

CENTRAL ADMINISTRATIVE TRIBUNAL: BANGALORE

DATED THIS THE 28TH DAY OF SEPTEMBER, 1988.

PRESENT:

Hon'ble Mr. Justice K.S. Puttaswamy,

.. Vice-Chairman.

And:

Hon'ble Mr. L.H.A. Rego,

.. Member(A).

APPLICATIONS NUMBERS 671 TO 673 OF 1987

- 1) M.D. Chandrasekharaiah,
S/o Sri. M.S. Devaraju,
36 years, Typist, DEE/CM
Bangalore.
- 2) A. James,
S/o D.P. Anthuselan,
32 years,
Executive Engineer,
Special Works Bridge,
Bangalore City.
- 3) M. Pavadaswamy,
S/o Sri M. Manikyam,
38 years, Adhoc Clerk,
Deputy Chief Engineer's Office,
Madras-3.

.. Applicants.

(By Sri M. Raghavendra Achar, Advocate)

v.

- 1) Divisional Railway Manager,
Bangalore Division, Bangalore.
- 2) Divisional Personnel Officer,
Bangalore Division, Bangalore.
- 3) Sri M.R. Shivasubramaniam,
- 4) Sri Manimaram,
- 5) Sri M.V. Sadashivaiah,
- 6) Sri H. Nagabhushana Rao,
- 7) Sri K. Siddaramaiah,
- 8) Mohd. Khaleel,
- 9) Sri B. Vijayakumar Singh

All are working C/o DRM and DPO
Bangalore Division.

.. Respondents.

(By Sri M. Sreerangaiah, Advocate for R-1 & R-2
Sri B.R. Datar, Advocate for R-3 & R-9
Sri D. Bettaiah, Advocate for R-4 & R-7)

These applications, having come up for hearing, Hon'ble Vice-

Chairman made the following:

ORDER

These are applications made by the applicants under Section 19 of the Administrative Tribunals Act, 1985.

2. The three applicants and respondents 3 to 9 commenced their career on different dates as Group-D or Class IV employees in one or the other Division of the Southern Railway and were so working in sections called (i) Other than Engineering Department and (ii) Gangmen from Engineering Department, hereinafter referred as categories I and II respectively.

3. In accordance with the Rules and orders regulating recruitment to clerical posts, a Class III post for the quota reserved to Group-D employees, the applicants, respondents 3 to 9, Smt. Susheelamma and Sri G.Sundareshan who are not parties to these applications and several others appeared for the written and viva voce tests held in 1984 by the Railway Administration. On an evaluation of the performance of all those candidates, the Divisional Personnel Officer, Bangalore ('DPO') with the approval of the Divisional Railway Manager ('DRM') published a select list of the candidates on 5-8-1985 (Annexure-F). In this list Sri A.James, applicant in Application No.672 of 1987 and respondents 3 to 9 have been included at Sl.No.12, 4, 5, 6, 7, 8, 10 and 11 respectively in Category-I and that Sriyuths M.D.Chandrasekharaiah and M.Pavadaswamy, applicants in Applications Nos. 671 and 673 of 1987 respectively are included at Sl.Nos. 4 and 5 in Category-II. Smt. Susheelamma and Sri Sundareshan do not find their place in this list. On the basis of this list, the DPO by his orders dated 19-11-1986 and 21-1-1987 (Annexures-J and K) had appointed respondents 3 to 9 and 4 others who are not made parties as clerks on promotion, on regular basis. But, the applicants have not so far been appointed to any of the clerical posts.

4. In these applications made on 30-7-1987 the applicants have challenged the select list dated 5-8-1985 (Annexure-F) and the orders of appointments issued in favour of respondents 3 to 9 (Annexures J and K) and for a direction to promote them to the posts of clerks on a regular basis.

5. The DRM and DPO who are respondents 1 and 2 have filed their reply and have produced their records. Respondents 3 to 9 and 4 and 7 have filed their separate replies naturally supporting respondents 1 and 2. All others who have been duly served have remained absent and are unrepresented.

6. Sri M.Raghavendra Achar, learned Advocate had appeared for the applicants. Sriyuths M.Sreerangaiah, V.R.Datar, and D.Bettaiah, learned Advocates have appeared for respondents 1 and 2, 3 and 9 and 4 and 7 respectively. We will hereafter refer to them as respondents.

7. In their replies the respondents have urged that these applications made on 30-7-1987 challenging the select dated 5-8-1985 were barred by time and therefore they are liable to be dismissed on that ground. Learned counsel for the respondents raised this objection as a preliminary objection.

8. Sri Achar in countering the preliminary objection on limitation, has urged that limitation for these applications should be computed from the dates the appointment orders were issued by the DPO on 19-11-1986 and 21-1-1987 and so computed, they were in time.

9. The Select List published by the DPO on 5-8-1985 (Annexure F) which is material reads thus:

"SOUTHERN RAILWAY

Divisional Office,
Personnel Branch
Bangalore - 23,

No. D/P.531/Cl.(IV) to Cl.(III) Promotion dated 5th August, 1985

CE/CN/BNC, Sr.DTS. Sr.DEN, DME, DEN
DCS, XEN/SW/SBC.FGO/YPR, AENs,
DPJ, NS/SBC, PWIs, SBC, DPJ, HSRA.

Sub: Promotion of Class IV to Class III Service (Office Staff in scale Rs.260-400) against the reserved quota of 33 1/3% - Departmental quota.

Ref: This office letter of even no. dated 18-5-1985.

Further to this office letter cited above, the following Class IV Employees have been selected provisionally as Office Clerks in the scale of Rs.260-400 and placed on the panel:

I. Other than Engineering staff:

- | | | |
|---------------------------------|----|-----------------------------|
| 1. Sri S.L.Lakshmipathy. | .. | Comml.Courier, DCS/O/SBC. |
| 2. Sri V.Eswara. | .. | Job Writer, FOD/O/YPR |
| 3. Sri G.V.Somashekara Reddy... | .. | Comml.Courier, DCS/O/SBC. |
| 4. Sri M.R.Shivasubramaniam. | .. | Comml.Courier, DCS/O/SBC. |
| 5. Sri Manimaran (SC) | .. | Comml.Courier, DCS/O/SBC. |
| 6. Sri M.V.Sadashivaiah | .. | Record Sorter, Sr.DTS/O/SBC |
| 7. Sri H.Nagabhushana | .. | Record Sorter, Sr.DTS/O/SBC |
| 8. Sri K.Siddaramaiah (SC) | .. | Lascar, CE/CN/O/BNC. |
| 9. Sri N.Bhuvanadasan* | .. | Peon, Sr.DTS/O/SBC. |
| 10. Sri Md.Khaleel, | .. | Peon, DME/O/SBC. |
| 11. Sri B.Vijakumar Singh. | .. | Lascar, YEN/SW/O/SBC. |
| 12. Sri A.James | .. | Lascar, XEN/SW/O/SBC. |

*Selected against the vacancy reserved ST subject to de-reservation (Twelve employees only)

II. Gangmen from Engineering Department:

- | | | |
|-------------------------------|----|-----------------------|
| 1. Sri V.Srikantan. | .. | Gangman, PWI/O/SBC |
| 2. Sri K.Periaswamy | .. | Sr.Gangman, PWI/O/DPJ |
| 3. Sri S.Radhakrishnan | .. | Gangman, PWI/O/HSRA |
| 4. Sri M.D.Chandrasekaraiah** | .. | Gangman, PWI/O/SBC. |
| 5. Sri M.Pavadaswamy. | .. | Gangman, PWI/O/DBU. |

** Selected against vacancies reserved for SC & ST subject to dereservation.

The panel has been provisionally approved by DRM on 2-8-1985.

Sd/- Divl. Personnel Officer."


This list includes the names of the applicants, respondents 3 to 9 and several others, with whom we are not concerned. On the selection of candidates, this must be treated as the order determining selections which necessarily means the applicants, respondents 3 to 9 and others found therein. On the selections made, this must also be treated as the final determination or order within the meaning of that term occurring in Section 19(1) of the Act and in any event for Section 21 of the Act.

10. The appointment orders which are dependent on the 'Select List' undoubtedly follow the same. The validity of appointments undoubtedly depends on the validity of selections. But, the validity of the selections does not necessarily depend on the validity of appointments to be made later. The appointment orders issued are independent, separate and distinct. When the appointment orders are invalidated for any reason, that does not necessarily mean that the 'Select List' is also invalidated only by that reason. What happens to the former does not necessarily happen to the latter in law or vice-versa. Whatever their true import and effect, for purposes of limitation, they cannot be treated as one and the same. The limitation for one, in particular, the Select List cannot be computed with reference to the limitation to be computed on the appointment orders. From these, it follows that limitation for the Select List, must necessarily be computed and decided without reference to the appointment orders made on the basis of the same. When so computed, the last day for filing these applications against the 'Select List' will be 4-8-1986 and therefore these applications made on 30-7-1988 are clearly barred by time.

11. The applicants have not sought for condoning the delay for which also there is no sufficient cause at all.

12. On the foregoing discussion, we hold that these applications in so far as they challenge the 'Select List' dated 5-8-1985 (Annexure-F) are barred by time and call for their dismissal to that extent on that ground only.

13. When the challenge of the applicants to the select list fails on the question of limitation, then our examining its validity on diverse grounds urged by Sri Achar at length does not arise. We, therefore, decline to notice those grounds and deal with them.



14. With this, what remains to be examined is the validity of the appointment orders.

15. On this, Sri Achar has urged the very same grounds he had urged against the 'Select List'.

16. Learned counsel for the respondents have contended that if the challenge to the Select List is rejected, then the challenge of the applicants to the appointment orders also must be rejected.

17. We find that the appointment orders issued by the DPO are in conformity with the Select List.

18. Every one of the grounds urged by Sri Achar on the validity of appointment orders is a repetition of the grounds urged by him against the Select List. On our rejecting them and upholding the Select List, we must necessarily reject the challenge of the applicants to the impugned appointment orders also and we do so.

19. In their reply respondents 1 and 2 have asserted that Smt. Susheelamma and Sri G.Sundareshan who are members of a Scheduled Tribe and a Scheduled Caste respectively have been later selected and sent for training with due regard to the reservations available to them. Sri Sreerangaiah informed us that the appointment orders to these two persons had not so far been issued. Both these persons are not parties to these proceedings. On this view itself, we cannot examine the validity of any action taken in their favour.

20. Whether the applicants should challenge the selections and of Smt. Susheelamma and Sri Sundareshan and their appointments when made is a matter for them to examine and decide. But, if they should do so, we make it clear that they are entitled to do so without reference to what we have decided in these cases and they will have to be decided on their own merits.

21. Sri Achar has lastly urged that in terms of the very Select List, the case of the applicants for appointments against posts reserved to SC/STs subject to their de-reservation should even now be considered and appointments made thereto with expedition.

22. Sri Sreerangaiah has urged that the posts reserved to SC/STs had been filled up and therefore, the question of the applicants being appointed does not arise.

23. The Select List shows that all the three applicants had been selected against vacancies for SC/STs subject to their de-reservation.

24. We have earlier noticed that Smt. Susheelamma and Sri Sundarshan who had later been selected and sent for training, had not so far been appointed and are not parties to these proceedings. On that, we have left open the same to be agitated as and when they are appointed. We are of the view that what we have expressed on them equally governs this grievance of the applicants also.

25. Even otherwise, it appears to us that ^{on the} de-reservations and the appointments if any to be made thereto respondents 1 and 2 or the superior authority who is competent to decide the same had not so far taken a firm, clear and adverse decision against the applicants. Before they do so, we cannot embark on an inquiry on all of them and decide them. On this short ground, we must leave open this question.

26. We were informed by Sri Sreerangaiah that one of the posts reserved for STs had not so far been filled in by a member of ST and a firm decision on the same has not been taken by the competent authorities.

27. We cannot predict the decision to be taken by the competent authorities. When respondents 1 and 2 or the competent authorities

take a decision to dereserve one post earmarked to ST, then they are bound to consider the cases of the applicants for appointment to such post in accordance with law. We have no doubt that they will do so. When that is done and if that decision was to be adverse to all or any of the applicants, they are free to challenge the same in separate legal proceedings.

28. But, we however, consider it proper to direct the respondents 1 and 2 to consider the cases of applicants for appointments in terms of the very Select List, the factual and legal position and pass such orders as the circumstances so justify with expedition.

29. In the light of our above discussion, we make the following orders and directions;

- (1) We dismiss these applications in so far as they challenge the Select List dated 5-8-1985 (Annexure-F) published by the DPO and the appointment orders dated 19-11-1986 and 21-1-1987 (Annexures J and K).
- (2) But, notwithstanding the above, we direct respondents 1 and 2 to consider the cases of the applicants for appointments in terms of the Select List and the further developments thereon and pass such orders as are found necessary in their cases in accordance with law with expedition.

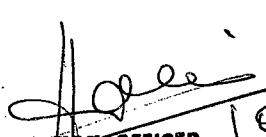
30. Applications are disposed of in the above terms. But, in the circumstances of the cases, we direct the parties to bear their own costs.

Sd/-
VICE-CHAIRMAN. 25/9/19

TRUE COPY

Sd/-
MEMBER(A) 28.9.88

np/


SECTION OFFICER
CENTRAL ADMINISTRATIVE TRIBUNAL
ADDITIONAL BENCH
BANGALORE
10/10

Commercial Complex (BDA)
Indiranagar
Bangalore - 560 038

Dated : 17 JUL 1990

CONTEMPT

PETITION (CIVIL) XXXXXXXX

APPLICATION NO (S)

82 to 84

/89

IN APPLICATION NOS. 671 to 673/87(F)

W.P. NO (S)

Applicant (s)

Shri M.D. Chandrasekharaiah & 2 Ors
To

1. Shri M.D. Chandrasekharaiah

2. Shri A. James

(Sl Nos. 1 & 2 -

C/o Shri M. Raghavendra Achar
Advocate
1074-1075, 4th Cross, 2nd Main
Sreenivasanagar II Phase
Bangalore - 560 050)

3. Shri M. Raghavendra Achar
Advocate
1074-1075, 4th Cross, 2nd Main
Sreenivasanagar II Phase
Bangalore - 560 050

4. Shri M. Pavadaswamy
Adhoc Clerk
Deputy Chief Engineer's Office
Southern Railway
Park Town
Madras - 600 003

Respondent (s)

The Divisional Railway Manager,
Southern Railway, Bangalore & anr

5. The Divisional Railway Manager
Southern Railway
Bangalore Division
Bangalore - 560 023

6. The Divisional Personnel Officer
Southern Railway
Bangalore Division
Bangalore - 560 023

7. Shri M. Sreerangaiah
Railway Advocate
Hotel Mayura Building (2nd Floor)
No. 2, Kumbargundi Road
(Silver Jubilee Park Road Cross -
Near Town Hall)
Bangalore - 560 002

Subject : SENDING COPIES OF ORDER PASSED BY THE BENCH

Please find enclosed herewith a copy of ORDER/~~STAY/INTERIM ORDER~~
C.P.(Civil)
passed by this Tribunal in the above said application (s) on 12-7-90.

Encl : As above

R.V. Venkatesh
DEPUTY REGISTRAR
(JUDICIAL)

CENTRAL ADMINISTRATIVE TRIBUNAL

BANGALORE

DATED THIS THE 12TH DAY OF JULY, 1990

Present: Hon'ble Shri P. Srinivasan, Member (A)
and
Hon'ble Shri A.P. Bhattacharjee Member (J)

CONTEMPT PETITIONS (CIVIL) NOS. 82 TO 84/1989

1. Shri M.D. Chandrashekaraiah,
S/o Shri M.S. Devaraju,
36 years, Typist,
DEE/CM, Bangalore.
2. Shri A. James,
S/o D.P. Anthuselan,
32 years, Executive Engineer,
Special Works Bridge,
Bangalore City.
3. Shri M. Pavadaswamy,
S/o Shri M. Manikyam,
38 years, Adhoc Clerk,
Deputy Chief Engineer's Office,
Madras-3.

..... Petitioners.

(Shri M. Raghavendrachar, Advocate)

v.

1. Shri Sundareshan,
Divl. Railway Manager,
Bangalore Division,
Bangalore.
2. Shri Rangarajan,
Divl. Personnel Officer,
Bangalore Division,
Bangalore.

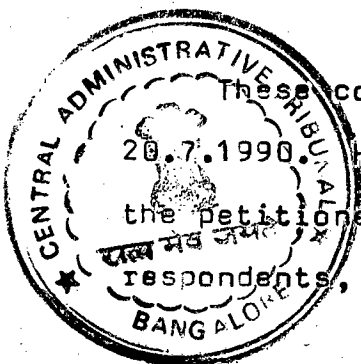
..... Respondents.

(Shri M. Sreerangaiah, Advocate)

These applications having come up for hearing to-day,
Shri P. Srinivasan, Hon'ble Member (A) made the following:

ORDER

These contempt petitions stand posted for hearing to
20.7.1990. However, Shri M. Raghavendrachar, counsel for
the petitioners and Shri M. Sreerangaiah, counsel for the
respondents, present in Court today, submitted that they



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may be taken up for hearing today itself. We have accordingly heard them.

2. The petitioners herein complain that the Order dated 28.9.1988 passed by this Tribunal in Application Nos. 671 to 673 of 1987, has not been complied with by the respondents therein. These very petitioners have also filed Applications Nos. 41 to 43 of 1990, which we have today, by a separate order, disposed of as withdrawn. Learned counsel for the petitioners Shri M.R. Achar and for the respondents Shri M. Sreerangaiah, submit that Applications Nos. 41 to 43 of 1990 having been disposed of as withdrawn, there is no case for contempt against the respondents herein.

3. In view of the above, notices of contempt served on the respondents are discharged and the proceedings of contempt, dropped. No costs.



sd/-
MEMBER (A)

sd/-
MEMBER (J)

kms/Mrv.

TRUE COPY


DEPUTY REGISTRAR (JDL)
CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE

Register

Commercial Complex (BDA)
Indiranagar
Bangalore - 560 038

Dated : 7 OCT 1988

APPLICATION NO.

671 to 673

/ 87(F)

W.P. NO.

Applicant(s)

Shri M.D. Chandrasekharaiah & 2 Ors

To

1. Shri M.D. Chandrasekharaiah

2. Shri A James

(Sl Nos 1 & 2 -

C/o Shri M. Raghavendra Achar
Advocate
1074-1075, Banashankari I Stage
Sreenivasanagar II Phase
Bangalore - 560 050

3. Shri M. Pavadasawamy
Adhoc Clerk
Deputy Chief Engineer's Office
Southern Railway
Park Town
Madras - 600 003

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Advocate
1074-1075, Banashankari I Stage
Sreenivasanagar II Phase
Bangalore - 560 050

5. The Divisional Railway Manager
Southern Railway
Bangalore Division
Bangalore - 560 023

Respondent(s)

The Divisional Railway Manager,
Southern Railway, Bangalore & 8 Ors

6. The Divisional Personnel Officer
Southern Railway
Bangalore Division
Bangalore - 560 023

7. Shri M.R. Shivasubramaniam

8. Shri Manimaran

9. Shri B. Vijayakumar Singh

(Sl Nos. 7 to 9 -

Clerks
Southern Railway
Bangalore - 560 036

10. Shri M.V. Sadashivaiah
Clerk
Senior Divisional Operating
Superintendent's Office
Southern Railway, Divisional Office
(New Building), Bangalore - 560 023

11. Shri K. Siddaramaiah
Clerk
Divisional Commercial Superintendent's
Office, Southern Railway, Divisional
Office (New Building), Bangalore - 23

12. Shri R. Mohammed Khaleel
Clerk
Divisional Mechanical Engineer's Office
Southern Railway, Divisional Office,
(New Building), Bangalore - 560 023

Subject : SENDING COPIES OF ORDER PASSED BY THE BENCH

Please find enclosed herewith the copy of ORDER ~~OF THE~~ ~~INTERIM ORDER~~
passed by this Tribunal in the above said application(s) on 28-9-88.

13. Shri M. Nagabhushana Rao
Clerk
Southern Railway, Divisional Office
Bangalore - 560 023

Encl : As above

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

15. Shri V.R. Datar
Advocate
187, 5th Main Road
IV Block, Jayanagar
Bangalore - 560 011

16. Shri D. Bettiah
Advocate
52/6, 4th Cross
Bapuji Nagar Extn
Mysore Road
Bangalore - 560 026

[Signature]
SECTION OFFICER
DEPUTY REGISTRAR
(JUDICIAL)

OC

CENTRAL ADMINISTRATIVE TRIBUNAL-BANGALORE

DATED THIS THE 28TH DAY OF SEPTEMBER, 1988.

PRESENT:

Hon'ble Mr. Justice K.S. Puttaswamy,

.. Vice-Chairman.

And:

Hon'ble Mr. L.H.A. Rego,

.. Member(A).

APPLICATIONS NUMBERS 671 TO 673 OF 1987

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Special Works Bridge,
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.. Applicants.

(By Sri M. Raghavendra Achar, Advocate)

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- 8) Mohd. Khaleel,
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All are working C/o DRM and DPO
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.. Respondents.

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These applications, having come up for hearing, Hon'ble Vice-

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CE/CN/BNC, Sr.DTS. Sr.DEN, DME, DEN
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Ref: This office letter of even no. dated 18-5-1985.

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The panel has been provisionally approved by DRM on 2-8-1985.

Sd/- Divl. Personnel Officer."

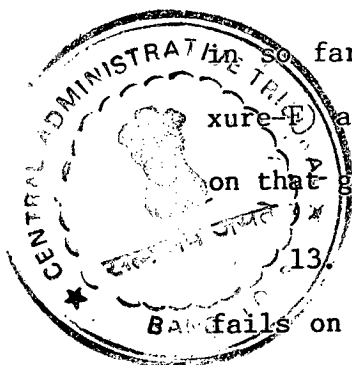
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17. We find that the appointment orders issued by the DPO are in conformity with the Select List.

18. Every one of the grounds urged by Sri Achar on the validity of appointment orders is a repetition of the grounds urged by him against the Select List. On our rejecting them and upholding the Select List, we must necessarily reject the challenge of the applicants to the impugned appointment orders also and we do so.

19. In their reply respondents 1 and 2 have asserted that Smt. Susheelamma and Sri G.Sundareshan who are members of a Scheduled Tribe and a Scheduled Caste respectively have been later selected and sent for training with due regard to the reservations available to them. Sri Sreerangaiah informed us that the appointment orders to these two persons had not so far been issued. Both these persons are not parties to these proceedings. On this view itself, we cannot examine the validity of any action taken in their favour.

20. Whether the applicants should challenge the selections ~~and~~ of Smt. Susheelamma and Sri Sundareshan and their appointments when made is a matter for them to examine and decide. But, if they should do so, we make it clear that they are entitled to do so without reference to what we have decided in these cases and they will have to be decided on their own merits.



21. Sri Achar has lastly urged that in terms of the very Select List, the case of the applicants for appointments against posts reserved to SC/STs subject to their de-reservation should even now be considered and appointments made thereto with expedition.

22. Sri Sreerangaiah has urged that the posts reserved to SC/STs had been filled up and therefore, the question of the applicants being appointed does not arise.

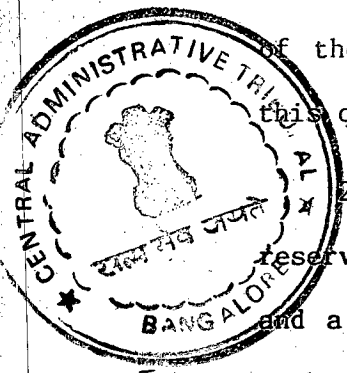
23. The Select List shows that all the three applicants had been selected against vacancies for SC/STs subject to their de-reservation.

24. We have earlier noticed that Smt. Susheelamma and Sri Sundarshan who had later been selected and sent for training, had not so far been appointed and are not parties to these proceedings. On that, we have left open the same to be agitated as and when they are appointed. We are of the view that what we have expressed on them equally governs this grievance of the applicants also.

25. Even otherwise, it appears to us that ^{on the} de-reservations and the appointments if any to be made thereto respondents 1 and 2 or the superior authority who is competent to decide the same had not so far taken a firm, clear and adverse decision against the applicants. Before they do so, we cannot embark on an inquiry on all of them and decide them. On this short ground, we must leave open this question.

26. We were informed by Sri Sreerangaiah that one of the posts reserved for STs had not so far been filled in by a member of ST and a firm decision on the same has not been taken by the competent authorities.

27. We cannot predict the decision to be taken by the competent authorities. When respondents 1 and 2 or the competent authorities



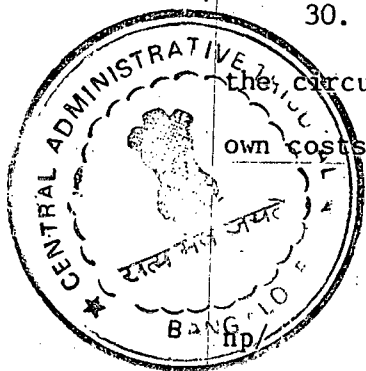
take a decision to dereserve one post earmarked to ST, then they are bound to consider the cases of the applicants for appointment to such post in accordance with law. We have no doubt that they will do so. When that is done and if that decision was to be adverse to all or any of the applicants, they are free to challenge the same in separate legal proceedings.

28. But, we however, consider it proper to direct the respondents 1 and 2 to consider the cases of applicants for appointments in terms of the very Select List, the factual and legal position and pass such orders as the circumstances so justify with expedition.

29. In the light of our above discussion, we make the following orders and directions;

- (1) We dismiss these applications in so far as they challenge the Select List dated 5-8-1985 (Annexure-F) published by the DPO and the appointment orders dated 19-11-1986 and 21-1-1987 (Annexures J and K).
- (2) But, notwithstanding the above, we direct respondents 1 and 2 to consider the cases of the applicants for appointments in terms of the Select List and the further developments thereon and pass such orders as are found necessary in their cases in accordance with law with expedition.

30. Applications are disposed of in the above terms. But, in the circumstances of the cases, we direct the parties to bear their own costs.



Sd/-
VICE-CHAIRMAN. 25/1/19-

TRUE COPY

Sd/-
MEMBER(A) 28.1.1988

[Signature]
SECTION OFFICER
CENTRAL ADMINISTRATIVE TRIBUNAL
ADDITIONAL BENCH
BANGALORE