

CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE BENCH

Commercial Complex (BDA)
Indiranagar
Bangalore - 560 038

Dated : 14 DEC 1988

APPLICATION NOS 836, 840 & 841 / 87(F)

W.P. NO. _____

Applicant(s)

Shri N. Gopalakrishnan Pillai
To

Respondent(s)

V/s The Secretary, M/o railways, New Delhi & 4 Ors

1. Shri N. Gopalakrishnan Pillai
Metallurgical Inspector
Wheel & Axle Plant (Railways)
Yelahanka
Bangalore - 560 064

2. Shri S.M. Babu
Advocate
No. 242, V Main
Gandhinagar
Bangalore - 560 009

3. The Secretary
Ministry of Railways
Rail Bhavan
New Delhi - 110 001

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

5. The General Manager
Wheel & Axle Plant (Railways)
Yelahanka
Bangalore - 560 064

6. Shri V.S. Bowaj
Assistant Chemist & Metallurgist
Wheel & Axle Plant
Yelahanka
Bangalore - 560 064

7. Shri S.G. Sridharachar
Metallurgical Inspector
Wheel & Axle Plant
Yelahanka
Bangalore - 560 064

8. Shri M. Sreerangaiah
Railway Advocate
3, S.P. Building, 10th Cross
Cubbenpet Main Road
Bangalore - 560 002

9. The Director General
Research Designs & Standard Organisation
Indian Railways (R.D.S.O.)
Lucknow (Uttara Pradesh)

2 COPIES
for 132 Rind
STC
Subject 15/12
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 6-12-88.

Issued
K. M. L. R.
15-12-88
Encl : As above

OFFICER
RECEIVED
(JUDICIAL)

CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE

DATED THIS THE 6TH DAY OF DECEMBER, 1988

Present: Hon'ble Shri Justice K.S. Puttaswamy, Vice-Chairman
and
Hon'ble Shri P. Srinivasan, Member (A)

APPLICATION NOS.836,840 & 841/87

Shri N. Gopalakrishna Pillai,
S/o N. Narayanapillai,
45 years, Metallurgical Inspector,
Wheel & Axle Plant (Railways),
Yelahanka, Bangalore-64,

.... Applicant.

(Shri S.M. Babu, Advocate)

v.

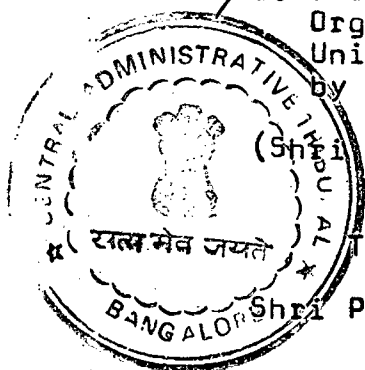
1. Union of India,
rep. by its Secretary,
Ministry of Railways,
New Delhi.
2. The Chairman,
Railway Board,
New Delhi.
3. The General Manager,
Wheel & Axle Plant (Railways),
Yelahanka, Bangalore.
4. V.S. Bowaj, major,
Asst. Chemist & Metallurgist,
Wheel & Axle Plant,
Yelahanka, Bangalore.
5. S.G. Sridharachar, major,
Metallurgical Inspector,
Wheel & Axle Plant,
Yelahanka, Bangalore.
6. The Research Designs and Standard
Organisation (R.D.S.O.) Technical
Unit of Indian Railways, Lucknow
by its Director General.

.... Respondents.

(Shri M. Sreerangaiah, Advocate)

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

P. Srinivasan



ORDER

These three applications are by the same applicant and have, therefore, been heard together. They are being disposed of by this common order.

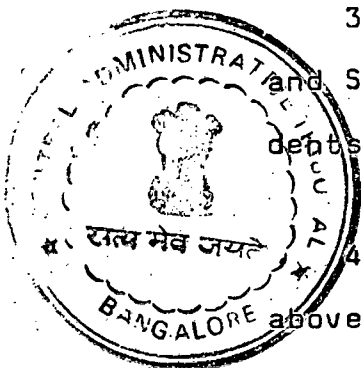
2. The applicant, who entered service of the Central Railway in 1965 was subsequently selected to the post of Junior Research Assistant (JRA) in the Research, Designs and Standards Organisation (RDSO), Lucknow, of the Railways in 1969. He earned a promotion in RDSO to the post of Senior Research Assistant (SRA) on 16.5.1970. While he was working as SRA at RDSO, Lucknow, he was taken as Laboratory Superintendent (LS) in the Wheel and Axle Plant (WAP), Yelahanka, Bangalore, on 6.3.1982. WAP is also a unit of the Indian Railways. As SRA in RDSO, the applicant was in the pay scale of Rs.550-900 and the post of LS in the WAP also carried the same scale of pay. After he joined WAP, he was given an ad hoc promotion as Metallurgical Inspector (MI) with effect from 30.7.1983 in the scale of Rs.650-960. Respondent 4, who was working as a LS in South Central Railway in the scale of Rs.550-900 from 10.2.1975 was also transferred and posted in WAP in the same designation and scale of pay with effect from 10.8.1981. He was also given an ad hoc promotion in WAP itself to the post of MI from 30.7.1983 in the scale of Rs.650-960 like the applicant. Respondent 5 was working as LS in the scale of Rs.550-900 in the South Central Railway before he was transferred to WAP with effect from 22.7.1982 in the same grade. He was also given an ad hoc promotion in WAP as MI in the grade of Rs.650-960 from 30.7.1983. There was a restructuring of posts in the

