

CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE BENCH

Commercial Complex (BDA)
Indiranagar
Bangalore - 560 038

Dated : 23 AUG 1988

APPLICATION NO. 723 / 87(F)

W.P. NO. _____

Applicant(s)

Respondent(s)

Smt V.S. Alamelu

V/s

The Divisional Railway Manager, South Central
Railway, Hubli & 2 Ors

To

1. Smt V.S. Alamelu
Assistant Teacher
Railway High School (English Medium)
Hubli
Dharwad District

4. The Chief Personnel Officer
South Central Railway
Secunderabad (Andhra Pradesh)

2. Shri R.U. Goulay
Advocate
90/1, 2nd Block
Thyagarajanagar
Bangalore - 560 028

5. Shri A.G. Sanglikar
Teacher
Railway School (English Medium)
Hubli
Dharwad District

3. The Divisional Railway Manager
South Central Railway
Hubli
Dharwad District

6. 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 application(s) on 18-8-88.

Encl : As above

for *for*
DEPUTY REGISTRAR
(JUDICIAL)

d/c.

9/8/88
K. W. J. M.
25-8-88

CENTRAL ADMINISTRATIVE TRIBUNAL: BANGALORE

DATED THIS THE 18TH DAY OF AUGUST, 1988.

PRESENT;

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

.. Vice-Chairman.

And:

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

.. Member(A).

APPLICATION NUMBER 723 OF 1987

Smt. V.S. Alumelu,
W/o A.S. Sundarachari,
Aged 46 years,
working as Hindi Pandit in
Railway High School (English
Medium) Hubli,
District Dharwad.

.. Applicant.

(By Sri R.U. Goulay, Advocate)

v.

1. The Divisional Railway Manager,
S.C. Railways, Hubli.
District Dharwad.
2. Chief Personnel Officer,
S.C. Railways, Secunderabad,
Andhra Pradesh.
3. A.G. Sanglikar,
Major, working as Teacher
in Railway School (English Medium)
Hubli, District Dharwad.

.. Respondents.

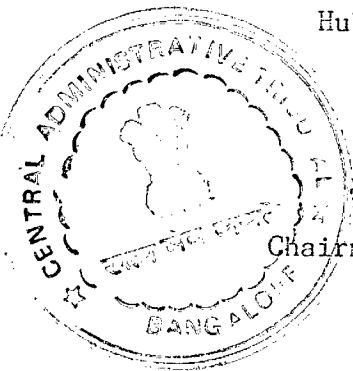
(By Sri M. Sreerangaiah, Advocate)

This application having come up for hearing this day, Vice-Chairman made the following:

ORDER

This is an application made by the applicant under Section 19 of the Administrative Tribunals Act, 1985 ('the Act').

2. In response to the relevant notification calling for applications to the post of Hindi Pandit in the time scale of Rs. 440-750 (RS)/Rs. 1400-2600 (RSRP), the applicant and respondent-3 who were



already working in one or the other capacity, applied for selection to the said post. On an evaluation of their merits and de-merits, the competent authority had selected respondent No.3 to the post and had appointed him to that post from 17-7-1987 (Annexure-A), and ever since then he is functioning in that capacity. In this application made on 17-8-1987, the applicant has challenged the selection of respondent-3 and her non-selection.

3. Among others, the applicant has urged that respondent-3, who did not either possess Hindi as a major subject in his B.A. degree or Diploma or degree in teaching and experience in teaching Hindi was not eligible for selection. On merits, the applicant has urged that having regard to her superior qualifications and all other relevant factors, she should have been selected in preference to respondent-3 who, possessed lower qualification and was only a substitute teacher.

4. In justification of the selection of respondent-3 and the non-selection of the applicant, respondents 1 and 2 have filed their reply. Respondent-3 who has been duly served has remained absent and is unrepresented.

5. Sri R.U.Goulay, learned counsel for the applicant, contends that respondent-3 who did not possess Hindi as a major subject of study for his B.A. degree and did not possess a degree or diploma in teaching and teaching experience in Hindi was not eligible for selection and even if he was eligible for selection on a comparative evaluation of the merits and de-merits of the two, the authorities should have only selected the applicant who possessed superior qualifications alround.

6. Sri M.S. Sreenunigaiah, learned counsel appearing for respondents 1 and 2 refuting the contentions of Sri Goulay, contends that respondent-3 was eligible and on deciding his eligibility, the competent

authority had made an evaluation and had selected respondent-3 as a better candidate to the post and, therefore, there is no justification for this Tribunal to interfere with the same. Sri Sreerangaiah submits that the applicant on her own free will has elected and changed the cadre and has now become an Assistant Teacher in the scale of Rs.1200-2040 (RSRP) and is working in that capacity accepting the bottom seniority on which development itself, this Tribunal should decline to examine the merits and dismiss this application in-limine. We consider it proper to examine the second submission of Sri Sreerangaiah first and then deal with the merits, if that is really necessary.

7. On 12-11-1987 the applicant had given an application to the Divisional Personnel Officer, Hubli, through proper channel expressing her willingness to be posted as a general Teacher accepting the bottom seniority in that cadre. That application made by the applicant on 12-11-1987 reads thus:-

Sub: Change of Category from Language Teacher to General Teacher.

Ref: Your letter No.J/P.676/VIII Rly.Schools/Vol.II dated 9-11-1987.

I am willing to be posted as a General Teacher in Railway High School (EM)/Hubli as a General Teacher on bottom seniority.

As the case is pending for the past two months, early orders may be issued posting me as a General Teacher in which post I am continuing as per the advice of the Gazetted IIM/Rly. School (EM)/Hubli."

Accepting this request, the authority has made an order on 23.12.87

which reads thus:-

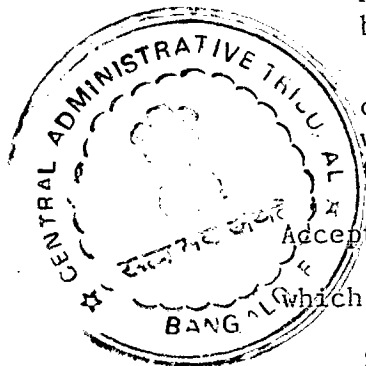
SOUTH CENTRAL RAILWAY
No.II/P.676/VIII/Rly.School/Vol.II.

divisional office,
Personnel Branch,
Hubli, Dated 23-12-1987.

MEMORANDUM

Sub: Change of category from Language Teacher to General Teacher.

The request of Mrs.V.S.Alamelu, (SR No.A-4), Hindi



Pandit in scale of Rs.1200-2040 (RSRP) for change of category from Hindi Pandit to General Teacher on bottom seniority submitted vide her application dated 12-11-1987, is hereby agreed to. She will rank juniormost to all the existing Assistant Teachers in scale Rs.1200-2040 (RSRP), on the date of joining as Assistant Teacher.

Mrs. V.S.Alamelu is posted as Assistant Teacher in scale Rs.1200-2040 (RSRP) to RHS (EM)/UBL against an existing vacancy.

(This has the approval of DRM).

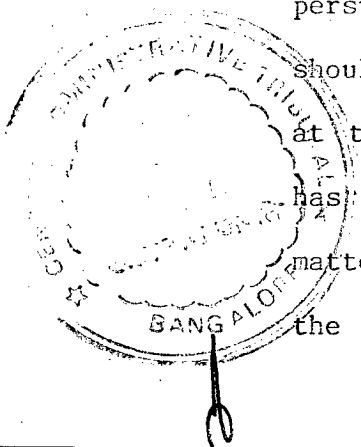
Hindi version is enclosed.

Sd/- for Manager & Correspondent,
Rly.Schools & Divl.Personnel
Officer/Hubli."

In pursuance of this order, the applicant has reported for duty as a General Teacher on 24-12-1987 and is working in that capacity ever since then. We need hardly say that all these developments have taken place after the applicant presented this application and the same was pending consideration before this Tribunal.

8. Sri Goulay urged that the applicant had not voluntarily sought the change of cadre. But, on an examination of the application, which we have noticed earlier and the order of the competent authority, we have no doubt that the change of cadre has been made at the request of the applicant only and the same has not been forced on her by the authorities.

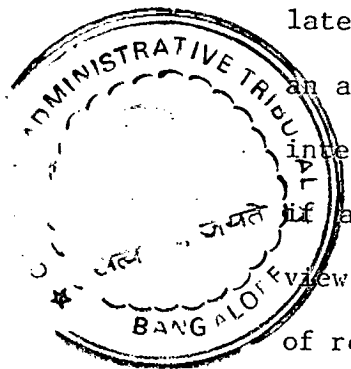
9. When the applicant had voluntarily sought for a change in the cadre for reasons with which we are not concerned and has accepted the order made by the competent authority and is working in that capacity it is reasonable to hold that the applicant has really lost all interest in these proceedings. Even if the applicant can legally pursue this application, then also, this is a fit case in which we should decline to interfere on the developments that have taken place at the instance of the applicant herself. After all this Tribunal has not been constituted to render technical justice and decide matters that do not really survive for consideration. We are of the view that this Tribunal should take a pragmatic view of the



matters. When we so examine also, this is a fit case in which we should decline to interfere with the selection of respondent-3 and the non-selection of the applicant on the developments to which we have alluded to earlier. But, out of deference to Sri Goulay we propose to examine the legal contentions urged by him.

10. On a consideration of the qualifications of the applicant and respondent-3, the competent authority had found that respondent No.3 was eligible for selection. On that basis, the competent authority had also considered his case vis-a-vis the applicant and has selected respondent-3 to the post.

11. When the competent authority had found that respondent-3 was eligible, this Tribunal should be slow to hold otherwise. Even otherwise, every one of the submissions made on the non-eligibility of respondent-3 do not lead us to hold that respondent-3 was not eligible to the post of Hindi Pandit when he made his application. We are therefore of the view that respondent-3 was eligible for selection. When we concur with the view expressed by the authority on the eligibility of respondent No.3 to the post, then there is hardly any justification for us to interfere with the judgment exercised by that authority in selecting one or the other eligible applicants. In these matters, this Tribunal cannot take up the role of an appellate authority and evaluate the merits and de-merits as if it is an appeal and come to a different conclusion. We should not normally interfere with the judgment exercised by the selection authorities if a person selected is found to be eligible to the post. On this view, there is no justification for us to interfere with the selection of respondent-3 and the non-selection of the applicant.



TRUE COPY

9. As all the contentions urged for the applicant fail, this application is liable to be dismissed. We, therefore, dismiss this application. But, in the circumstances of the case, we direct the parties to bear their own costs.

[Signature]
JOINT DEPUTY REGISTRAR (JDL)
CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE

[Signature]
VICE-CHAIRMAN. 18/2/21

[Signature]
MEMBER(A)