

REGISTERED

CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE BENCH
* * * * *

Commercial Complex(BDA)
Indiranagar
Bangalore - 560 038

Dated : 3 JUN 1988

APPLICATION NO

195

/87(F)

W.P. NO.

Applicant

Shri C. Munivenkataramaiah

To

1. Shri C. Munivenkataramaiah
Railway Quarter No. 53
East Railway Colony
Bangarapet P.O.
Bangarapet - 563 114

2. Shri L.K. Srinivasa Murthy
Advocate
M/s Law Associates
195/2, Brigade Road
Bangalore - 560 001

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

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

Respondent

V/s The Secretary, M/o Railways, New Delhi
& 3 Ors

5. The Divisional Personnel Officer
Southern Railway
Madras Division
Park Town
Madras - 600 003

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

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

Subject : SENDING COPIES OF ORDER PASSED BY THE BENCH

Please find enclosed herewith the copy of ORDER/ADVISORY ORDER
passed by this Tribunal in the above said application on 31-5-88.

Encl : As above

R. Venkatesh
DEPUTY REGISTRAR
(JUDICIAL)

o/c

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE BENCH: BANGALORE

Dated the 31st day of May, 1988.

Present

THE HON'BLE MR. JUSTICE K.S. PUTTASWAMY .. VICE CHAIRMAN,
THE HON'BLE MR. L.H.A. REGO .. MEMBER(A)

APPLICATION NO.195 OF 1987(F)

Sri C.Munivenkataramaiah
Chief Clerk, Works Branch,
Bangalore Division,
Office of P.W.I
Southern Railway,
Bangarpet.

.. Applicant.

(By Shri L.K.Srinivasa Murthy, Adv. for the applicant)

-vs.-

1. Union of India
represented by its Secretary
Ministry of Railways
Railbhavan
Raisina Road
New Delhi.

2. The General Manager
Southern Railway
Park Town
Madras-600003.

3. Divisional Personnel Officer
Southern Railway
Madras Division
Park Town
Madras-600 003

4. Divisional Personnel Officer
Southern Railway,
Bangalore Division,
Bangalore-560 023.

Respondents.

(By Shri M.Sreerangaiah, Railway Advocate, for respts.)



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Application coming on for hearing this day
Hon'ble Shri L.H.A. Rego, Member(A), made the following:

O_R_D_E_R

Assailing the order dated 11-8-1986(Annexure G-1) passed by Respondent(R)-4, whereby the applicant was informed, that the seniority assigned to him as Senior Clerk, in the Works Branch, of the Bangalore Division(SBC) of the Southern Railway, Bangalore, was in order, the applicant prays, that the same be quashed and a direction be issued to the respondents to rank him senior to one Sri A.Krishnamurthy, in the cadre of Head Clerk(HC), in the Seniority List of the Works Branch of the SBC and to promote him as Chief Clerk, from the date, his junior was promoted to that cadre and that he be granted such other relief as deemed appropriate, with due regard to the facts and circumstances of his case.

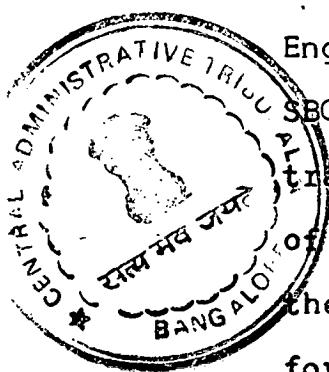
2. The facts giving rise to this application are succinctly as follows: The applicant entered service in the Southern Railway, as Junior Clerk, on 15-2-1955 in the pay scale of Rs.260-400. He was promoted as Senior Clerk, in the pay scale of Rs.330-560 on 1-7-1977, in the Office of the Permanent Way Inspector, Engineering Department, Bangarpet Railway Station, which was attached to the Madras Division of the Southern Railway. He was further promoted as Head Clerk, in the pay scale of Rs.425-700 on 29-3-1982(Annexure-A), on an ad hoc basis, against work-charged provision, with effect from 1-1-1981.



