

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE BENCH, BANGALORE

DATED THIS THE TENTH DAY OF NOVEMBER 1986

Present: Hon'ble Shri Ch. Ramakrishna Rao .. Member (J)

Hon'ble Shri P. Srinivasan .. Member (A)

APPLICATION NOS. 845, 846 AND 849/86(T)

1. Shri Arun Kumar,
Staff No.ML.1969, Fireman 'C',
Southern Railway (JRU),
Chikkajajur.
2. Shri T.Ramachandra Reddy,
Staff No.ML.2023, Fireman 'C',
Southern Railway (SMT) Shimoga.
3. Shri Winston Rodrigues,
Staff No.ML.2156, Fireman 'C',
Southern Railway, Mysore. .. Applicants

(Shri M.S. Ananda Ramu, Advocate)

vs.

1. The Union of India represented
by the Secretary to the Govt.of India,
Ministry of Railways, Rail Bhavan,
New Delhi.
2. The General Manager,
Southern Railway, Park Town,
Madras.
3. The Senior Divisional Personnel Officer,
Southern Railways, Mysore Division,
Mysore-1.
4. Sri Shivanna,
Staff No.1180, Fireman 'C',
Southern Railways, Bangalore City
Station (Cantonment Rly Station),
Bangalore.
5. Sri Abdul Majid Khan,
Staff No.1675, Fireman 'C',
Southern Railway, Arsikere.
6. Sri Anthony Cruz,
Staff No.1799, Fireman 'C',
Southern Railway, Harihar.
7. Sri K.C. Raja Naidu,
Staff No.1976, Fireman 'C',
Southern Railway, Harihar.
8. Sri D. Manuval,
Staff No. 1536, Fireman 'C',
Southern Railway, Arsikere.
9. Sri Jan Basha,
Staff No.1555, Fireman 'C',
Southern Railway, Yelahanka,
Bangalore North.
10. Shri S.P.Goswal,
Staff No.1391, Fireman 'C',
Southern Railway, Yelahanka,
Bangalore North.



P. Srinivasan

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11. Sri L. Nagesh,
Staff No. 1597, Fireman 'C',
Southern Railway, Mysore.
12. Sri Gorden Pencans,
Staff No. 1558, Fireman 'C',
Southern Railway, Bangalore Cantonment.
13. Sri C. Ramappa,
Fireman 'C', Southern Railway,
Mysore.
14. Sri T.C. Ranganathan,
Staff No. 1719, Fireman 'C',
Southern Railway, Mysore.
15. Sri Syed Shamsuddin,
Staff No. 1745, Fireman 'C',
Southern Railway, Mysore.
16. Sri Sestaramaiah,
Staff No. 1804, Fireman 'C',
Southern Railway, Mysore.
17. Sri M. Venkatesha,
Staff No. 1749, Fireman 'C',
Southern Railway, Mysore.
18. Sri R. Chandrasekhara,
Staff No. 1922, Fireman 'C',
Southern Railway, Arsikere.
19. Sri Venkatesh,
Staff No. 1819, Fireman 'C',
Southern Railway, Arsikere.
20. Sri Chaluvaiah,
Staff No. 1815, Fireman 'C',
Southern Railway, Arsikere.
21. Sri J. Phillips,
Staff No. 1778, Fireman 'C',
Southern Railway, Yelahanka.
22. Sri A.P. Gopalakrishna,
Staff No. 1774, Fireman 'C',
Southern Railway, Mysore.
23. Sri C.P. Balasubramanyam,
Staff No. 1829, Fireman 'C',
Southern Railway, Mysore.
24. Sri B.E. Neelakantan,
Staff No. 1768, Fireman 'C',
Southern Railway, Mysore.
25. Sri D. Rudra,
Staff No. 1861, Fireman 'C',
Southern Railway, Arsikere.
26. Sri Mohammed Anwar,
Staff No. 1860, Fireman 'C',
Southern Railway, Arsikere.
27. Sri Surendralal,
Staff No. 1893, Fireman 'C',
Southern Railway, Harihar.

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28. Sri Shahali Baig,
Staff No. 1797, Fireman 'C',
Southern Railway, Mysore.
 29. Sri K.Krishnamurthy,
Staff No. 1834, Fireman 'C',
Southern Railway, Mysore.
 30. Sri A.S.Aron,
Staff No. 1867, Fireman 'C',
Southern Railway, Mysore.
 31. Sri M.K.Swamy,
Staff No.1902, Fireman 'C',
Southern Railway, Mysore.
 32. Sri P.Purushothan,
Staff No.1869, Fireman 'C',
Southern Railway, Mysore.

... Respondents

(Shri M.Sreerangaiah, Advocate)

The application came up for hearing before Court
on 3.11.86. Member (A) made the following:

ORDER

Applicants in application Nos. 845 and 846/86
filed a common writ petition before the High Court of Karnataka
which was treated as two petitions Nos. 667 and 668 of 1982 and
these petitions were transferred to this Tribunal. Application
No.849/86 also originated as a writ petition before the High
Court of Karnataka before it was transferred to this Tribunal.
Since all the three applications involve identical issues, they
are disposed of by a common order.

2. All the applicants before us who were promoted on
different dates as Firemen 'C' in the Southern Railway, Mysore
Division on a temporary ad hoc basis were reverted back to their
original position as Engine Cleaners by an order dated 7-11-81.
The said order reverting the applications said that

"In terms of the decision taken in the Joint
Meeting held with the representatives of SRES
and SRMU on 1-5-1981, regarding assigning
seniority of Engine Cleaners based on Khalasis
seniority with effect from 1-7-1979, a review
was made in respect of promotions made to the
category of Firemen 'C' in scale Rs 210-270 and
it was found that the following officiating
FM(C) are juniors to many of the Engine Cleaners,
who have not yet been promoted as FM(C).Conse-
quently the following are reverted as ECs in
scale Rs 196-232 with immediate effect."



and it is this order which is challenged by the applicants.

3. Shri M.S.Ananda Ramu, learned counsel for the applicants contended that the reversion of the applicants was bad in law because their juniors were retained in posts of Firemen 'C' while they (applicants) had been reverted. He also wished to adopt the arguments put forward in application Nos. 829 to 833/86, 1352 to 1354/86, 1355 to 1362/86, 1364/86, 1725 to 1728/86 which were heard by another bench of this Tribunal to which one of us was a party.

4. Shri M.Sreerangaiah, learned counsel for the respondents, categorically stated that when the applicants were reverted, none of their juniors had been retained. More specifically, he asserted that respondents 4 to 32 in application Nos. 845 to 846/86 who also figure as respondents in No.849/86 were all senior to the applicants before us. Since Shri Anandaramu is unable to produce any seniority list to establish that his clients were senior to respondents and since Shri M.Sreerangaiah has based his denial on the seniority list maintained by the respondents, the claim made on behalf of the applicants on the ground of seniority has to be rejected.

5. Application Nos. 829 to 833/86 etc. to which Shri Ananda Ramu made reference and where, like the applicants before us, reversion of persons similarly placed from posts of Foreman 'C' to those of Engine Cleaners were challenged, have all been dismissed ^{by} this Tribunal by an order dated 7-11-86 for the reasons stated therein. Since the contentions urged on behalf of the applicants in these applications have been adopted by the learned counsel for the applications in the applications now before us, these applications have also to fail with one exception. As stated earlier, the applicants, were reverted by an order dated 7-11-81 and the relevant portion of that order has been extracted above in this order.



7-11-86

In that extract, it has been explained that the seniority of Engine Cleaners after 1-7-79 was to be regulated according to the seniority of the same persons in the grade of Khalasis and as a result of this decision, the applicants before us had become juniors to others who had not been promoted as Firemen 'C' and had to be reverted to make room for their seniors. This Tribunal has upheld this principle of seniority in the judgement delivered on 7-11-86 referred to above. But that order regulating seniority of Engine Cleaners came into force from 1-7-1979 and would apply only to persons appointed as Engine Cleaners after that date. One of the applicants here viz. Shri Arun Kumar was appointed as Engine Cleaner on 28-5-1979 and therefore his seniority in the cadre of Engine Cleaners will not be governed by the principle of seniority set out in the order dated 7-11-81. His seniority in the grade of Engine Cleaners will have to be determined on the basis of his continuous officiation in the grade i.e. from 28-5-1979. He cannot be made junior to persons appointed as Engine Cleaners on or after 1-7-79 but who were his seniors in the grade of Khalasis. Therefore we direct that his seniority in the grade of Engine Cleaners be fixed according to the date of his appointment to that post and in the light of such seniority, the question of his reversion from the post of Fireman 'C' be reviewed by the Respondents.

6. So far as the other two applicants are concerned, their cases are on all fours with the cases of applicants in application Nos. 829 to 833 of 1986 etc. and therefore their applications are liable to be dismissed.

7. In the result, application No.845 filed by Shri Arun Kumar is allowed as indicated above and application Nos. 846 and 849/86 filed by Shri T. Ramachandra Reddy and Shri Winston Rodrigues are dismissed.



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SECTY OFFICER
ADMINISTRATIVE TRIBUNAL
ADDITIONAL BENCH
BANGALORE

(CH. Ramakrishna Rao) 10/11/86
Member (J)

(P. Srinivasan)
Member (A)