

CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE BENCH

Commercial Complex (BDA)
Indiranagar
Bangalore - 560 038

Dated : 4 AUG 1988

REVIEW APPLICATION NO. 56 / 88
IN APPLICATION NO. 271/87(F)
W.P. NO. _____

Applicant(s)

General Manager, South Central Rly, V/s
To Secunderabad & another

Respondent(s)

Shri V.N. Sunkad

1. The General Manager
South Central Railway
Rail Nilayam
Secunderabad (Andhra Pradesh)
2. The Divisional Railway Manager
South Central Railway
Hubli Division
Hubli
3. Shri M. Sreerangaiah
Railway Advocate
3, S.P. Building, 10th Cross
Cubbonpet Main Road
Bangalore - 560 002
4. Shri V.N. Sunkad
Chief Ticket Inspector Grade II
South Central Railway
Hubli (Dharwar District)

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 ^{Review} application(s) on 29-7-88.

Encl : As above

[Signature]
DEPUTY REGISTRAR
(JUDICIAL)

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE BENCH: BANGALORE

DATED THIS THE TWENTY NINTH DAY OF JULY, 1988

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

Hon'ble Shri P. Srinivasan...

Member (A)

REVIEW APPLICATION NO. 56 OF 1988

1. General Manager,
South Central Railway,
Rail Nilayam,
Secunderabad.

2. Divisional Railway Manager,
South Central Railway,
Hubli Division,
Hubli.

Applicants

(Shri M. Sreerangaiah.....Advocate)

Vs.

1. V.N. Sunkad,
Rtd. Travelling Ticket Examiner
residing at: Hubli.

Respondent

This application having come up for hearing
before this Tribunal to-day, Hon'ble Shri P. Srinivasan,
Member (A), made the following :-

O R D E R

By this review application, the respondents
in A.No. 271/87 want us to review our order passed
in that application on 12.2.1988.

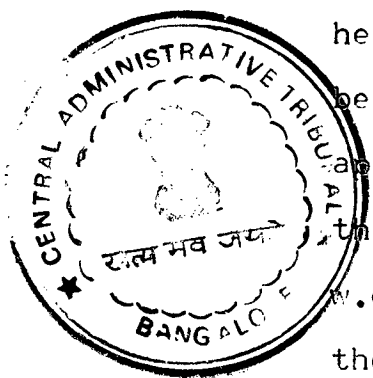
2. This application is delayed by 103 days.
The applicants in this R.A. have sought for condonation
of the said delay. No proper reasons have been adduced
for the delay, except saying that it was bonafide and

P. Srinivasan



not deliberate. In view of this, we hold that there is no sufficient reason to justify the delay in filing the R.A. It deserves to be rejected on this ground itself. However, even on merits, this application has no legs to stand on, as we shall presently show.

3. The grievance of the original applicant Shri V.N. Sunkand was that though restructuring of cadres w.e.f. 1.1.1984 was ordered by Central Railway Circular dated 27.12.1983 and persons were required to take some tests for promotion to higher cadres under the restructuring, no such tests were held till the date of his retirement, which took place as late as on 30.4.1985. It was submitted on his behalf that if a test had been held, within a reasonable time after the issue of the restructuring circular, the applicant would have had an opportunity to take the test and would have stood a good chance of promotion to the higher post w.e.f. 1.1.1984, which was denied to him by the delay in holding the test, until after he retired. Since a similar matter had already been decided by us in A.No. 657/87, we allowed the application. In view of the long delay, we directed that the applicant be fitted in the higher post w.e.f. 1.1.1984 and given all benefits flowing therefrom.



4. In the present application, the respondents in A.No. 271/87 state that there were not sufficient vacancies in the higher cadre to which the applicant could be promoted from 1.1.1984. Sri Sreerangaiah

P. S. - K.

Submitted that even if a test had been held soon after 1.1.1984 and the applicant had passed the same, he would not have been promoted to the higher cadre for want of vacancies to cover him according to his rank in the seniority list. We fail to understand why this point was not brought up at the hearing of this application. The respondents submitted that in the case of the other applicant, whose application was also decided by our order, he has been given the necessary promotion and other benefits. At this late stage, we are unable to accept the contention that the applicant could not be given the same benefit for want of a vacancy. After all, he has retired, and by his promotion, he is not going to actually occupy a post in the higher cadre. All that the respondents need to do is to show that the applicant

as having been promoted with effect from 1.1.1984 ^{notionally} and give him all consequential ^{retirement} benefits without displacing anybody else. In any case, we see no justification for undertaking a review of our order on the ground urged in this application.

5. A copy of this application was sent to Sri V.N.Sunkad, the applicant in A.No.271/87, and he has chosen to remain absent. This matter was, therefore, taken up in his absence, after hearing Shri M.Sreerangaiah for the applicants in this R.A.

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6. In view of the above, the application for review is rejected. No order as to costs.

Sd/-

Sd/-

VICE CHAIRMAN

MEMBER (A)

DEPUTY REGISTRAR (JUL)

29/7/88

CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE

REGISTERED

CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE BENCH
.....

Commercial Complex(BDA),
Indiranagar,
Bangalore- 560 038.

Dated: 22 FEB 1988

APPLICATION NO S. 270 & 271 / 87 (F)

W.P.No. _____

APPLICANT

Vs

RESPONDENTS

Shri Y.G. Yeri & another

The GM, South Central Railways, Secunderabad
& another

To

1. Shri Y.G. Yeri

2. Shri V.N. Sunkad

(Sl Nos. 1 & 2 - C/o Shri R.U. Goulay
Advocate
90/1, 2nd Block
Near Ganesh Mandir
Post Office Road
Thyagarajanagar
Bangalore - 560 028)

3. Shri R.U. Goulay
Advocate
90/1, 2nd Block
Near Ganesh Mandir
Post Office Road
Thyagarajanagar
Bangalore - 560 028

4. The General Manager
South Central Railway
Secunderabad(Andhra Pradesh)

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

6. Shri M. Sreerengaiiah
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/~~STAY~~/

~~INTERIM ORDER~~ passed by this Tribunal in the above said application

on 12-2-88.

Encl: as above.

[Signature]
DEPUTY REGISTRAR
(JUDICIAL)

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE BENCH: BANGALORE

DATED THE TWELTH DAY OF FEBRUARY, 1988

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

Application Nos. 270 & 271/87

1. Y.G. Yeri,
Retired Chief Ticket Inspector,
Grade II, S.C. Railways,
Hubli, Dist. Dharwar.
 2. Shri V.N. Sunkad,
Chief Ticket Inspector,
Grade II, S.C. Railways,
Hubli, Dist. Dharwar. ... Applicants
- vs. (Shri R.U. Goulay, Advocate)

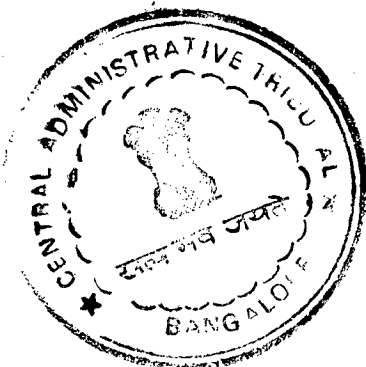
1. The General Manager,
S.C. Railways,
Secunderabad (A.P)
 2. The Divisional Railway Manager,
S.C. Railways, Hubli,
Dist. Dharwar. ... Respondents
- (Shri M. Sreerangaiah, Advocate)

This application has come up before the Court today. Hon'ble Shri P. Srinivasan, Member(A), made the following

ORDER

In these applications, the applicants, who were working as Chief Ticket Inspectors Grade II in the scale of Rs 550-750 (pre-revised), complain that they should have been promoted as Chief Ticket Inspectors Grade I in the scale of Rs 700-900 (pre-revised) with effect from 1-1-1984 as per restructuring of scales ordered in General Manager, South Central Railway's circular dated 27-12-1983. The respondents' contention is that though the applicants passed the written examination for the purpose of promotion, they retired before the oral test was held so that they could not be given promotion to the higher post as a result of the restructuring.