P. S. Singh

all the regional Railways with effect from 1.1.1984 as a result of which R-4 and R-5 were given proforma promotion to the grade of Rs.650-960 in their respective parent organisations with effect from 1.1.1984. A similar restructuring was made in RDSO with effect from 1.7.1985 and as a result of this restructuring, the applicant was also given a proforma promotion to the grade of Rs.650-960 in his parent organisation from that date. In the seniority list as on 27.5.1985 of Laboratory Superintendents in WAP, R-4 and R-5 were assigned places above the applicant and as a result, R-4 was given ad hoc promotion to the next higher grade of Assistant Chemist and Metallurgist (ACMT) in the scale of Rs.650-1200 from 28.11.1985. The grievance of the applicant in these applications is that R-4 and R-5 had been wrongly assigned seniority above him in the grade of LS and he prays for a direction to the respondents to assign him the proper ranking in the final seniority list of Metallurgical supervisory staff and others and to regularise the applicant as MI from 1.1.1984 as was done in the case of respondents 4 and 5. He also seeks a direction to the respondents to promote him to the post of ACMT from 28.11.1985 when R-5 was so promoted.

3. Shri S.M. Babu, learned counsel for the applicant, and Shri M. Sreerangaiah, learned counsel for the respondents have been heard.

4. As will be noticed from the narration of facts above, the applicant was working as SRA in RDSO in the scale of Rs.550-900 when he was taken to WAP as LS. Respondents 4 and 5 were also holding posts on the same scale



P. S. - 12

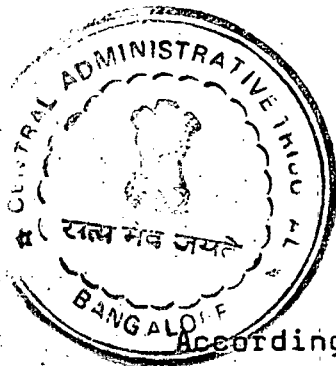
in their parent organisation i.e., Rs.550-900. The applicant had been working in that scale from 16.5.1970. Respondent 4 was holding a post in the same scale from 10.2.1975 and Respondent 5 from 26.3.1979. If their relative seniority in the grade of Rs.550-900 had to be fixed on the date they were taken into WAP, the applicant would clearly be the senior-most because of his much longer continuous officiation in the grade. All three of them were taken in the same post in the WAP i.e. the post of LS in the same grade of Rs.550-900. All three of them were promoted on the same date on ad hoc basis to the post of MI in the grade of Rs.650-960. It is well known that seniority of a person has to be fixed on the date of his entry in an organisation. If that were done, the applicant would clearly be the seniormost of the three. The case of the respondents is based on subsequent developments which happened in the parent organisations of the applicant and respondents 4 and 5. The restructuring of posts in the Indian Railways took place with effect from 1.1.1984 as a result of which respondents 4 and 5 were given proforma promotion to the grade of Rs.650-960 from that date. A similar restructuring was undertaken in RDSO with effect from 1.7.1985 and the applicant was given proforma promotion as a result thereof to the grade of Rs.650-960 from that date. In the case of the applicant, though he was given proforma promotion in the parent organisation from 1.7.1985, WAP reckoned his seniority in the grade of Rs.650-960 from 27.5.1985 i.e., the date on which WAP was declared as a production unit of the Railways. If the declaration of the WAP as a production unit was the criterion, then there was no justification for giving R-4 and R-5 an earlier date of regularisation in the higher post.

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If as contended by the learned counsel for respondents, the only criterion is the date of restructuring undertaken in the respective parent organisations, we feel it is a totally irrational consideration. Restructuring could have been taken up in the ^{M regional} Railways and the RDSO in any order and it was a fortuitous accident that restructuring was undertaken in the Railways earlier than in RDSO though both are divisions of the Indian Railways. Moreover, the restructuring was something which happened long after the applicant and the respondents had entered service in the WAP. As already noticed, seniority has to be fixed when a person commences service in an organisation and cannot be displaced by events taking place later.

