

CENTRAL ADMINISTRATIVE TRIBUNAL

BANGALORE BENCH

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Commercial Complex (BDA)
Indiranagar
Bangalore - 560 038

Dated : 18 APR 1988

APPLICATION NOS. 434 to 436 / 87(F)

W.P. NO. _____

Applicant

Shri B. Abdul Salam & 2 Ors
To

V/s The Divisional Manager, Southern Railway,
Bangalore Division & 8 Ors

Respondent

1. Shri B. Abdul Salam
Diesel Loco Khalasi
Diesel Loco Shed
Krishnarajapuram
Bangalore
2. Shri C. Wilson
Diesel Loco Khalasi
Diesel Loco Shed
Krishnarajapuram
Bangalore
3. Shri P. Rajendran
Diesel Loco Khalasi
Diesel Loco Shed
Krishnarajapuram
Bangalore
4. Shri S.K. Joshi
Advocate
'Malhar'
7/10, A-5, Kumarakrupa Road
Bangalore - 560 001
5. The Divisional Manager
Southern Railway
Bangalore Division
Bangalore
6. The Divisional Personnel Officer
Southern Railway
Bangalore Division
Bangalore
7. Shri D.S. Kumar
8. Shri Sukumaran
9. Shri A. Richard
10. Shri G. Babu
11. Shri V.M. Ganeshan
12. Shri V.N. Srinivasamurthy
13. Shri T. Parameswaran
- (Sl Nos. 7 to 13 -
Sk. Gr. III Mechanics
Diesel Loco Shed
Krishnarajapuram
Bangalore)
14. 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/XXXX/XXXXX ORDER
passed by this Tribunal in the above said application on 8-4-88

Received copies in full
the application. B.A. 18/4/85

R. A. Umble
DEPUTY REGISTRAR
(EUDIGITAL)

Encl : As above

(B. ABDUL SAHAM) QC

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE BENCH: BANGALORE

DATED THIS THE EIGHTH DAY OF APRIL, 1988.

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

APPLICATION NOS. 434 TO
436 OF 1987

1. Shri B. Abdul Salam
Diesel Loco Khalasi
Diesel Loco Shed
Krishnarajapuram
Bangalore.
2. Shri C. Wilson
Diesel Loco Khalasi
Diesel Loco Shed
Krishnarajapuram
Bangalore.
3. Shri P. Ranjendran
Diesel Loco Khalasi
Diesel Loco Shed
Krishnarajapuram
Bangalore.

.. Applicants

(Shri S.K. Joshi, Advocate)

Vs

1. Divisional Manager
Southern Railway
Bangalore Division
Bangalore.
2. Divisional Personnel Officer
Southern Railway, Bangalore Dvn.
Bangalore.
3. Shri D.S. Kumar
Major
Sk. Gr. III Mechanic
Diesel Loco Shed
Krishnarajapuram
Bangalore - 36,
4. Shri Sukumaran
Major, Sk.Gr.III Mechanic
Diesel Loco Shed
Krishnarajapuram
Bangalore.

Shri A. Richard, Major,
Sk. Gr.III Mechanic
Diesel Loco Shed
Krishnarajapuram
Bangalore.

5. Shri G. Babu
Major, Sk. Gr.III Mechanic
Diesel Loco Shed
Krishnarajapuram
Bangalore.



7. Shri V.M. Ganeshan
Major, Sk. Gr.III Mechanic
Diesel Loco Shed
Krishnarajapuram
Bangalore - 36.

8. Shri V.N. Srinivasamurthy
Major, Sk. Gr.III Mechanic
Diesel Loco Shed
Krishnarajapuram
Bangalore-36.

9. Shri T. Parameshwaran
Major, Sk. Gr.III Mechanic
Diesel Loco Shed
Krishnarajapuram
Bangalore-36

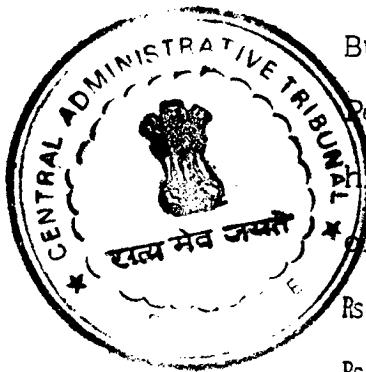
.. Respondents.