2. Shri M. Sreerangaiah, learned counsel for the respondents, raised a preliminary objection that these applications are barred by limitation because the cause of



action arose on 1-1-1984, the date from which the applicants claim promotion and that with reference to that date, these applications are badly delayed.

3. Shri R.U. Goulay, learned counsel for the applicants, opposed the contentions of Shri Sreerangaiah and submitted that these applications were in time. Even if they are considered out of time so far as the promotion of the applicants to the higher posts from 1-1-1984 is concerned, the decision not to promote them affected their pension and other terminal benefits which is a continuing grievance, and that with reference to these benefits, the application is certainly in time.

4. After considering the rival contentions, we are of the view that while Shri Sreerangaiah may be right about ⁰¹ ~~the~~ limitation having set in in respect of the applicant's claim for monetary benefits from promotion with effect from 1-1-1984, it certainly does not operate to deny the applicant's higher pension and terminal benefits that would have been due to them if, as claimed by them, they were entitled to be given promotion from 1-1-1984.

5. Shri Goulay submits that though orders of restructuring were passed in December 1983 and the restructuring should have been brought about by 31-3-1984 according to the letter of the General Manager, South Central Railway, dated 27-12-1983, the respondents took a long time to conduct the written and oral tests for promotion to the higher posts. The applicants took and passed the written test which was held on 20-1-1985 but this examination was cancelled by the respondents later and a fresh written test was held on 11-8-1985 by which time both the applicants had retired. The oral test was scheduled for 9-4-1986 in which naturally the applicants could not appear. For no fault of the applicants, the restructuring, which should have been



P. Goulay

for promotion with reference to their service records without requiring them to pass written and oral tests and if found fit, they should be given promotion from the date the restructured posts came into existence. We feel that there is no point, on the peculiar facts of these cases, in asking the respondents to consider the fitness of the applicants for promotion at this late stage long after both of them have retired. We therefore direct the respondents to give both the applicants promotion with effect from 1-1-1984 to the pre-revised scale of Rs 700-900. However, the applicants will not be entitled to arrears of pay on account of such promotion till the dates of their retirement, but their pay and allowances on the dates of their retirement will be refixed notionally as if they were promoted from 1-1-1984 for determining their pension and other terminal benefits on retirement.

8. The application is disposed of on the above terms. Parties to bear their own costs.

Sd/-
VICE CHAIRMAN

Sd/-
MEMBER(A)

12/2/88
TRUE COPY



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

completed by 31-3-1984 according to the letter dated 27-12-1983 of the General Manager, South Central Railway, was delayed much beyond that date and even beyond the dates of retirement of both the applicants which were in March and April 1985. When the circular letter was issued on 27-12-1983 both the applicants were in service and expected to be promoted within a short time after the prescribed procedure was completed. For no fault of theirs, the whole procedure took time and they had to retire in the meanwhile. For this reason, they should not be made to suffer.

6. Shri Sreerangaiah opposing the contention of Shri Goulay submitted that delays were inevitable in a huge organisation like the Railways and for that reason, the applicants could not be given promotion without passing the qualifying tests.

7. We have considered the rival contentions carefully. A similar matter came up before another Bench of this Tribunal in which one of us (Hon'ble Shri P.Srinivasan) was a party - application No. 657/86. While disposing of this application, this Tribunal held that when the process of promotion as a result of restructuring is delayed for no fault of the official concerned, he could not for that reason be denied the promotion to a post which had come into existence well before he retired from service. In that case, we were concerned with an order of restructuring dated 27-9-1983 and the tests for promotion in that case were held long after the circular bringing about restructuring was issued and because of the delay, the applicants therein could not take the test and qualify for promotion. We held that in the circumstances of those cases, the applicants therein should be considered



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