

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL  
BANGALORE BENCH, BANGALORE

DATED THIS THE NINETEENTH DAY OF DECEMBER, 1986

PRESENT: HON'BLE SHRI CH. RAMAKRISHNA RAO ..MEMBER(J)

HON'BLE SHRI P. SRINIVASAN ..MEMBER(A)

318

APPLICATION NOS. 297 TO 304, AND 319/86(T)

1. Shri CK Harish Prasad,  
S/o C. Krishna Prasad,  
Khalasi, Office of the Electrical  
Foreman, Bangalore City Rly. Station,  
Bangalore.
2. Shri K. Rama Murthy,  
S/o Kannaiah Naidu,  
Khalasi, Office of the Electrical Foreman,  
Yeshwantpur, Southern Rly., Yeshwantpur,  
Bangalore.
3. Shri K. Srinivasan, S/o A. Krishnaswamy,  
Khalasi, Office of the Electrical Foreman,  
Southern Rly. Bangalore City.
4. Shri Bharathraja singh,  
S/o MN Bapu Singh,  
~~Khalasi~~ Khalasi, O/o the Electrical Chargeman, TLD,  
Southern Rly. Mysore.
5. Shri Nagesha,  
S/o Shri Govindas,  
Khalasi, O/o the Electrical Chargeman, TLD,  
Southern Rly. Mysore.
6. Shri Venkatesha,  
S/o G. Venkataramaiah,  
Khalasi, O/o the Electrical Chargeman, TLD,  
Southern Rly. Mysore.
7. Shri K. Thulasi Ramesh,  
S/o PC Kandaswamy,  
Khalasi, O/o the Electrical Chargeman, TLD,  
Southern Rly. Mysore.
8. Shri S. Jagadish Singh,  
S/o RC Ratna Singh,  
Khalasi, O/o the Electrical Chargeman, Applicants in  
Southern Rly. Mysore. ....A.Nos. 297 to 304/86(T)
9. Shri Ramakrishna,  
S/o Kariappa,  
Electrical Fitter Khalasi,  
O/o the Electrical Chargeman-A,  
Southern Rly. Mysore.
10. Shri Mahabub Pasha,  
S/o Abdul Khuddus,  
Electrical Fitter Khalasi, Applicants in  
Office of the Electrical Chargeman-A, A.Nos. 318 & 319/86(T)  
Mysore.

( Shri K. Subbarao, Advocate for Applicants)

VERSUS

*P. Subbarao*

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|---|---|--|
| 1. The Union of India rep. by<br>Secretary to the Govt. of India,<br>Ministry of Railways, Rail Bhavan,<br>New Delhi. | ) | Respondents in<br>A.No.297 to 304/86 &<br>A.No.318 & 319/86(T) |
| 2. The General Manager, Southern Rly.<br>Park Town, Madras.   | ) |  |
| 3. The Divnl. Personnel Officer,<br>Mysore Divn. Southern Rly. Mysore.  | ) |  |
| 4. S/Shri MJ Nagaraja, Khalasi.   | ) | Respondents in<br>A.No.297 to 304/86(T)                        |
| 5. LK Sukhumar, Khalasi.  | ) |  |
| 6. Kumaraswamy, Khalasi.  | ) |  |
| 7. HN Ranganathan, Khalasi.   | ) |  |
| 8. D.Sridharan, Khalasi.  | ) |  |
| 9. TR Narayana, Khalasi.  | ) |  |
| 10. E. Udayakumar, Khalasi.   | ) | Respondents in<br>A.No.318 & 319/86(T)                         |
| 10.   | ) |  |
| 1. Gopalakrishna Menon, Cellman   | ) |  |
| 2. Jairaj, Cellman.   | ) |  |
| 3. H. Antony Cruz., Cellman.  | ) |  |
| 4. L.Satya Murthy, Cellman.   | ) |  |
| 5. H.Subhan, Cellman.   | ) |  |
| 6. MJ Nagaraja, Cellman.  | ) |  |
| 7. Kumaraswamy, Cellman.  | ) |  |
| 8. D.Sreedhara, Cellman.  | ) |  |
| 9. LK Sukumar, Cellman.   | ) |  |
| 10. HN Ranganathan, Cellman.  | ) |  |
| 11. TR Narayana, Cellman.   | ) |  |
| 12. K. Udayakumar.  | ) |  |

( Shri NS Srinivasan, C.G.S.C. for Respondents )

These applications came up for hearing before this Tribunal on 19-12-86. Hon'ble Member(A) made the following:

#### ORDER

These are two composite applications involving 10 applicants received on transfer from the High Court of Karnataka. All the applicants before us joined the service of the Railways as casual labourers and were subsequently regularised as Khalasis. Their grievance is that persons who joined service after them and should have been treated as junior to them i.e. respondents 4 to 16 in application Nos. 318 and 319/86 have been promoted to the next grade of cellmen while the applicants had not been so promoted. The prayer in application Nos. 297 to 304 is that Office Order dated 14-10-1980 (Annexure C) be quashed in so far as it relates to the promotion of respondents 4-10 in that application:

*P. S. Srinivasan*

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persons appointed as casual labourers cannot acquire any right or seniority till they are absorbed in regular vacancies. Rightly or wrongly, the respondents who either joined as casual labourers in the first instance or as direct recruits in the cadre of Khalasis happened to be appointed against regular vacancies before the applicants. That being so, the respondents were naturally treated as senior to the applicants and were given promotion before them. He cited a decision of the Madras Bench of this Tribunal in S. Chakravarti Vs. Union of India reported at ATR 1986 CAT 275 where a similar question cropped up and the Tribunal held that casual labourers with temporary status cannot get seniority over those who were appointed regularly and that is exactly the point involved here.

We have considered the matter carefully. As mentioned earlier the applicants though appointed as casual labourers earlier than the respondents were regularised as Khalasis after the respondents. Some of the respondents who started as casual labourers like the applicants were appointed on a regular basis before the applicants. Others were recruited as Khalasis and were directly absorbed against regular vacancies much before the applicants. The applicants were regularised as Khalasis in the years 1976, 1977 and 1978 while all the respondents were regularised between the years 1971 and 1974. Therefore, by virtue of earlier regular appointment, the respondents were treated as senior to the applicants. It no doubt appears odd and even unfair that some of the applicants had to wait for as many as seven years before they were absorbed in regular vacancies and that persons who joined later were regularised earlier and direct recruits who were taken in 1974 became senior to them. But unfortunately the applicants did not pretest at the time and even in the present application, the appointments of the respondents in the first instance on a regular basis has not been challenged. We have, therefore, to take the facts as having become final and conclusive namely

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that the respondents were appointed on a regular basis before the applicants and as such were rightly treated as seniors. We cannot re-open appointments made between 1971 and 1978 for this purpose. On the other hand, the rules very clearly state that seniority will be reckoned from the date of appointment which means not appointment in a casual status or temporary status but on a regular basis. The decision rendered by the Madras Bench of this Tribunal supports us in this decision. In the circumstances, we have no other choice but to reject these applications.

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

*Chandrasekhar*  
19.12.86  
( CH. RAMAKRISHNA RAO )  
MEMBER(J)  
19.12.86.

*P. Srinivasan*  
19/12/86  
( P. SRINIVASAN )  
(MEMBER(A))  
19.12.86.

While in application No.318 and 319, the prayer is that orders dated 20-5-1980 (Annexure E) and 14-10-80(Annexure F) be quashed so far as they relate to the promotion of respondents 4 to 16 ~~xxx~~ in that application and that the respondents be directed to consider the case of the applicants for promotion when their immediate juniors were promoted.

Shri M.S. Anandaramu, learned counsel for the applicants, forcefully pleaded that the promotion of the respondents in both the composite applications to the higher grade of Cellman was illegal and should be struck down. His contention was that the applicants joined as casual labourers before the respondents. Meeting the contention of respondents 1 to 3 in their reply that the respondents had been regularly appointed as Khalasis prior to the applicants and were therefore senior to the applicants Shri Anandaramu pleads that this was because the Railways Administration did not follow their own orders by which casual labourers should have been given preference for regularisation over newcomers and casual labourers who joined service earlier should have been regularised before those who joined later. Merely because the Railways Administration regularised the services of the applicants later, the applicants cannot on that basis be treated as junior to those who had actually joined service later, but were regularised earlier. He passionately pleaded that the Railway Administration was guilty of unfair labour practice by keeping the applicants waiting for regularisation for six or seven years and in the meanwhile regularising persons who had joined later and also direct recruits who joined several years later. In any case, he pleaded that the length of officiating service of the applicants whether as casual labourers or as persons working in a temporary status should have been taken into account and if that had been done, they would have been entitled to promotion before the respondents.

Shri A.N. Venugopal, learned counsel, for the respondents, refuted the argument of Shri Anandaramu. He pointed out that

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