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3. The Southern Railway came to be reorganised administratively with effect from 1-4-1982, when the Bangalore Division(SBC) came to be carved out of the erstwhile Mysore and Madras Divisions. As a result of this reorganisation, the stretch from Whitefield Railway Station to outer Jalarpet, lying on the Bangalore to Madras Broad Gauge Section in Madras Division, of the Southern Railway, formed part of SBC, Bangarpet Railway Station lying between Whitefield and Jalarpet Railway Station, whereas, the applicant was working as a regular Senior Clerk (but officiating as HC on an ad hoc basis) in the office of the Permanent Way Inspector, Engineering Department, Bangarpet Railway Station, consequently, fell within the jurisdiction of the newly carved out SBC.

4. Pursuant to transfer of the Whitefield-Outer Jalarpet Section to the newly formed SBC, 2 posts of Junior Clerks and 3 posts of Senior Clerks of the Engineering Department, came to be transferred to the SBC from Madras Division, but no post of HC came to be transferred. By their Letter dated 20-12-1980, the Office of the Madras Division enquired from its employees their willingness or otherwise, to go over to the newly formed SBC and directed them to exercise their option in the prescribed form (Annexure R-I). The applicant, in compliance thereof, gave his option to go over to the newly formed SBC. The applicant and such other employees who opted to go over to SBC, stood transferred to that Division with effect from 1-4-1982 i.e., the date when SBC was deemed to have come into inception, as a result of



administrative reorganisation of the Railway Divisions, in the Southern Railway.

5. The applicant states, that R4, by his Letter dated 9-7-1984 (Annexure-B), informed him, that the Senior Divisional Personnel Officer, Madras Division, Madras had advised, that the applicant was promoted as HC in the grade of Rs.425-700 on a regular basis with effect from 13-4-1982 and that accordingly, his seniority was assigned with reference to that date of his promotion as HC.

6. The applicant was transferred to the newly formed SBC on 16-6-1982. He states, that in the Last Pay Certificate sent by the Senior Divisional Personnel Officer, Southern Railway, Madras Division to R-4, it was inter alia mentioned, that he was drawing pay as a regular HC and that his emoluments in this post were being paid by SBC. However, the applicant alleges, that when the Provisional Seniority List of Staff of the Works Branch of SBC was drawn up as on 28-2-1983 (Annexure-C), his name was included in the cadre of Senior Clerks.

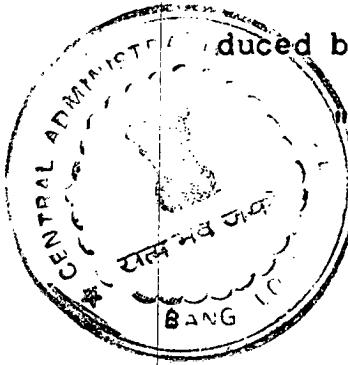
7. Thereon, the applicant is seen to have addressed a representation on 21-4-1984 to the Chief Personnel Officer, Southern Railway, Madras, to which he received a reply from R-4, on 17-9-1984 (Annexure-D), which is reproduced below:

Through PWI/BWT

Sub: Seniority position of Clerks in Works Branch.

Ref: 1. Your representation dated 24-4-1984.

2. Personal representation to DPO dt. 13.9.84 & 14.9.84.



No post of Head Clerk of Works Branch, was transferred from MAS Division to this Division and only posts of Senior Clerks, were transferred. You were working as Head Clerk against a work-charged post on an adhoc basis. You have therefore, been assigned seniority only among Senior Clerks of Works Branch of this Division, based on your date of entry into the grade of Senior Clerk. According to this position, you are not senior enough for being considered for promotion as Chief Clerk.

Your seniority could be fixed among Head Clerks of this Division based on your date of promotion as Head Clerk only, provided MAS division transfers one post of Head Clerks to this Division, for which a reference has been made separately to MAS Division.

Sd.
DPO/SBC.

Copy to: Sr.DEN/SBC for information."

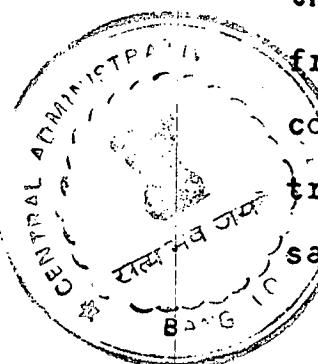


The applicant submitted a further representation on 24-9-1984(Annexure-E) to R-4. He contends, that as SBC actually came into existence on 1-10-1982 and not on 1-4-1982 and that he was regularly promoted as HC in the meanwhile i.e., on 13-4-1982 in the Madras Division, his seniority in the newly formed SBC, should be fixed in the cadre of HC.

9. The applicant alleges, that in the meanwhile, his juniors were promoted to the cadre of Chief Clerks, on account of which, ^{as he} submitted a representation to the Chief Personnel Officer, Southern Railway, Madras, on 26-11-1984 (Annexure-F), to consider him for promotion as Chief Clerk, earlier than his juniors, taking into consideration, that he was regularly promoted as HC with effect from 13-4-1982. As there was no response, the applicant states, that he addressed one more representation on 11-8-1986 (Annexure-G) to the Chief Personnel Officer, Southern Railway, Madras, reiterating his above request.

10. With reference to the representation dated 24-9-1984 (Annexure-E), addressed by the applicant to R-4, he was given a reply on 11-8-1986 (Annexure-G-1), that his request to reckon his seniority in the cadre of HCs, in the Works Branch of SBC, with effect from 13-4-1982 was inadmissible, as his regular appointment as on the date of formation of SBC i.e. 1-4-1982 was as Senior Clerk and not as HC. He was further informed, that in view of the above refixation of his seniority in the cadre of HCs of the Works Branch/SBC with effect from 13-4-1982, did not arise and that this would be contrary to the terms and conditions governing the transfer of staff, as a result of administrative reorganisation of the Railway Divisions.

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11. By his Order dated 25-7-1985(Annexure-H) R-4 permitted the applicant among others, to officiate as HCs, in the pay scale of Rs.425-700, with effect from 1-1-1984, against restructured posts. The applicant contends, that in the light of his promotion earlier as HC, with effect from 13-4-1982 on a regular basis (vide Annexure-B), the question of promoting him again as HC, with effect from 1-1-1984 and that too, on officiating basis did not arise. He therefore submitted yet another representation on 9-1-1986(Annexure-I) to the Divisional Railway Manager, Southern Railway, Bangalore, for redress, but to no avail. Aggrieved, he has approached this Tribunal for redress.

12. The premium mobile, of the contention of Shri L.K.Srinivasamurthy, learned Counsel for the applicant, was, that the administrative reorganisation of the Railway Divisions in the Southern Railway, with particular reference to the Madras Division and SBC, did not actually take place on 1-4-1982, but on 1-10-1982, when allocation of staff, their placement in the respective Divisions and all other concomitant procedural formalities, were finally accomplished. In this context, therefore, he averred, that the seniority of his client, should have been reckoned from the date of his regular promotion as HC, on 13-4-1982, in the Madras Railway Division, from which he was to be transferred and allocated to SBC, according to the option exercised by him.



He further stated, that the applicant was transferred to the newly formed SBC on 16-6-1982 i.e., nearly 2 months from the date, namely, 1-4-1982, the dead-line fixed for administrative reorganisation of the Railway Divisions. In order to fortify this contention, he relied on Letter dated 9-7-1984(Annexure-B), addressed by R-4 to the applicant, wherein it was stated, that the Senior Divisional Personnel Officer, Madras Division, Madras, had advised, that the applicant was promoted as HC, on a regular basis, in the pay scale of Rs.425-700 with effect from 13-4-1982, based on which, his seniority was determined in the cadre of HC. In order to substantiate this contention further, he relied on the latter part of the Letter dated 17-9-1984(Annexure-D) addressed by R-4 to the applicant, wherein the applicant was given to understand, that his seniority could be fixed in the cadre of HC in SBC, based on the date of his promotion as HC, in the Madras Division, provided that Division transferred a post of HC to SBC, for which, a reference was separately made by him.

13. As still further evidence, he relied on the letter dated 21-3-1986(Annexure-N) addressed by the Senior Divisional Personnel Officer, Madras Division, to R-4, to show, that SBC started functioning effectively, only from 1-10-1982 and that the applicant was promoted as HC regularly, from 13-4-1982, prior to that date. It was also stated in the said letter, that the applicant was drawing pay as HC, without interruption

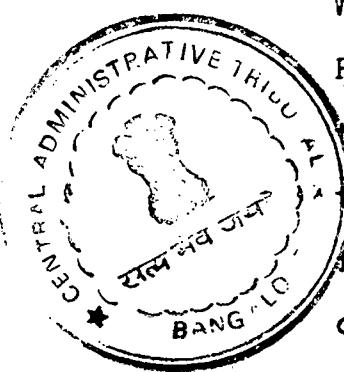
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from 1-10-1982 and therefore, there was no need to transfer the post of HC to SBC. Nevertheless, the Senior Divisional Personnel Officer, Madras Division further remarked in that letter, that even if a post of HC had been transferred in December, 1982 from Madras Division to SBC, the same could have been adjusted in the next annual review. In the end, the Senior Divisional Personnel Officer, Madras Division, had observed in the aforesaid letter, that the request of the applicant to assign him due seniority in the cadre of HC, was justified.

14. Shri Srinivasamurthy next submitted, that the facts and circumstances of the present case, were analogous to those, in Applications Nos 655, 791, 792 and 847 of 1987(F) G.K. SRINIVASA RAO & 3 ORS. -vs.- THE CHAIRMAN, RAILWAY BOARD, NEW DELHI & ORS. decided by this Tribunal on 29-3-1988, wherein, based on the decision of the High Court of Judicature, Karnataka, in Writ Petition No.516/73 (T. THIMMANNA v. THE CHAIRMAN, RAILWAY BOARD, NEW DELHI & ORS.) in an allied matter, the incumbents in the cadre of TTEs-B, were placed above the TCs in regard ^{to their} seniority. On this analogy, Counsel for the applicant pleaded, that there was every justification to place his client, [who was regularly promoted as HC with effect from 13-4-1982 in Madras Division,] above the Senior Clerks in SBC, who were junior to him.

15. The respondents have filed their reply resisting the application. At the outset, Sri M. Sree-rangaiah, learned Counsel for the respondents, raised



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the plea of non-joinder of necessary parties and of the bar of limitation, on which score alone, he urged, the application was liable to be dismissed. He submitted, that the applicant's claim for seniority over one Sri A.Krishnamurthy, who was not made a party to the application [and for eventual promotion as Chief Clerk, earlier than he] alleging, that he was his junior, was ill-founded.

16. Elaborating on the question of limitation, he contended, that the provisional seniority list of the staff, in the Works Branch of SBC, was drawn up and notified by R-4, as on 28-2-1983 and the officiating promotion of the applicant as HC, in the pay-scale of Rs.425-700, was regularised by R-4, on 25-7-1985 (Annexure-H) with effect from 1-1-1985, pursuant to restructuring of the cadres in SBC. He stated, that the applicant's representations dated 25-4-1984 and 13-9-1984, were duly replied by R-4, on 17-9-1984 (Annexure-D). The cause of action for the applicant had actually arisen, he said, as long back as in 1982 and repeated representations by the applicant thereon, he contended, were of no avail of him, in surmounting the bar of limitation.