5. Shri Sreerangaiah referred us to the office order dated 21.2.1976 issued by the WAP setting out the principles for determining seniority of staff working in the WAP, Bangalore. Para 5 of the said order reads as follows:-

"5. Staff transferred from different Railways/Production Units upto the declared date of commencement of production will be deemed to have been transferred to the Plant on that date, and the grade held by them on the Parent Railways or the grade they would have held on that date but for transfer to the Project, and the length of continuous non-fortuitous service therein will determine the relative seniority, subject to inter-se seniority in the parent Railway being maintained."



According to us, this very rule supports the claim of the applicant. The applicant held a post in the grade of

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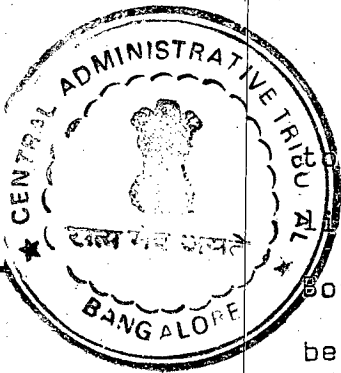
R.550-900 in a non-fortuitous vacancy from 16.5.1970 while respondents 4 and 5 held comparable posts in the same scale in their parent organisations from later dates. Thus, in terms of the rule extracted above, the applicant was clearly senior to respondents 4 and 5.

6. Respondents 4 and 5 initially filed their reply to the application contesting the applicant's claim but subsequently both appeared in ^Mthe court on 11.3.1988 and sought permission to withdraw their defence and also to state that they did not wish to contest the application which could be decided without any further reference to them. In other words, respondents 4 and 5 who are vitally affected by this application have in effect conceded the case of the applicant to be fair and proper. Shri K. Sridhara Rao over whom also the applicant claims seniority ^Mhas retired from service from 31.3.1983 and so ^Mhe has not ^{been}impleaded as a respondent.

7. In view of the above, we direct the respondents to refix the seniority of the applicant in the gradation list as on 27.5.1985 above respondent 4 i.e., Shri V.S. Sowaj and below Shri J.M. Deviprasad. The applicant will be entitled to all consequential benefits flowing therefrom in accordance with law.

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8. The applications are disposed of in the above terms, but in the circumstances of the case, parties to bear their own costs.


SECTION OFFICER
CENTRAL ADMINISTRATIVE TRIBUNAL
ADDITIONAL BENCH
BANGALORE

Sd/-
VICE-CHAIRMAN

Sd/-
MEMBER (A)

gr/Mrv.

भारत सरकार
रेल मंत्रालय (रेलवे बोर्ड)

Dy No 2/89
3-1-89

सं० ई० (जी०) — एल० एल० 3 — 10 (2762278) नयी दिल्ली दिनांक 21/12/88 197

सेवा में,

The Registrar

MT

Bangalore

विषय—

A.O.S. 836, Sh. 2 Sh. 1

N. Gopalakrishnan Pillai

Secy. n/o. Phys 2003

महोदय,

उपयुक्त विषय पर आपके तारीख

यह सूचित करने का निर्देश हुआ है कि महाप्रबन्धक

6-12-88

W&A Bangalore

के सम्मन/आदेश के सम्बन्ध में मुझे

इस मामले को निबटाने में सक्षम

प्राधिकारी हैं। इसलिह बिचाराधीन सम्मन/आदेश आवश्यक कार्रवाई हेतु उन्हें भेज दिये गये हैं।

भवदीय

जदीवा 21 य 16

सलन : कुछ नहीं।

कृते सचिव, रेलवे बोर्ड

सं० ई० (जी०) — एल० एल० 3 — 10 (2762278) दिनांक 21/12/88 197

अदालत के सम्मन/आदेशों सहित एक प्रति महाप्रबन्धक,

आवश्यक कार्रवाई हेतु भेजे गये।

W&A Bangalore

इस मामले में सुनवाई की तारीख है।

सलन : यथोक्त।

कृते निर्देशक, स्थापना
रेलवे बोर्ड

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CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE BENCH

Commercial Complex (BDA)
Indiranagar
Bangalore - 560 038

Dated : 13 JAN 1989

REVIEW APPLICATION NOS 1 to 3
IN APPLICATION NOS. 836, 840 & 841/87(F) /89
W.P. NO. _____

Applicant(s)

The General Manager, Wheel & Axle Plant,
Bangalore & 3 Ors
To

Respondent(s)

V/s Shri N. Gopalakrishna Pillai & 2 Ors

1. The General Manager
Wheel & Axle Plant
Yelahanka
Bangalore - 560 064
2. The Chairman
Railway Board
Rail Bhavan
New Delhi - 110 001
3. The Secretary
Ministry of Railways
Rail Bhavan
New Delhi - 110 001
4. The Director General
Research, Designs & Standards Organisation
Indian Railways (RDSO)
Lucknow - 11
Uttar Pradesh
5. Shri M. Sreevanjaiah.
Railway Advocate
3 S.P. Building, 10th cross
Cubbonper Main Road
Bangalore - 560002

Subject : SENDING COPIES OF ORDER PASSED BY THE BENCH

Please find enclosed herewith the copy of ORDER/~~STAY~~ ^{Review} ~~INTERIM ORDER~~
passed by this Tribunal in the above said/application(s) on 10-1-89.

Issued
K. M. Venkatesh
16-1-89

Encl : As above

B. V. Venkatesh
DEPUTY REGISTRAR
(JUDICIAL)

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BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE

DATED THIS THE 10th DAY OF JANUARY, 1989

Present : Hon'ble Justice Sri K.S. Puttaswamy

Vice Chairman

Hon'ble Sri P. Srinivasan

Member (A)

Review Application Nos. 1 to 3/89 in
Application Nos. 836, 840 and 841/87.

1. The General Manager,
Wheel and Axle Plant,
Yelahanka,
Bangalore - 64.
2. The Chairman,
Railway Board,
Rail Bhavan,
New Delhi - 1.
3. The Secretary,
Ministry of Railways,
Rail Bhavan,
New Delhi - 1.
4. Research, Designs & Standards,
Organisation, Indian Railways,
Lucknow-11 by its Director-
General.

... Applicants

(Sri M. Sreerangaiah

... Advocate)

vs.

1. N. Gopalakrishna Pillai,
Metallurgical Inspector,
Wheel & Axle Plant,
Yelahanka,
Bangalore - 64.
2. V. S. Gowaj,
Asst. Chemist & Metallurgist,
Wheel & Axle Plant,
Yelahanka,
Bangalore - 64.
3. S. G. Sridharachar,
Metallurgical Inspector,
Wheel & Axle Plant,
Yelahanka,
Bangalore-64.

... Respondents

These applications having come up before the Tribunal

today, Hon'ble Member (A) made the following :

P. S. Srinivasan



ORDER

By these applications, respondents 1,2,3 & 6 in application nos. 835, 840 & 841/1987 (N.Gopalakrishna Pillai and Others.) want us to review our order dated 6.12.1988 disposing of those applications. The original applicant in those applications has been impleaded here as respondent no.1. Respondents 4 & 5 in the original applications appear as respondents 2 and 3 in the present applications.

2. In our order dated 6.12.1988, disposing of the aforementioned applications, we allowed the contention of the applicant therein that his place in the seniority list of Metallurgical Supervisory Staff in the Wheel and Axle Plant, Yelahanka (WAP) should be fixed above respondents 4 and 5 therein. The said respondents 4 and 5 did not contest the claim of the applicant, while respondents 1,2, ~~3~~ ^{H did} and 6 ~~resisted it~~. The contention of the latter was : that as a result of restructuring of cadres in RDSO, Lucknow, from where the applicant was drawn, having been given effect from a later date than in South Central Railway, from where respondents 4 and 5 came, the respondents 4 and 5 had been given proforma promotion to the scale of Rs.650-960 in their parent organisation from an earlier date than the applicant was in his parent organisation and that was why the said respondents were assigned places of seniority in WAP above the applicant. Dealing with this contention, we observed that it was a fortuitous

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accident that restructuring was undertaken on different dates in the two parent organisations and to take that as the basis for determining the inter se seniority of the applicant and respondents 4 and 5 in WAP was irrational. In the present application, ^M~~the~~ respondents 1,2,3 & 6 in the original application have voiced an apprehension that we have in our original order held that the carrying out of the restructuring on different dates in the parent organisations was itself irrational. We have done no such thing. We have only said that for the purpose of determining the relative seniority ^M ^{in WAP} of the applicant and respondents 4 and 5 in the original application, the dates on which restructuring was undertaken in RDSO and South Central Railway did not constitute a rational consideration. We have not expressed any opinion on the validity of the dates of restructuring undertaken in South Central Railway or in RDSO, as we did not consider it necessary to do so to decide the issue that arose before us in that case.

3. Sri M.Sreerangaiah submitted further that our interpretation of para 5 of the office order dated 21.2.1975 was wrong. We have referred to this in para 5 of our original order. If that contention were right, the remedy is to take up the matter in appeal to the supreme Court by special leave of that court. We do not sit in appeal against our own orders. This contention therefore, also does not justify our undertaking a review of our original order.

4. We may point out, before parting with this application, that the original order was dictated in Open Court in the presence of counsel for both the contesting parties.



4. In view of the above, all the review applications are rejected at the stage of admission itself without notice to the respondents.

Sd/-

VICE CHAIRMAN 10/11/87

Sd/-

MEMBER (A)

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P. V. Venkatesh
DEPUTY REGISTRAR (JULY 13/17)
CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE