

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE BENCH, BANGALORE

DATED THIS THE TWENTIETH DAY OF MARCH, 1987

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

Hon'ble Shri P.Srinivasan Member(A)

APPLICATION No.908/86(T)

S.Krishnamurthi,
Graduate Assistant,
Railway High School,(English Medium),
Hubli. ...

APPLICANT

Vs.

1. The Divisional Railway Manager,
Hubli.
 2. The General Manager,(Personnel),
South Central Railway,Secunderabad.
 3. B.M.Siddalingaiah,
Hindi Munshi, Railway High School,
(English Medium), Hubli. ...
- (Shri M.Srirangaiah ... Advocate)

RESPONDENTS

This application has come up before the court today.

Hon'ble Shri P.Srinivasan, Member(A) made the following :

ORDER

In this application, which originated as a writ petition No.20952/82, the applicant who was a Hindi Teacher in the service of the South Central Railway when he filed the writ petition, complains that by order dated 27.10.1978, a person junior to him, namely respondent 3 to this application, was wrongly promoted to the grade of 160-300(revised scale 440-750) with effect from 27.4.68 and not the applicant. The post in the grade of 160-300 (revised scale 440-750) was created w.e.f.27.4.68 by an order of the Railway Board dated 20.5.1976. Then the question of filling up the post in the grade retrospectively arose. Shri Siddalingaiah, respondent 3 was considered and given promotion to that post retrospectively from the said date. He was, however,

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to be given higher rate of pay only for the period during which he actually handled VI and VII classes. The applicant was subsequently given similar proforma promotion retrospectively from 1.5.1969. His grievance is that he should have been given proforma promotion from 27.4.68 in place of respondent 3. As a sequel to this grievance, the applicant complains that he should have been promoted to the next post in the grade of 740-950 instead of respondent 3 who was actually promoted to that grade by order dated 26.5.1982. The challenge is primarily to the original order dated 27.10.78 by which R-3 was promoted to the grade 160-300(revised 440-750) which the applicant wants us to quash. The challenge to the subsequent order dated 26.5.1982 is merely consequential to this. The matter came up before this Tribunal on 11.2.87 when counsel for the applicant as well as for the respondents were present. It was adjourned to 20.3.87 i.e., today. Thus the applicant had notice of the hearing today. Shri Srirangaiah who is present today on behalf of the respondents informs us that he has served a copy of the respondents reply on the counsel for the applicant on 10.3.87. However, when the matter was called out today several times, neither the applicant nor his counsel was present. We therefore proceeded to deal with the application with the assistance of Shri Srirangaiah, counsel for the respondents.


2. Shri M.Srirangaiah, counsel for the respondents, informs us that on 19.10.1978 ^{at Mysore} ~~there~~ a joint discussion was held between Senior Personnel Officer and the Divisional Personnel Officer regarding the promotion of the applicant as well as respondent 3. The qualification required for appointment to the grade of 160-300 (revised 440-750) was a degree. At the time of the discussion both R-3 and the applicant had the necessary qualification. R-3 was senior to the applicant. It was therefore decided to give


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proforma promotion retrospectively to R-3 w.e.f. 27.4.68 but he was to be given the emoluments of the post only for the period during which he actually handled classes VI and VII. The applicant was also fixed up in the same grade with retrospective effect from 1.5.1969, again to be paid the remuneration of that grade only for the period he actually handled classes VI and VII. Thus the seniority of both these persons in the lower grade was maintained in the higher post and there had thus been no discrimination against the applicant in this regard. Shri Srirangaiah also points out that the writ petition filed before the High Court suffered from laches because the order appointing R-3 to the grade of 160-300(revised 440-750) was passed on 27.10.1978(Annexure-C) and it is that order which is sought to be challenged. The writ petition was therefore filed late in June, 1982 i.e., nearly four years after the impugned order.

3. Having heard Shri M.Srirangaiah, we are not inclined to uphold his objection on the ground of laches because the applicant had a continuing grievance which assumed importance when R-3 was promoted to the next higher grade in 1982. However, having heard Shri Srirangaiah we find there is no merit in the application. R-3 was senior to the applicant in the lower grade. Both were qualified for the higher post when final consideration took place and a decision was taken. The applicant had also been given retrospective promotion according to his seniority. In view of this, the application deserves to be dismissed.

4. In the result, the application is dismissed and parties will bear their own costs.


MEMBER(J)


MEMBER(A) 28/3/87

AN.