17. He asserted, that SBC was carved out from Mysore and Madras Divisions of the Southern Railway and it came into being on 1-4-1982 and not on 1-10-1982, as misrepresented by Counsel for the applicant. He stated, that the applicant had no legal basis, to claim, that he

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was promoted as HC on a regular basis, in Madras Division, with effect from 13-4-1982, as he ceased to be an employee of Madras Division on and from 1-4-1982 (i.e., the date fixed as the dead-line by the Railway Administration, for administrative reorganisation of the Southern Railway) when SBC came into existence and to which he stood transferred. This was evident, he said from D.O.Letter dated 27-9-1984 - (Annexure-R1) addressed by the Senior Divisional Personnel Officer, Madras Division, to R-4, the contents of which are extracted below:

"Sub: Transfer of posts for Works Branch/SBC.

Ref: Your D.O.Letter No.B/P.545/
W.Br.of 17-9-1984.

I have since analysed the case of Shri Munivenkataramiah, Offg.Head Clerk, Works branch, PWI(O)BWT in detail and the position is as under:

Shri Munivenkataramiah, while working as Sr.Clerk in grade Rs.330/560 in PWI(O) BWT, had opted for SBC division vide Sl. No.3 under Works Branch list forwarded under this office letter No.M/P(CP)192 of 14.4.81 to DPO/SBC at MYS. You are aware that the Operating division of the new Bangalore division consisting of TT & C department was formed on 11-5-81 and the full fledged division started functioning at SBC from 1-10-82 with the functioning of the divisional Accounts Office also.

While Shri Munivenkataramiah was working as Sr.Clerk in grade Rs.330/560, he was given the benefit of ad hoc promotion as Head Clerk in Scale Rs.425/700 from 1.10.81 and allowed to continue as BWT itself as HC and subsequently regularised with effect from 13.4.82.



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In the meantime, in accordance with the instructions contained in CPO's letter No.P/192/SBC/Vol.II of 4.2.82, the entire work of preparation of bills for open line and administrative office staff of all departments was required to be taken over by the new Bangalore division w.e.f. 1.4.82.

It could be seen from the details furnished above that my D.O.Letter of even No. dated 21.6.1984 advising you that Shri Munivenkataramiah was given the benefit of regular promotion only 13.4.82 will not give any benefit to Shri Munivenkataramiah, in that from 1.4.82 he has to be necessarily counted against the vacancy of HC in the newly formed SBC division subject to he being sufficiently senior enough to be considered. If Shri Munivenkataramiah was not sufficiently senior enough in the SBC division seniority of Sr.Clerks, Works Branch, as on 1.4.82 he should be deemed to have been reverted to the post of Sr.Clerk in grade Rs.330/560.

Inasmuch as Shri Munivenkataramiah had opted for the newly formed SBC division while working as Sr.Clerk under PWI(O)BWT, the question of his repatriation to the parent Madras Division as Head Clerk does not arise.

I hope the position now clarified is clear to enable you to dispose of the case of Shri Munivenkataramiah at your end."

18. Apart from the above, Shri Sreerangaiah contended, ^{as far} subsequent to 1-4-1982, the applicant drew his emoluments from SBC, to the accounts of which they were debited, even though the applicant was serving in Madras Division, some time from 1-4-1982 to 16-6-1982. Taking into account all these facts in their entirety, it was evident, he argued, that the applicant was clearly an employee of SBC, on and from 1-4-1982.



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19. Developing his argument further, he submitted, that as on the date of the transfer of the applicant to SBC, he was only holding substantively, the post of Senior Clerk, as he was initially promoted as HC, purely on ad hoc basis, against a work-charged post and could not have been promoted on a regular basis, as HC in Madras Division, with effect from 13-4-1982 as he stood transferred to the newly formed SBC on 1-4-1982, which was the crucial date of formation of SBC, from out of the erstwhile Mysore and Madras Divisions of the Southern Railway. The applicant, he said, was continued as HC on an ad hoc basis, till he was regularly promoted in that post, with effect from 1-1-1984, on his transfer to and resumption of duty in the newly formed SBC. He submitted, that only the posts of Senior Clerks were transferred to SBC from Madras Division and two incumbents holding substantively, the posts of Senior Clerks at the time of formation of SBC, also stood transferred to SBC from Madras Division on 1-4-1982, along with the applicant, against the corresponding 3 posts of Senior Clerks, which were transferred to SBC. The net result therefore, he said, was, that 3 Senior Clerks inclusive of the applicant, ceased to be the employees of Madras Division on and from 1-4-1982.

20. Sri Sreerangaiah pointed out, that the contention of the applicant, that one Sri A. Krishnamurthy



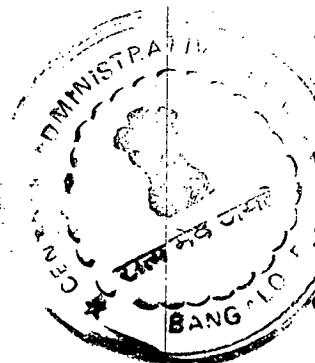
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who was junior to him and was promoted as Chief Clerk earlier than he, was disingenuous, as would be clearly evident from the following relevant service particulars of Sri Krishnamurthy, vis-a-vis the applicant:

Sl. No.	Name (S/shri)	Date of initial appointment.	Date of promotion as Sr.Clerk
1.	A.Krishnamurthy	19-6-52	22-6-64
2.	C.Subramanyam	28-8-52	5.3.64
3.	S.Sathyanaarayana	13-6-61	18-4-68
4.	Balakrishna, V.C.	24-2-55	27-5-70
5.	J.S.Rama Rao	1-3-55	16-9-70
6.	T.A.Sampath Kumar	12-8-57	22-12-70
	(working in Wheel and Axle Plant, Yelahanka)		
7.	A.S.Arunkumar	6.8.73	6.8.73
8.	K.Lakshminarayana	17.1.55	11.4.74
9.	S.D.Kaleswaran(SC)	14-9-60	12-4-74
10.	A.Venugopal	1-7-50	19-12-1975
11.	M.Jayaramappa(SC)	29-11-55	7-12-76
12.	C.Munivenkataramaiah (SC)	15-2-55	1-7-77

21. It was clear from the above service particulars he said, that Sri A.Krishnamurthy was as many as 11 places senior to the applicant and therefore the claim of the applicant, that Shri Krishnamurthy was junior to him, was specious.

22. All representations of the applicant to the concerned respondents, he said, were promptly answered



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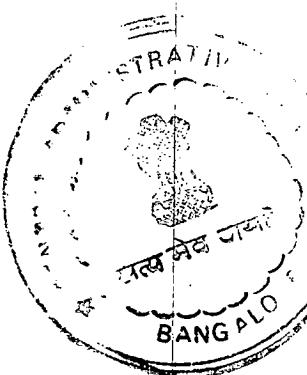
by them and most of these representations were merely repetitive. R-4, he said, had made it clear and explicit to the applicant, by his letter dated 11-8-1986 (Annexure-G-1), that his seniority was fixed with due regard to the terms and conditions governing the allocation of staff to SBC, as a result of administrative reorganisation of the Divisions in the Southern Railway and that the seniority of the applicant so determined and fixed was in order. From the service particulars of the concerned employees, furnished in paragraph 20 supra, he pointed out, that no employee who was junior to the applicant, was promoted either as HC or upwards earlier than the applicant, as alleged by him.

23. We have examined carefully the rival contention and the material placed before us. Before we proceed to consider the merits of the case, we shall deal with the preliminary objections raised by Shri Sree-rangaiah, in regard to non-joinder of necessary parties and the bar of limitation. In regard to the former, even though prima facie, the applicant should have ex debitio iustitiae, impleaded Shri A.Krishnamurthy as a necessary party, over whom he claims seniority for his career advancement, We feel that this lapse on the part of the applicant, could be overlooked, in the light of our ensuing analysis and discussion, on which we hold, that the said Shri Krishnamurthy, is not junior to the applicant. As regards the bar of limitation, it is pertinent to peruse



the reply given by R-4 to the applicant, on 17-4-1984 (Annexure-D) to his representation dated 24-4-1984. The concluding para of Annexure-D - vide para 7 supra - gave a glimmer of hope to the applicant, that his case would be favourably considered on the premise, that R-4 had made a reference to the Madras Division, to transfer one of the posts of HCs to SBC. As this did not materialise, the applicant is seen to have addressed another representation on 24-9-1984 (Annexure-E) to R-4, to which there seems to have been no response. It appears therefore, that he was constrained to send another representation on 11-8-1986 (Annexure-G) to the Chief Personnel Officer, Southern Railway, Madras, iterating his earlier request, for restoration of his seniority in the cadre of HCs. Coincident with this date, the applicant is seen to have received a reply from R-4 (Annexure-G-1), negativing his request. The application before us is seen to have been filed on 16-3-1987. Taking into account the chronological events as above, we find that the plea of limitation urged by Shri Sreerangaiah is not well-founded and therefore we attach no merit to the same.

24. In our view, the pivotal issue on which the fate of this application hinges, is the meridian date or the dead-line, fixed by the competent authority of the Railway Administration, to effectuate the ^{re}administration _{re}reorganisation of the concerned Railway Divisions, in the Southern Railway. According to Shri Sreerangaiah,



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this meridian date or the dead-line was 1-4-1982 and not 1-10-1982, as claimed by the applicant. He substantiated the same, on the following grounds:

- (i) Two employees, holding substantively the posts of Senior Clerks at the time of formation of the new SBC, stood transferred to SBC from Madras Division on 1-4-1982, along with the applicant, against the corresponding 3 posts of Senior Clerks transferred to SBC. All these 3 Senior Clerks ceased to be on the rolls of Madras Division on and from 1-4-1982.
- (ii) The D.O. Letter dated 27-9-1984 (Annexure R-1) from the Senior Divisional Personnel Officer, Madras Division addressed to R-4 revealed at its sequel - vide para 17 supra - that from 1-4-1982, the applicant had to be reckoned against the vacancy of HC in the rolls of the newly formed SBC subject to his seniority as Senior Clerk as on that date, in the Works Branch of SBC.
- (iii) The applicant's salary subsequent to 1-4-1982, was drawn from and debited to the accounts of SBC, even though he served in Madras Division upto 16-6-1982 ^{when} ~~when~~ he actually joined duty in SBC.



25. Shri Sreerangaiah then referred to the option exercised by the applicant on 2-1-1987, in the prescribed form (Annexure-R II), of his own volition, in response to

Letter dated 20-12-1980 of the Madras Division, calling for ~~the~~
~~inviting~~ option and invited our attention in particular,
to S.Nos.5(a) to (e) thereof, which read as under:

"Option Form"

1 to 4 xx xx xx

5. Regular officiating status:

(a) Designation

(b) Revised scale of pay:

(a) After full and careful consideration, I hereby opt to serve in the proposed new Bangalore Division.

(b) I am aware that the option once exercised by me is final and I shall not seek change of option on a subsequent date.

(c) I am also aware that the mere fact of my exercising the option does not imply that I would be transferred to Bangalore Division automatically but my case would be considered based on the combined seniority basis of the optants and to extent vacancies are available.

(d) I am also aware that my seniority in the new Bangalore Division would be determined based on my length of service in my present grade which I am holding on a regular basis duly maintaining the inter-se-seniority position, if any.

(e) I shall abide by the General Principles for the determination of the combined Seniority of Staff in the new Bangalore Division.

Sd. Signature of the optant.
Dt. 2-1-81."

26. It would be seen from the foregoing, that the actual transfer of the applicant to SBC, would have necessitated some time for completion of the required

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modalities, attendant on reorganisation of the Railway Divisions and that the applicant was cognisant, that his seniority in the newly formed SBC, would be governed by the length of his service in the grade he was holding, at the time he actually exercised his option as above, with due regard to the seniority inter se (i.e., with reference to the concerned Railway Divisions). He had also given an undertaking in the option form, to the effect, that he would abide by the general principles governing combined seniority of staff, in the newly formed SBC.

27. With these⁴ awareness of and committal of the applicant as above, it is abundantly clear, that on 1-4-1982, which was the crucial date, on which SBC came to be newly carved out, from the erstwhile Mysore and Madras Railway Divisions, and on and from which date, the applicant came to be borne on the rolls of SBC, for the reasons aforementioned, the applicant could not have been promoted on a regular basis, as HC in the Madras Division, from the substantive post of Senior Clerk, which he was holding at the time he exercised his option as above.

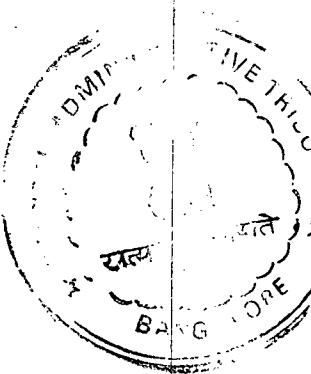
28. It needs to be realised, that administrative reorganisation of the like, cannot be effectuated overnight and its transition necessitates, the essential minimal time, till the various modalities are duly processed and completed and the allottees are



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finally placed in position, in their respective posts in the Divisions to which they are allotted. During this period of transition, the allottees to the respective Divisions, are bound by the terms and conditions under which they exercised their option of their own volition, from which they cannot tendentiously resile, with an eye on overriding benefit on their seniors, in respect of their service.

29. During this phase of transition, the Madras Division could have granted promotion to the applicant in the cadre of the HC, only as an interim measure, in the event of administrative exigency but could not have regularised him in that cadre with effect from 3-4-1982 as indicated in Annexure-B, regardless of his seniority inter se in SBC, and of the terms and conditions of his option (Annexure R-II) and of the fact, that the applicant actually stood transferred to the newly formed SBC on and from 14-3-1982 and his emoluments were debited to the accounts of that Division from that date. Otherwise this would have resulted in gross injustice to many, who were senior to the applicant in the respective grade, prior to and at the time of reorganisation of the concerned Railway Divisions, by conferring overriding service benefit on the applicant.



30. That the applicant is way down in his seniority inter se in SBC, in the cadre of Senior Clerks, as on 1-4-1982, is at once manifest from the relevant service particulars ^{as furnished} _{submitted} in para-20 above. Besides, nowhere

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has it been brought to our notice, that the applicant was superseded by any of his juniors. Shri A.Krishnamurthy over whom the applicant claims seniority, is positively many places senior to the applicant, as is evident from the above service particulars.

31. The case of G.K.SRINIVASA RAO & ORS., relied upon by the applicant - vide para 14 above - relates to merger of two different cadres, namely, that of TTEs 'B' and TCs in the Railways, on a particular date⁴⁴ and fixation of seniority in that context and therefore, has no relevance to the case before us, where the facts and circumstances are wholly different. That case having no bearing on the application before us, cannot come to the aid of the applicant.

32. In the result, it is apparent, that the claim of the applicant for regular promotion to the post of HC, with effect from 13-4-1982 and for seniority over Shri A.Krishnamurthy (who is decidedly his senior) for promotion in SBC in the grade of HC and upwards, is clearly bereft of merit and is liable to be rejected. We have no hesitation in doing so.

33. We, therefore, dismiss the application accordingly, but with no order however, as to costs.

Sd/-

R. Venkatesh
DEPUTY REGISTRAR (JDL) 3/1
VICE CHAIRMAN
CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE

Sd/-

(L.H.A. REGO)
MEMBER(A)