

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE BENCH: BANGALORE.

DATED THIS THE SEVENTEENTH DAY OF OCTOBER, 1986.

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

and

Hon'ble Shri P. Srinivasan, Member (AM).

Application No. 896 of 1986

(W.P. No. 19583/82)

Between:-

Shri S.N. Venkata Rao,
Additional Chief Engineer (Construction),
Southern Railways,
Bangalore.Applicant.

and

1. Union of India, rep. by the Secretary,
Railways, New Delhi.
2. The Railway Board,
rep. by its Chairman,
New Delhi.
3. The General Manager,
Southern Railways,
Madras.
4. Shri L. Krishna Murthy,
Chief Track Engineer,
Southern Railway,
Madras-3.Respondents.

The application has come up for hearing before this
Court today and after hearing both parties, the Member (JM)
made the following:

REGISTERED

CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE BENCH

Commercial Complex (BDA)
Indiranagar
Bangalore - 560 038

Dated : 13 OCT 1988

CONTEMPT
PETITION (CIVIL) APPLICATION NO.
IN APPLICATION NO.
W.P. NO.

62
896/86(T) / 88

Applicant(s)

Shri S.N. Venkata Rao
To

Respondent(s)

V/s The Chairman, Railway Board & another

1. Shri S.N. Venkata Rao
Additional Chief Engineer/Construction
Southern Railway
No. 18, Miller's Road
Bangalore - 560 046

2. Shri M.R. Lakshmikanth Raje Urs
Advocate
Law Associates
195/2, Brigade Road
Bangalore - 560 001

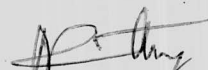
3. The Chairman
Railway Board
Rail Bhavan
New Delhi - 110 001

4. The General Manager
Southern Railway
Park Town
Madras - 600 003

5. Shri M. Sreerangaiah
Railway Advocate
3, S.P. Building, 10th Cross
Cubbonpet
Bangalore - 560 002

Subject : SENDING COPIES OF ORDER PASSED BY THE BENCH

Please find enclosed herewith the copy of ORDER/~~STAY~~/~~INTERIM ORDER~~
passed by this Tribunal in the above said Contempt application(s) on 30-9-88.


SECTION OFFICER
~~DEPUTY REGISTRAR~~
(JUDICIAL)

Encl : As above

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE BENCH, BANGALORE

DATED THIS THE 30TH DAY OF SEPTEMBER 1988

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

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

CONTEMPT PETITION (CIVIL) NO.62/88

S.N.Venkata Rao,
Additional Chief Engineer/
Construction, Southern Railways,
No.18, Miller's Road,
Bangalore-560 046.

. Complainant

(Shri M.R.Lakshmikanth Raj Urs ..
Advocate)

v.

The Chairman,
Railway Board,
Rail Bhuvan,
New Delhi.

General Manager,
Southern Railways,
Madras.

. Respondents

(Shri M. Srirangaiah .. Advocate)

This petition came up before this Tribunal for hearing
today. Hon'ble Vice-Chairman made the following:-

O R D E R

In this petition made under Section 17 of the Administrative Tribunals Act, 1985 and the Contempt of Courts Act (Central Act No.73 of 1971), the petitioner has moved us to punish the respondents, for non-implementation of an order made in his favour in A No.896/86 on 7.10.1986.

2. In A No.896/86 which was a transferred application, the applicant had sought for a direction to the respondents to fix his seniority as in the case of Respondent 4 to that application and also consider his case for retrospective



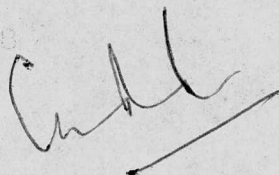
/2/

ORDER

The prayer of the applicant in this application, which was initially filed as a writ petition in the High Court of Karnataka, is that the respondents be directed to fix the seniority of the applicant granting weightage to him as was done in the case of the 4th respondent and consider his case for promotion retrospectively.

2. The facts giving rise to the filing of this application are briefly as under:-

The applicant joined the Southern Railways (SR) as a temporary Assistant Engineer (AE) on 1.2.1957. Later, he qualified himself at the competitive examination held by the Union Public Service Commission (UPSC) in December, 1956 and was appointed as AE ~~xxx~~ Class I w.e.f. 22.10.1958, in the Indian Railway Service. The 4th respondent (R4) was appointed as a temporary AE on 30.1.1956 in the SR and was later promoted as AE on the recommendation of the Departmental Promotion Committee (DPC) w.e.f. 15.4.1959. In the seniority list of officers of SR Gazetted Establishment as on 1.4.1973, the name of the applicant figured above the name of ~~the~~ R4. Subsequently, R4 was placed above the applicant in the seniority list. Aggrieved by this, the applicant has filed this application.



3. Shri Laxmikanth Raj Urs, ~~learned~~ learned counsel for the applicant, contends that the fixation of the seniority of R4 in the manner done by the Railway Administration does serious ~~violence~~^{to} the three circulars issued by the Railway Board(RB), annexed to the application as annexures A, B and C. In these circulars, it is stated that weightage in seniority should be given to temporary officers on their permanent absorption in Railways in Class I Service to the extent indicated therein. According to the learned counsel, the weightage in determining seniority envisaged by the aforesaid circulars was given in the case of R4, but not in the case of the applicant and this is ~~highly~~ discriminatory, since no valid reason has been spelt out for treating the applicant on a different footing.