(Shri M. Sreerangaiah, Advocate)

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

O R D E R

The three applicants before us were appointed as substitute Khalasis in the Bangalore Division of the Southern Railway, applicant-1 on 1.11.1980, applicant-2 on 26.4.1981 and applicant-3 on 2.4.1981. They were sent for diesel training on 15.10.1981, 31.8.1982 and 30.10.81 respectively. After training, they were posted to the Diesel Wing (Division) An order dated 21.11.1984 was passed in respect of applicant-1 promoting him to the scale of Rs 260-400 in the skilled category along with certain others. But, this order which was passed by the Divisional Personnel Officer, Bangalore was held in abeyance by him by another order passed on 19.1.1985. By an order dated 2.8.1985 13 Khalasis in the grade of Rs 196-232 were promoted to the skilled category of Rs 260-400. By another order dated 18.3.1987 respondents 3 to 9 who were Khalasis were promoted to ad hoc



the skilled category. The complaint of the applicants is against the last mentioned order by which respondents 3 to 9 were promoted to the skilled category. Their contention is that they joined the Diesel Division before respondents 3 to 9 since they were deputed for diesel training before respondents 3 to 9 and that therefore they should be considered seniors to the said respondents and promoted to the skilled grade before the said respondents were so promoted. Another grievance of the applicants is that they were not empanelled as regular Khalasis when they should have been, that is, prior to the dates of empanelment of respondents 3 to 9 and if that had been done that they would have been entitled to promotion to the skilled grade before respondents 3 to 9.

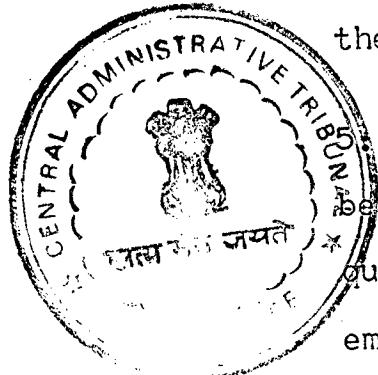
2. Shri S.K. Joshi, learned counsel for the applicants submitted that the seniority of Khalasis in the Diesel Division should have been determined on the basis of the dates on which they were deputed for diesel training. The applicants were sent for diesel training on 15.10.1981, 31.8.1982 and 30.10.1981 and these were the dates from which their seniority as Khalasis in the Diesel Division should have been reckoned. Secondly, he submitted that the applicants should have been empanelled as regular Khalasis with effect from the dates when they were ~~empanelled as Khalasis~~^{deputed for diesel training}, but, their empanelment was delayed for administrative reasons and they should not be made to suffer for this. He pointed out from the seniority list of diesel Khalasis (Mechanical) on 1.3.1986 prepared by the Railways that



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when they were sent for training on 15.10.1981, and 13.8.1982 and 30.10.1981, they continued to be so even after the training when they were posted in the Diesel Division. The date of their entry in the Diesel Division which is recorded in the seniority list is the date from which they were empanelled and became regular Khalasis and those dates were much later than the dates on which respondents 3 to 9 had entered the Diesel Division as regular Khalasis. This being so, all the three applicants were juniors to respondents 3 to 9 and there was nothing wrong in promoting respondents 3 to 9 to the skilled category above the applicants. Sri Sreerangaiah also submitted that the cause of action of the applicants arose when respondents 3 to 9 were first empanelled leaving out the applicants and that happened well before 1.11.1982, and this Tribunal had no jurisdiction over the said cause of action.

4. We have considered the rival contentions carefully. We may first dispose of the objection of Sri Sreerangaiah that the cause of action involved in this case is beyond the jurisdiction of this Tribunal. As we have explained earlier, the grievance of the applicants is specifically against the order dated 18.3.1987 by which respondents 3 to 9 were promoted to the skilled cadre and with reference to that date the applications were well in time. This objection is, therefore, rejected.



From what we have stated above, it will be seen that the whole controversy centres round the question as to when the applicants were actually empanelled or should have been empanelled as Khalasis. Connected to this is another issue namely whether

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division
date of entry into the diesel cadre noted therein
in respect of others was the date of which they
were deputed for training but that basis had not
been adopted in the case of the applicants and by
not doing so, injustice had been done to them and
they had been denied promotion. The promotion of
applicant-1 to the skilled category by an order
dated 21.11.1984, though it was not implemented at
that time also clearly indicated that the said
applicant was senior to respondents 3 to 9 and was
rightly considered for promotion before them. But,
for unknown reasons, the railway authorities had
eventually decided to promote respondents 3 to 9 in
preference to all the applicants before us.

3. Shri M. Sreerangaiah, learned Counsel
for Railways submitted that the seniority of Khalasis
was based on the dates of their empanelment. Respondents
3 to 9 had joined as substitute Khalasis much before
all the three applicants and they were empanelled as
regular Khalasis also before the applicants. In the
erstwhile Mysore Division, the last empanelment of
substitute Khalasis was made in respect of vacancies which
existed upto 31.3.1981. When the empanelment was done
on this basis, all the applicants were too junior to
be considered for empanelment, while the respondents
being seniors were duly empanelled. When respondents
3 to 9 were shifted to the Diesel Division, they were
already empanelled and so in their cases, the date from
which they were deputed for training was taken for the
purpose of their seniority in that Division. So far as
applicants were concerned, they were substitute Khalasis



seniority of Khalasis in the Diesel Division should be based on the date from which they were deputed for Diesel training, irrespective of whether they had been empanelled or not at the time. So far as empanelment is concerned, the respondent railways have clarified that respondents 3 to 9 were initially appointed as substitute Khalasis between 26.4.1979 and 10.4.1980 while the applicants were so appointed between 1.10.1980 and 26.4.1981. They have also explained that respondents 3 to 9 were, on the basis of their length of service as substitute Khalasis, empanelled on various dates between 27.3.1981 and 20.3.1982, while the applicants were so empanelled on 6.9.1986. There was admittedly a delay in the regularisation of the applicants because of certain administrative problems in the Bangalore Division which came into existence in 1981. But, this does not take away the fact that respondents 3 to 9 became due for empanelment at a time the applicants were not eligible for empanelment, the former having joined as substitute Khalasis before the latter. Therefore, on the basis of the dates of empanelment, respondents 3 to 9 were clearly seniors to the applicants. So far as the date of entry into the Diesel Division is concerned, Shri Joshi's contention was that the dates from which the applicants were sent for training should be taken as their date of entry into that Division. Even if we accept this contention, we must observe that at the time the applicants were sent for training they were only substitute Khalasis; they can claim seniority on this basis only in the grade of substitute Khalasis in Diesel Division and not in the grade of regular Khalasis. They can claim seniority in the grade of regular Khalasis only after they ^{are} ~~were~~



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empanelled. Therefore, the entry of the applicants into the Diesel Division for the purpose of determining their seniority vis-a-vis respondents 3 to 9 has necessarily to be the date from which they were empanelled as regular Khalasis ~~and~~ while working in that Division. ^{and} these dates, as we have already observed were subsequent to the dates from which respondents 3 to 9 entered the Diesel Division as regular Khalasis. Shri Joshi cited an unreported Division Bench decision of the Kerala High Court in A.A. Nos. 50 and 195 of 1976 decided on 20.1.1980. We have perused that judgement and we find that it has no bearing on the facts of the present cases.

In view of what we have stated above, these applications are devoid of merit. We, therefore, dismiss these applications with no order as to costs.

sd/-

VICE CHAIRMAN

sd/-

MEMBER (A)

mr.

TRUE COPY

R. Venkatesh
DEPUTY REGISTRAR (JDL) *18/1/81*
CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE