL ISSUE TO RESPONDENTS 1 to 4.
 - a) TO FIX THE SENIORITY OF THE PETITIONER IN THE COMBINED CADRE TTE.S. AND TQ S AS ON 1.1.1965 ABOVE RESPONDENTS 5 TO 18 BY COUNTING THE SENIORITY OF THE PETITIONER FROM 5.7.1948 ON WHICH DATE HE WAS AP OINTED AS THE 'B' GRADE AND BY COUNTING THE SERVICE RENDERED BY RESPONDENTS 5 TO 18 ONLY IN THE CADRE OF TTE 'B' GRADE.
 - b) and TO CONSIDER THE CASE OF THE PETITIONER FOR PROMOTION TO THE CADRE OF TTIS/HTCS IN SCALE OF Rs. 250-380(AS) WITH EFFECT FROM 15.12.1972 ON WHICH DATE RESPONDENTS 5, 6 & 7 WERE PROMOTED AND IF ON SUCH CONSIDERATION THE PETITIONER IS FOUND FIT FOR PROMOTION HIS PROMOTION SHALL BE MADE EFFECTIVE FROM THE SAID DATE AND HE SHALL BE ENTITLED TO ALL CONSEQUENTIAL BENEFITS IN ACCORDANCE WITH LAW"

in Writ Appeal No. 545/80, the Railway Administration challenged this order of Rama Jois J before a Division Bench of the High Court, which by its order dated 4.5.1980, rejected the same at the admission stage. In pursuance of the said directions of the High Court, the DPO by his order No. Y/P612/TCs/TTEs/Vol.3 dt. 15th Oct'80,

has redrawn the combined seniority list as on 1.1.65 assigning Rank No. 71 to the applicant, the validity of which is not challenged by the applicant.

4. On the basis of the first seniority list (Ex'B'), with which also the applicant was aggrieved, the Railway Administration had proposed to consider his case for ad-hoc promotion to the post of Head Ticket Collector (HTC) which did not fructify for various reasons.

5. On the basis of the fresh seniority list redrawn on 15.10.1980, the case of the eligible officials were considered for promotion to the next higher posts and they were also promoted. But the case of the applicant who was not sufficiently senior, was not considered for promotion. We are informed by Shri A.N. Venugopal, learned counsel for respondents 1 to 3 that the applicant has since been promoted to the higher post from 1.1.84.

6. The applicant has challenged the first seniority list drawn by the DPO on diverse grounds. He also claims that his case for promotion to the post of Head Ticket Collector should have been considered at least on the basis of the rank assigned to him in that seniority list.

7. In justification of their actions, respondents 1 to 3 have filed their statement of objections before the High Court.

8. Shri M. Narayanaswamy, learned counsel for the applicant, contends that the ranking assigned to the applicant ignoring the service rendered by him as a Ticket Collector was illegal and improper.

9. Shri Venugopal contends that the claim of the applicant cannot be examined as he had not challenged

the fresh seniority list drawn on 15th October, 1980, in pursuance of the directions of the High Court in Thimanna 's case.

10. We have earlier noticed that respondent 4 had challenged the earlier seniority list and had sought for various reliefs which were substantially accepted by the High Court. In pursuance of those directions, the administration has prepared a revised seniority list on 15.10.80 as on 1.1.65 in which the rank of the applicant has been further depressed. But the applicant who is evidently aware of that seniority list has not challenged the same. When once the applicant does not challenge the revised seniority list drawn by the Railway Administration, that too, in pursuance of the directions of the High Court which was binding on them, this Tribunal cannot examine the grievance of the applicant to the earlier seniority list that is no longer in force. In this view, the grievance of the applicant to the earlier seniority list is liable to be rejected.

11. Shri Narayanaswamy contends that notwithstanding all developments that took place before the High Court of Karnataka or thereafter, the case of the applicant for promotion to the post of Head Ticket Collector should have been considered on the basis of the rank assigned to him in the earlier seniority list and promoted if he was found suitable to hold the post.

12. Shri Venugopal refuting the contention of Sri Narayanaswamy, contends that seniority and promotions regulated on the basis of the revised seniority list drawn do not suffer from any infirmity to justify the interference of this Tribunal.

13. As to why the Railway Administration delayed the question of promotions on the basis of the earlier seniority list, assuming that there was no order of stay from the High Court, is not very relevant for us. Whatever be the reasons for their inaction, the Railway Administration did not act and make promotions on the basis of the earlier seniority list and delayed the same and ultimately took up the matter on the basis of the revised seniority list and has made promotions on the basis of that seniority list. We are of the view that this action of the Railway Administration cannot be condemned as arbitrary or illegal to justify our interference. Even if the administration had made promotions on the basis of the first seniority list, then also there was necessity for a review on the basis of the revised seniority list probably necessitating a reversion of the applicant. In this view also our interference is not called for. More than all this, this applicant has been promoted to the higher post from 1.1.84, which fact also justifies us not to interfere with the earlier non-promotion of the applicant.

14. Before parting with this case, it is necessary to notice that a Division Bench of this Tribunal consisting of one of us the HON'ble Mr. Justice K.S. Puttaswamy VC and Hon'ble Mr. P. Srinivasan, Member had occasion to examine a similar grievance in A.No. 326/86 decided on 18.9.86 Jivaraj Vs. Union of India & others and upheld the action of the Railway Administration. For the reasons stated in Jivaraj's case, we are of the view that we should decline to interfere with the action of the railway administration,

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15. In the light of our above 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.

[Signature]
VICE-CHAIRMAN 3/11/86

[Signature]
MEMBER(AM (R)) 3.11.86

SB.