4. Shri M. Sreerangaiah, counsel for the respondents 1 to 3, submits that the weightage in determining seniority of Class I officers on the basis of annexures A,B and C to the application is confined ~~only~~ to those who were absorbed in the service against the quota meant for temporary AEs unclassified and ~~also~~ to those promoted permanently to Class I from Class II, but not to those who were appointed in Class I Service as direct recruits like the applicant. Shri Sreerangaiah further contends that if the prayer of the applicant is granted, it would have an impact on others in service who have not been



impleaded as respondents. Above all, Shri Sreerangaiah submits that the application is highly belated and should be rejected on the ground of laches.

5. After giving careful thought to the rival ~~contentions~~ contentions of the parties, we find nothing in the circulars of the RB at annexures A. B and C which grants the benefit of weightage in the matter of ^{only} seniority/to candidates selected by the DPC but not to candidates recruited through the UPSC. In the absence of any specific provision to that effect, it would be a hostile discrimination to confine the application of the circulars only to candidates chosen by the DPC, but not to candidates selected by the UPSC. In our view, the circulars ~~which~~ are applicable to both categories of AEs and we, therefore, do not find any substance in the submission made by Shri Sreerangaiah.

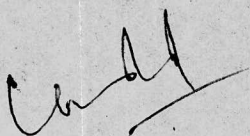
6. Regarding the plea of laches, we note that the applicant had made a representation on 4.12.1981 to the Chairman, R.B. for grant of weightage for his temporary service and the same was rejected on 17.4.1982. Thereafter, the applicant filed the W.P. on 2.6.1982. These dates make it abundantly clear that the applicant moved fast in the matter after the authorities rejected his representations



made pursuant to the seniority list published in 1978. We have, therefore, no hesitation in rejecting this plea also, and of Shri Sreerangaiah.

7. Regarding the submission of Shri Sreerangaiah that ^{are} others/likely to be affected by this decision, we do not find much force in this contention, because we are interfering only to the limited extent of the grievance of the applicant, and interpreting the circulars on the basis of which it is open to the authorities to give such relief in appropriate cases as ~~they deem proper~~ deemed fit.

8. Shri Sreerangaiah calls in aid a decision of the Supreme Court - KATYANI DAYAL AND OTHERS v. UNION OF INDIA AND OTHERS - reported in Supreme Court Cases (Labour and Services) 1980 page 380. On a perusal of this Judgment, we find that it related to a case of recruitment of temporary AEs outside the cadre, and the question arose whether such Engineers could be treated as appointees under rule 139(d) of the Indian Railway Establishment Code. Neither the facts of this case, nor the proposition laid down therein have anythingⁱⁿ common. ~~relevance to the facts of the present case on hand~~



promotion. On an examination of the rival claims a Division Bench of this Tribunal consisting of one of us (Hon'ble Shri P. Srinivasan, Member (A) and Hon'ble Shri Ch. Ramakrishna Rao, Member (J)), allowed the same on 17.10.1986.

3. Aggrieved by this order, the Railway Administration, carried the matter to the Supreme Court in a Special Leave Petition, which stands rejected on 23.9.1988. On these facts Shri M. Srirangaiah, learned counsel for the respondents, prays for a reasonable time to comply with the order of this Tribunal which is not rightly opposed by Shri M.R. Lakshmikanth Raj Urs, learned counsel for the petitioner. He, however, submits that it is necessary to direct the respondents to comply with the order well before the applicant retires from service.

4. We have earlier noticed that the order of this Tribunal was challenged by the Railway Administration before the Supreme Court in a Special Leave Petition, which had rejected the same on 23.9.1988. In its order, this Tribunal had not fixed any time for complying with the directions. In these circumstances we consider it proper to grant time to the respondents till 31.12.1988 to comply the order of this Tribunal. We accordingly grant time to the respondents till 31.12.1988 to comply with the order made in ANo.896/86(T). But in the meanwhile we drop these contempt of court proceedings with no order as to costs. We do hope and trust that the respondents will comply with our order without giving room for any further legal proceedings.

TRUE COPY

12/13/88
SECTION OFFICER
CENTRAL ADMINISTRATIVE TRIBUNAL
ADDITIONAL BENCH
BANGALORE

Sd/-
VICE CHAIRMAN 20/9/88

Sd/-
MEMBER (A)

Dy. no 343/88 JU

14 x 88

~~8200 99 (K)~~

D. No. 3080/87/Sec- IV.A

SUPREME COURT OF INDIA
NEW DELHI

Dated 26-9-1988

From:

The Additional Registrar,
Supreme Court of India,
New Delhi

To

The Registrar,
The Central Administrative Tribunal
B.D.A. Complex, Indira Nagar,
Bangalore - 560 038.

PETITION FOR SPECIAL LEAVE TO APPEAL (CIVIL) NO 7844 OF 1987.

(Petition under Article 136 of the Constitution of India, for

Special Leave to Appeal to the Supreme Court from the judgment
& Order dated 17.10.86. of the High Court of

Central Administrative Tribunal, Bangalore in Application 896/86

Union of India & Ors.

.....Petitioners.

vs

Shri S.N.Venkata Rao

.....Respondent .

Sir,

I am to inform you that the Petition above-mentioned for
Special Leave to Appeal to this Court was filed on behalf of
the Petitioner above-named from the judgment and Order of the
Central Administrative Tribunal, Bangalore
High Court noted above and that the same was/were dismissed/
disposed of by this Court on the 23rd day of September,
1988.

Yours faithfully,

for ADDL. REGISTRAR.

AS/

ns/14.9.1988/ivA*

Sub to
CAT

29/9/88
30/9/88