

CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE BENCH

Commercial Complex(BDA)
Indiranagar
Bangalore - 560 038

Dated : 2 MAR 1989

APPLICATION NO (S) 1181 to 1183 / 88(F)
W.P. NO (S) _____

Applicant (s)

Respondent (s)

Shri P.A. Myageri & 2 Ors
To

V/s

The Divisional Railway Manager, South Central Rly,
Hubli & 7 Ors

1. Shri P.A. Myageri
2. Shri C. Sanjeevi
3. Shri M. Ramachandra Kurup

(Sl Nos. 1 to 3 -

Deputy Chief Controllers
South Central Railway
Hubli)

4. The Divisional Railway Manager
South Central Railway
Hubli

5. The Chief Personnel Officer
South Central Railway
Rail Nilayam
Secunderabad (A.P.)

6. Shri Abdul Wahab Khan
7. Shri S.S. Ramenjenayalu
8. Shri Martin Luther
9. Shri V.S. Joshi

10. Shri V.B. Rotti

11. Shri K. Radhakrishna

(Sl Nos. 6 to 11 -

Deputy Chief Controllers
South Central Railway
Hubli)

12. Shri K.V. Lakshmanachar
Railway Advocate
No. 4, 5th Block
Friend Square Police Quarters
Mysore Road
Bangalore - 560 002

Subject : SENDING COPIES OF ORDER PASSED BY THE BENCH

Please find enclosed herewith a copy of ORDER/~~STAY~~ ~~INTERIM ORDER~~
passed by this Tribunal in the above said application(s) on 15-2-89.

Encl : As above

[Signature]
DEPUTY REGISTRAR
(JUDICIAL)

CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE

DATED THIS THE 15TH DAY OF FEBRUARY, 1989

Present: | Hon'ble Shri Justice K.S. Puttaswamy, Vice-Chairman
and
| Hon'ble Shri L.H.A. Rego, Member (A)

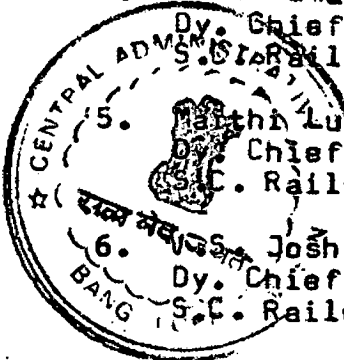
APPLICATION NOS. 1181 TO 1183/1988

1. Shri P.A. Myageri,
S/o Andanappa,
Age about 46 years,
Dy. Chief Controller
S.C. Railway, Hubli.
2. Shri C. Sanjeevi,
Age about 46 years,
Dy. Chief Controller
S.C. Railway, Hubli.
3. Shri M. Ramachandra Kurup,
S/o P. Madhavan Pillai,
Aged about 45 years,
Dy. Chief Controller,
S.C. Railway, Hubli.

Applicants in
..... A.Nos.1181-1183/88

v.

1. Divl. Railway Manager,
S.C. Railway, Hubli.
2. Chief Personnel Officer,
Rail Nilayam, South Central
Railway, Secunderabad.
3. Abdul Wahab Khan, Major,
Dy. Chief Controller,
S.C. Railway, Hubli.
4. S.S. Ramanjeneyalu, Major,
Dy. Chief Controller,
S.C. Railway, Hubli.
5. Mathi Luther, major,
Dy. Chief Controller,
S.C. Railway, Hubli.
6. V.B. Joshi, major,
Dy. Chief Controller,
S.C. Railway, Hubli.
7. V.B. Rotti, major,
Dy. Chief Controller,
S.C. Railway, Hubli.



8. K. Radhakrishna, major,
Dy. Chief Controller,
S.C. Railway, Hubli.

.... Respondents.

(Shri K.V. Lakshmanachar, Advocate
for Respondents 1 to 2)

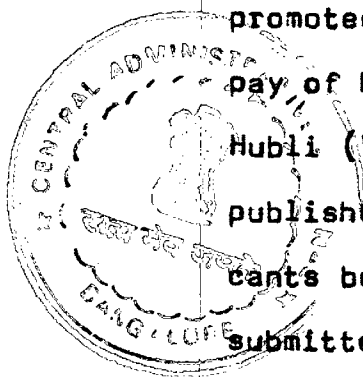
These applications having come up for hearing to-day,
Vice-Chairman made the following:

O R D E R

These are applications made by the applicants under
Section 19 of the Administrative Tribunals Act, 1985
(‘the Act’).

2. Prior to 1985, Sriyuths P.A. Myageri, C. Sanjeevi
and M. Ramachandra Kurup, who are the applicants before us
and respondents 3 to 8 were working as Assistant Station
Masters (‘ASMs’) and Guards respectively. While the pay
scale of ASMs was Rs.425-640, that of Guards was Rs.330-530.

3. In 1985, the applicants and respondents 3 to 8 were
promoted as Section Controllers in the then time-scale of
pay of Rs.470-750. On that, the Divisional Railway Manager,
Hubli (‘DRM’) in his Memorandum dated 18.2.1988 (Annexure-C)
published a Provisional Seniority List placing the appli-
cants below respondents 3 to 8. On this the applicants
submitted representations to the DRM to place them above
respondents 3 to 8 on the ground that they were senior to
them with due regard to the higher scales of pay allowed
to ASM over Guards. But, the DRM had refused to accede to
the same. Hence, these applications.



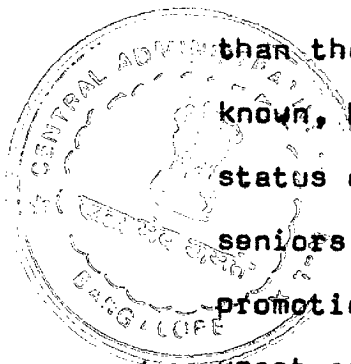
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4. In justification of the impugned seniority list, respondents 1 and 2 have filed their reply and produced their records. Respondents 3 to 8 who have been duly served, have remained absent and are unrepresented.

5. Shri Myageri appearing in person and representing the other two applicants also, contends that the ASMs drawing a higher pay scale than the one allowed to Guards, were seniors to the latter and that on their selection as Section Controllers that seniority should only have been maintained as ruled by the Hyderabad Bench of this Tribunal in B.H. VENKATESWARLU AND OTHERS v. THE CHIEF PERSONNEL OFFICER, S.C. RAILWAY, SECUNDERABAD AND OTHERS - Transferred Application No.178 of 1986/Writ Petition No. 39 of 1983 decided on 7.4.1988.

6. Shri K.V. Lakshmanachar, learned counsel for respondents 1 and 2, in justifying the ranking in the impugned seniority list contends that the decision rendered by the Hyderabad Bench in Vankateswarlu's case based on the fact that the relevant rules had not been brought to its notice was erroneous and cannot be applied as a binding precedent.

7. The fact that ASMs were drawing higher scales of pay than those allowed to Guards is not in dispute. As is well known, higher scales of pay are allowed to cadres higher in status only. On this, it necessarily follows that ASMs were seniors to Guards drawing lower scales of pay. On their promotions as Section Controllers, this position cannot be upset and on the contrary should be maintained.



8. In Venkateswarlu's case, this very question has been examined and found in favour of the applicants by the Hyderabad Bench. Even assuming that the Railway Administration did not bring to the notice of the Hyderabad Bench, Rule 321 of the Indian Railway Establishment Manual relied on before us, that does not make any difference to applying the principles enunciated therein as a binding precedent. On this, it follows that we should apply the principles enunciated by the Hyderabad Bench in Venkateswarlu's case.

9. On the foregoing discussion, it follows that we should uphold the claim of the applicants and issue appropriate directions to respondents 1 and 2 to redraw the seniority list.

10. In the light of our above discussion, we allow these applications, quash the order dated 18.2.1988 (Annexure-C) of the DRM and direct the DRM to redraw the Seniority List assigning higher ranks to the ASMs over Guards, in accordance with law and the observations made in this order.

11. Applications are allowed in the above terms. But, in the circumstances of the cases, we direct the parties to bear their own costs.



Sd/-
VICE-CHAIRMAN

TRUE COPY

MEMBER (A)

15.2.89

np/Mrv.

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

Commercial Complex (SDA)
Indiranagar
Bangalore - 560 038

Dated : 31 MAR 1989

REVIEW APPLICATION NO (S) 12 to 14 / 89
IN APPLICATION NOS. 1181 to 1183/88(F)
W.P. NO (S) _____

Applicant (s)

Respondent (s)

Shri Abdul Wahab Khan & 5 Ors
To

V/s Shri P.A. Myageri & 4 Ors

1. Shri Abdul Wahab Khan
2. Shri S.S. Ramenjaneyalu
3. Shri Martin Luther
4. Shri V.S. Joshi
5. Shri V.B. Rotti
6. Shri K. Radhakrishna

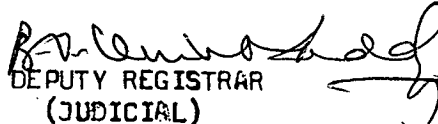
(Sl Nos. 1 to 6 -

Deputy Chief Controllers
South Central Railway
Hubli)

7. Shri M. Raghevendra Achar
Advocate
1074-1075, 4th Cross
Banashankari I Stage
Sreenivasanagar II Phase
Bangalore - 560 050

Subject : SENDING COPIES OF ORDER PASSED BY THE BENCH

Please find enclosed herewith a copy of ORDER/~~SPM/INTERIM ORDER~~
passed by this Tribunal in the above said ^{Review} application(s) on 27-3-89


DEPUTY REGISTRAR
(JUDICIAL)

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE BENCH: BANGALORE

DATED THIS THE 27TH DAY OF MARCH, 1989

PRESENT: HON'BLE SHRI JUSTICE K.S. PUTTASWAMY... VICE-CHAIRMAN

HON'BLE SHRI L.H.A. REGO

...MEMBER (A)

REVIEW APPLICATION NOS. 12 TO 14/89

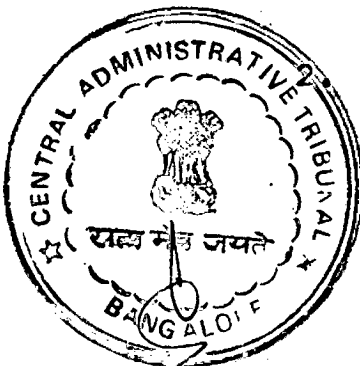
1. Abdul Wahab Khan, Major,
Dy. Chief Controller,
S.C. Railway, Hubli.
2. S.S. Ramanjaneyalu, Major,
Dy. Chief Controller,
S.C. Railway, Hubli.
3. Martin Luther, Major,
Dy. Chief Controller,
S.C. Railway, Hubli.
4. V.S. Joshi, Major,
Dy. Chief Controller,
S.C. Railway, Hubli.
5. V.B. Rotti, Major,
Dy. Chief Controller,
S.C. Railway, Hubli.
6. K. Radhakrishna, Major,
Dy. Chief Controller,
S.C. Railway, Hubli.

... APPLICANTS

(Shri M.R. Achar.....Advocate)

1. Shri P.A. Myageri,
S/o. Andanappa,
aged about 46 years,
Dy. Chief Controller,
S.C. Railway, Hubli.

Shri C. Anjeevi,
age about 46 years,
Dy. Chief Controller,
S.C. Railway, Hubli.



3. Shri M. Ramachandra Kurup,
S/o P. Madhavan Pillai,
aged about 45 years,
Dy. Chief Controller,
S.C. Railway, Hubli.
4. Divl. Railway Manager,
S.C. Railway, Hubli.
5. Chief Personnel Officer
Rail Nilayam, S.C. Railway,
Secunderabad.

...RESPONDENTS

This application having come up for hearing before this Tribunal to-day, Hon'ble Shri Justice K.S. Puttaswamy, Vice-Chairman, made the following :-

O R D E R

In these applications made under Section 22(3) (f) of the Administrative Tribunals Act, 1985 (the Act), the applicants herein, who were respondents 3 to 8 in Applications Nos. 1181 to 1183/1988, filed by respondents 1 to 3 herein, who were the applicants therein, have sought for a review of our order made on 15.2.1988 allowing those applications.

2. In Applications Nos. 1181 to 1183 of 1988, the applicants who were duly notified, remained absent and did not contest them. On an examination of the contentions urged before us, we accepted the case of respondents 1 to 3 and directed re-drawing of the

Provisional Seniority List for the reasons stated in our order.

3. Shri M.R. Achar, learned counsel for the applicants, contends that since the challenge of respondents 1 to 3 was only to a Provisional Seniority List, which is not generally interfered with by this Tribunal, this Tribunal should have declined to interfere with the same and not having done so a patent error has crept in our order to justify a review of the same under the Act.

4. In law, there is no prohibition for this Tribunal to interfere with a Provisional Seniority List. Whether that should be done or not is essentially one of discretion to be exercised on the facts and circumstances of each case. On an examination of all the facts and circumstances this Tribunal for the reasons stated in its order had interfered with the Provisional Seniority List and had issued directions. We are of the view that our order does not suffer from a patent error to justify a review under the Act.

5. Shri Achar has given more than one explanation for the earlier absence of the applicants. But all those explanations have hardly any relevance to decide whether



our order suffers from a patent error or not. On this, we decline to examine the pleas touching on the earlier non-appearance of the applicants.

6. Shri Achar next contends that since respondents nos 1 to 3 had sought for striking down the Railway Board's letter No. E(NG)1-78/PM1/305 dated 15.6.1979, it was not open to this Tribunal to grant them any relief without striking down the same and that this too constitutes a patent error to justify a review of our order under the Act.

7. In their applications, respondents 1 to 3 had challenged the Railway Board Circular dated 15.6.1979. But at the hearing, they did not press that challenge and rested their case on certain grounds which we noticed and decided. If so, the failure of this Tribunal to decide on the validity of the said Circular of the Board which was not pressed at the hearing, will not constitute a patent error to justify a review of our order under the Act.

8. On any view we find no patent error or any other ground to justify a review of our order under the Act. On this we reject these applications at the admission stage without notices to the respondents.

DEPUTY REGISTRAR (JULY)
CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE

Sd/-
(VICE-CHAIRMAN)

Sd/-
(MEMBER)(A)

27.3.1989

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DEPUTY REGISTRAR
(JUDICIAL)

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE BENCH, BANGALORE

DATED THIS THE 17TH DAY OF JANUARY, 1990

Present: Hon'ble Shri P. Srinivasan Member(A)
Hon'ble Shri D. Surya Rao Member(J)

CONTEMPT PETITION(CIVIL) 62/89
IN A.NO.1181/88

P.A. Myageri
Dy. Chief Controller,
South Central Railway,
Hubli Division,
Hubli

Applicant

Vs

Divisional Railway Manager
South Central Railway
Hubli Division,
Hubli

Respondents

Chief Personnel Officer,
South Central Railway,
Rail Nilayam,
Secunderabad

(K.V. Lakshmanachar-Advocate)

This application has come up today before
this Tribunal for Orders. Hon'ble Member(A) made
the following:

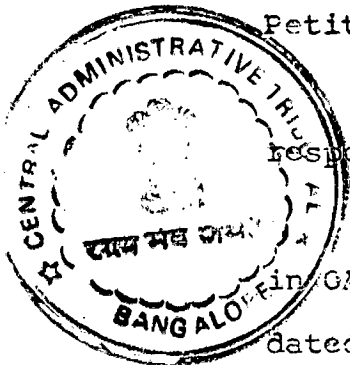
ORDER

Shri Myageri, who has filed this Contempt
Petition, present in person.

Shri K.V.L. Achar appears for the
respondents.

In this Contempt Petition the applicant
in GA 1181/88 complains that judgement and order
dated 15.2.89 passed by this Tribunal has not been
implemented by the respondents therein. He alleges

P. S. My



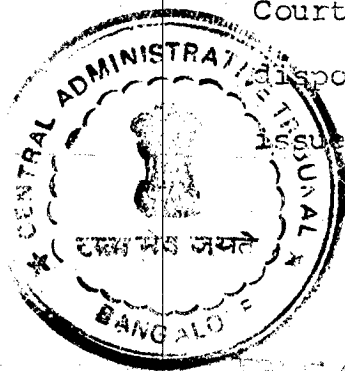
that the said respondents have wilfully disobeyed the order of this Tribunal and are guilty of contempt.

Shri K.V.D. Achar for the respondents submits in the first place that there was no time limit fixed in the said judgement for implementing it and so there is no question of delay in implementing the judgement inviting the charge of contempt. Further, he submits that a special leave petition application along with an application for stay has been filed before the Supreme Court on 26.7.89 and prays that reasonable time may be given to the respondents to comply with the judgement of this Tribunal or obtain a stay order from the Supreme Court.

After hearing both parties, we pass the following order:

ORDER

The respondents will implement the judgement and order dated 15.2.89 on or before 31.3.90 or obtain a stay order from the Supreme Court within that date. The Contempt Petition is disposed of accordingly and notice of contempt issued in this regard is discharged.



SD-

MEMBER (A) 17/1/90

SD-

MEMBER (J)

TRUE COPY

BA. Venkatesh Reddy
DEPUTY REGISTRAR (17/1/90)
CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE