

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL  
BANGALORE BENCH, BANGALORE

DATED THIS THE 9TH DAY OF JANUARY 1987

Present : Hon'ble Shri L.H.A. Rego .... Member (AM)(R)  
Hon'ble Shri Ch. Ramakrishna Rao .. Member (JM)

Application No. 732/86(T)

Shri S.P.Naresimhulu,  
S/o. Peddaiah,  
aged about 34 years  
Assistant Wireless Instrument Maintainer,  
South Central Railway  
Hospet,  
BELLARY DISTRICT.

.. APPLICANT

Vs.

1. Senior Divisional Personnel Officer,  
Personnel Branch, Divisional Office,  
South Central Railway,  
Hubli,  
DHARWAR DISTRICT.
2. Shri D. Chandran,  
Father's name not known, Major,  
now working as Wireless Instrument  
Maintainer, South Central Railway,  
Micro Waive, Hubli,  
DHARWAR DISTRICT.

.. RESPONDENTS.

(Shri M.Sreerangaiah, Advocate)

The application has come up for hearing before  
this Tribunal today. The Member, Shri L.H.A. Rego  
made the following :

O R D E R

In this application transferred to this Bench  
under Section 29 of the Administrative Tribunals Act

...2.....

1985 (The Act) the applicant prays mainly, that the impugned order dated 31.1.1981 (Annexure 'C') passed by the first respondent be quashed in so far as it relates to conferring the benefit of change of cadre to the second respondent to the detriment of the applicant and that the first respondent be directed to repatriate the second respondent to his original post of Mast Rigger.

2. The facts which are relevant to the contentions raised in this application are briefly as follows. The applicant entered service as a Khalasi on 17.4.1969, in the Signal and Telecommunication Department (S & T Department for short). At the material time, he was working as Assistant Works Instrument Maintainer (AWIM for short) at Hospet, in Bellary District in the SC Railway, in the pay scale of Rs. 210/- Rs.290/-. The applicant states that he was awarded a Silver Medal and a Certificate of Merit by the General Manager, SC Railway under the Railway Week Award 1980 (Annexure 'A'), for the meritorious service rendered by him during the year 1979-80 as Khalasi. He is also said to have completed satisfactorily a course in Radio-Servicing in 1973, as certified by the Principal, Gokhale Radio Engineering Institute Hubli (Annexure A-1). He was promoted as AWIM on 31.1.1981.

3. The grievance of the applicant is, that the second respondent who did not belong to his cadre, but to that of Mast Rigger, requested for a change of cadre, to that of the applicant and was posted as Wireless Instrument Maintainer (WIM for short) on 31.1.1981 (Annexure 'C'.S. NO. ") by the first respondent, in the cadre in which the applicant was working in the post immediately below, namely that of AWIM. The applicant alleges that this change of cadre is irregular and was effected as undue favour to the second respondent, which has jeopardised the career prospects of the applicant, specially when he had the requisite acumen and merit.

4. The hierarchy of the cadre to which the applicant belonged is as follows from the stage of AWIM :

<u>Grade</u> :	AWIM	WIM Grade 'C'	WIM Grade 'B'
<u>Pay Scale</u>			
Rs.	210-290	260-400	330-480

The terminal post in this hierarchy is said to be that of WIM Grade 'A' in the pay scale of Rs.380-560.

5. The parent cadre of the second respondent is said to contain only one post, namely that of Master Rigger, carrying a pay scale of Rs.260-400.

6. The applicant states that he took recourse to all departmental channels of redress but to no avail. He therefore filed a writ petition in the High Court of Judicature, Karnataka in 1981, which has since been transferred to this Bench as aforementioned and is now before us for disposal.

7. We have heard both sides and examined carefully their pleadings and the material placed before us. The applicant appeared in person and argued his case without counsel. The main grounds adduced by him in support of his case are, that the post of Mast Rigger and WIM are not interchangeable, the nature of duties and responsibilities being different; that these posts are in two distinctly separate cadres and belong to two different Wings in the Microwave Section of SC Railway; that consequently, the second respondent cannot be permitted to change his cadre, to that of the applicant, which has no authority of law; that the applicant is eligible to be appointed as WIM, through the prescribed channel of promotion, for which he has the necessary qualification and experience, unlike the second respondent who was in an alien cadre; that despite the above, the second respondent has been permitted by the first respondent to get into the cadre of the applicant, which smacks of favouritism; that the post of WIM has not been filled in, in accordance with the instructions of the Chief Personnel Officer SC Railway, Secunderabad (CPO for short) in his letter dated 27.5.80

(Annexure 'D'); that if these instructions of the CPO were complied, with, he would have been eligible for promotion as WIM early, considering that he belonged to the Scheduled Caste; <sup>and</sup> that his career prospects are marred on account of the second respondent having been allowed irregularly, to change his cadre and enter that of the applicant as WIM.

8. The learned counsel for the respondents sought to rebut all the above contentions of the applicant. According to him, the right of the applicant for further promotion in his cadre was not affected, consequent to the change of cadre permitted to the second respondent. He submitted, that both the applicant as well as the second respondent, belonged to one and the same Department of the SC Railway, viz the Signal and Telecommunication Department (S & T Dept. for short) and that change of cadre as allowed to the second respondent was permissible, according to the avenue chart of promotion (Annexure I) which is reproduced below :

South Central Railway

ANNEXURE I

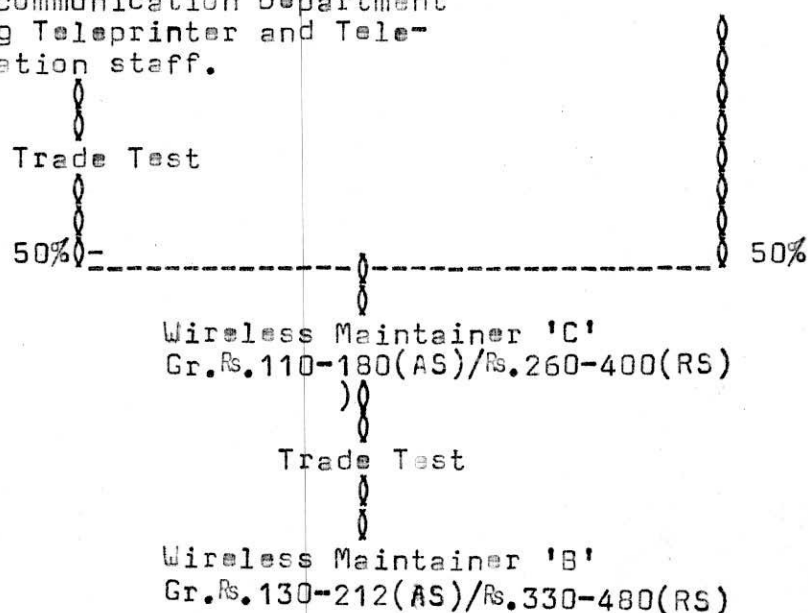
Chart No.9

Avenue of promotion for Wireless Maintainer (Tech) Staff.

Signal and Telecommunication Department

Semi-skilled/Basic workmen in Scale Rs.75-110 (AS)/Rs.210-270(RS) and Skilled staff in scale Rs.110-180(AS)/Rs.260-400(RS) in the Telecommunication Department including Teleprinter and Telecommunication staff.

Direct recruitment in Apprentices with Stipend Rs.110/-p.m. (one year training)



Note :

- 1) Promotions upto / and including grade Rs.130-212(AS) 330-480(RS) will be ordered at Divisional level.
- 2) For further channel of promotion please refer to avenue of promotion chart for Telecommunication Inspectorate Staff (Chart No.II)
- 3). If semi-skilled staff scale Rs.75-110(AS)/210-270(RS) are not available unskilled staff in scale Rs.70-85(AS)/196-232 (RS) may also be considered for the posts of Wireless Maintainer grade 'C' scale Rs.110-180(AS) Rs.260-400(RS).

9. The second respondent was working as Master Rigger 'C' in the pay scale of Rs.260-400 at the material time and is said to have applied for a change of cadre, so as to get into the post of WIM Grade 'C', which carried an equivalent pay scale. According to the above avenue chart of promotion, semi-skilled/basic workmen, in the pay scale of Rs.210-270 and skilled staff in the pay scale of Rs.260-400 in the S&T Department inclusive of Teleprinter and Telecommunication Staff, were eligible for promotion (and not absorption as stated by the counsel for the respondents) upto 50% of the posts in WIM Grade 'C' after qualifying in the Trade Test. The other avenue for filling in the remaining 50% of the posts of WIM Grade 'C' was by direct recruitment of apprentices, with a stipend of Rs.110/-per mensem, after qualifying in the one year training.

10. The counsel for the respondents submits that the second respondent was eligible for consideration for change of his cadre, from that of Mast Rigger 'C' in the pay scale of Rs.260-400, to that of WIM Grade 'C', in the same pay scale, within the direct recruitment quota. He further states that the second respondent had been trade-tested and

having been found suitable, was recommended for consideration as above and that the competent authority, namely the CPO, had passed orders on 3.1.1981 (Annexure II), according sanction for change of cadre in favour of the second respondent, from the post of Mast Rigger Grade 'C' to that of WIM Grade 'C', in the same pay scale, subject to the following conditions :

- (i) He would rank junior<sup>^</sup>most, to all the permanent/temporary/efficiating WIMs Grade 'C', in the pay scale of Rs.260-400.
- (ii) He would be released only after the resultant vacancy in the post of Mast Rigger Grade 'C', was filled in by suitable volunteers.
- (iii) He was not eligible for transfer allowance and other transfer benefits.
- (iv) He would not seek retransfer to his parent cadre at a later date.
- (v) He should be prepared to work as WIM Grade 'C' anywhere, in the Wireless or Microwave Wings.

11. The counsel for the respondents asserts, that this change of cadre allowed to the second respondent, was in accordance with the rules, and that the ceiling of 25% as stipulated in the letter dated 27-5-1980 of the CSO(Annexure D)



for filling in the post of WIM, according to the Railway Board's letter cited therein (which has not been either produced or shown to us) has not been exceeded. There appears to be some contradiction, in the statement of the counsel for the respondents, as in para 3 of the statement of objections submitted by the respondents, the second respondent is said to have been considered for posting as WIM Grade 'C' within the direct recruitment quota, while in para 4 ibid, it is stated that he has been considered in the promotion quota. The counsel for the respondents could not reconcile this disparity.

12. According to the avenue chart of promotion to the post of WIM (Annexure I) reproduced in para 8 above, it would be seen that the staff specified therein, in the pay scale of Rs.210-270 and upwards, was eligible to be considered for the post of WIM Grade 'C' within 50% of the posts, subject to qualification in the Trade Test. Further, Note (3) in the said chart states, that "if semi-skilled staff in the pay scale of Rs.210-270 is not available, even the unskilled staff in the lower pay scale of Rs.196-232 may ~~also~~ be considered". This implies, that all such eligible candidates, should have been given an opportunity for promotion to the post of WIM Grade 'C', in accordance with the above avenue chart of promotion. This however does not seem to have been done. On the contrary, the request of the second respondent seems to have been considered favourably in isolation, without adhering to the rules, as would be evident from Annexure 'C', which further reveals, that the post of WIM Grade 'A',



in the pay scale of Rs.380-560, had to be downgraded, solely to accommodate the second respondent. The entry at S, No.2 of the said Annexure, does not mention anything about the change in cadre allowed and the parent post from which, the second respondent was posted in the new cadre, in the absence of, which the entry seems as an innocuous one, as showing the second respondent progressing in his legitimate cadre, in the ordinary course. Manifestly, therefore, this was not in public interest and betrays, that the second respondent was shown undue favour in permitting him change of cadre as above, to the detriment of the career prospects of the applicant and other aspirants who were eligible to be considered for the post of WIM Grade 'C' even in the much lower pay scale of Rs.196-232, according to the avenue chart of promotion, as indicated earlier.

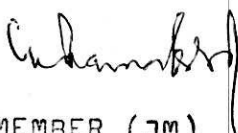
13. The counsel for the respondents has not shown to us the guidelines if any, according to which, the change of cadre in the above manner, was effected more so, on individual consideration, in disregard to the avenue chart of promotion. Even if such guidelines exist, they cannot have statutory force. We are, therefore, of the view that the second respondent has been allowed to change his cadre and has been posted as WIM Grade 'C', in an arbitrary manner, in violation of rules and procedure, to the detriment of the career prospects of the applicant. We therefore make the following order.

- (i) We quash the order of promotion and posting passed by the first respondent on 31.1.1981 (Annexure C) in so far as it relates to the second respondent viz.

Shri D.Chandran, with immediate effect,  
restoring status quo ante.

(ii) The resultant vacancy if any, in the  
grade of WIM be filled strictly in  
accordance with sanctioned rules and pro-  
cedure.

14. We allow the application in the above terms  
but with no order as to costs.

  
MEMBER (JM)

 9.1.1987  
MEMBER (AM)(R)

kam.