

REGISTEREDCENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE BENCHCommercial Complex(BDA)
Indira Nagar,
BANGALORE- 560 038.

Dated 10 NOV 1986

Application No. 896 /86(T)
WP No. 19583/82Applicant
SN Venkata RaoRespondents
Secretary, M/o Railways, & 3 o/s.

To

1. M/s Law Associates,
Advocates,
195/2, Brigade Road,
BANGALORE-1.
2. Shri M. Sreerangaiah,
Central Govt. Stng. Counsel,
High Court Bldgs.,
BANGALORE.
3. The Secretary,
Ministry of Railways,
Rail Bhavan,
NEW DELHI.
4. The Chairman,
Ministry of Railways,
Rail Bhavan,
NEW DELHI.
5. The General Manager,
Southern Railways,
MADRAS.

6. Shri L. Krishna Murthy
Chief Track Engineer
Southern Railway,
Madras- 600 003

SUBJECT: Sending copies of Order passed by the Bench in
Application No. 896/86(T)

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Please find enclosed herewith the copy of the Order/
Interim Order passed by this Tribunal in the above said Application
No. 896/86(T) on 17-10-86.

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SECTION OFFICER
(JUDICIAL)

Encl: as above.

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7-10-86
23-4-86

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE BENCH: BANGALORE.

DATED THIS THE SEVENTEENTH DAY OF OCTOBER, 1986.

present: Hon'ble Shri Ch. Ramakrishna Rao,
Member (JM),

and

Hon'ble Shri P. Srinivasan, Member (AM).

Application No. 896 of 1986

(W.P. No. 19583/82)

Between:-

Shri S.N. Venkata Rao,
Additional Chief Engineer (Construction),
Southern Railways,
Bangalore.Applicant.

and

1. Union of India, rep. by the Secretary,
Railways, New Delhi.
2. The Railway Board,
rep. by its Chairman,
New Delhi.
3. The General Manager,
Southern Railways,
Madras.
4. Shri L. Krishna Murthy,
Chief Track Engineer,
Southern Railway,
Madras-3.Respondents.

The application has come up for hearing before this
Court today and after hearing both parties, the Member (JM),
made the following:

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ORDER

The prayer of the applicant in this application, which was initially filed as a writ petition in the High Court of Karnataka, is that the respondents be directed to fix the seniority of the applicant granting weightage to him as was done in the case of the 4th respondent and consider his case for promotion retrospectively.

2. The facts giving rise to the filing of this application are briefly as under:-

The applicant joined the Southern Railways (SR) as a temporary Assistant Engineer (AE) on 1.2.1957. Later, he qualified himself at the competitive examination held by the Union Public Service Commission (UPSC) in December, 1956 and was appointed as AE ~~Exxx~~ Class I w.e.f. 22.10.1958, in the Indian Railway Service. The 4th respondent (R4) was appointed as a temporary AE on 30.1.1956 in the SR and was later promoted as AE on the recommendation of the Departmental Promotion Committee (DPC) w.e.f. 15.4.1959. In the seniority list of officers of SR Gazetted Establishment as on 1.4.1973, the name of the applicant figured above the name of the R4. Subsequently, R4 was placed above the applicant in the seniority list. Aggrieved by this, the applicant has filed this application.



3. Shri Laxmikanth Raj Urs, ~~xxx~~ learned counsel for the applicant, contends that the fixation of the seniority of R4 in the manner done by the Railway Administration does serious ~~violence~~ ^{to} the three circulars issued by the Railway Board(RB), annexed to the application as annexures A, B and C. In these circulars, it is stated that weightage in seniority should be given to temporary officers on their permanent absorption in Railways in Class I Service to the extent indicated therein. According to the learned counsel, the weightage in determining seniority envisaged by the aforesaid circulars was given in the case of R4, but not in the case of the applicant and this is ~~highly~~ discriminatory, since no valid reason has been spelt out for treating the applicant on a different footing.

4. Shri M. Sreerangaiah, counsel for the respondents 1 to 3, submits that the weightage in determining seniority of Class I officers on the basis of annexures A, B and C to the application is confined ~~only~~ to those who were absorbed in the service against the quota meant for temporary AEs unclassified and ~~also~~ to those promoted permanently to Class I from Class II, but not to those who were appointed in Class I Service as direct recruits like the applicant. Shri Sreerangaiah further contends that if the prayer of the applicant is granted, it would have an impact on others in service who have not been

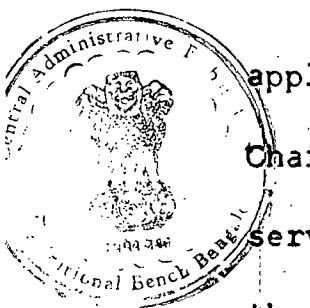


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impleaded as respondents. Above all, Shri Sreerangaiah submits that the application is highly belated and should be rejected on the ground of laches.

5. After giving careful thought to the rival ~~contentions~~ contentions of the parties, we find nothing in the circulars of the RB at annexures A, B and C which grants the benefit of weightage in the matter of seniority ^{only} to candidates selected by the DPC but not to candidates recruited through the UPSC. In the absence of any specific provision to that effect, it would be a hostile discrimination to confine the application of the circulars only to candidates chosen by the DPC, but not to candidates selected by the UPSC. In our view, the circulars ~~while~~ are applicable to both categories of AEs and we, therefore, do not find any substance in the submission made by Shri Sreerangaiah.

6. Regarding the plea of laches, we note that the applicant had made a representation on 4.12.1981 to the Chairman, R.B. for grant of weightage for his temporary service and the same was rejected on 17.4.1982. Thereafter, the applicant filed the W.P. on 2.6.1982. These dates make it abundantly clear that the applicant moved fast in the matter after the authorities rejected his representations



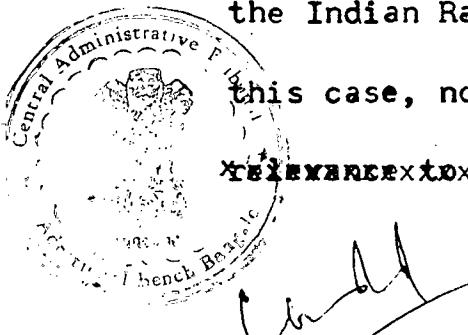
A handwritten signature in black ink, appearing to read 'C. M. J.' or a similar initials.

made pursuant to the seniority list published in 1978. We have, therefore, no hesitation in rejecting this plea also, ~~and~~ of Shri Sreerangaiah.

7. Regarding the submission of Shri Sreerangaiah that ~~are~~ others/likely to be affected by this decision, we do not find much force in this contention, because we are interfering only to the limited extent of the grievance of the applicant, and interpreting the circulars on the basis of which it is open to the authorities to give such relief in appropriate cases as ~~they~~ deemed fit.

8. Shri Sreerangaiah calls in aid a decision of the Supreme Court - KATYANI DAYAL AND OTHERS v. UNION OF INDIA AND OTHERS - reported in Supreme Court Cases (Labour and Services) 1980 page 380. On a perusal of this Judgment, we find that it related to a case of recruitment of temporary AEs outside the cadre, and the question arose whether such Engineers could be treated as appointees under rule 139(d) of the Indian Railway Establishment Code. Neither the facts of this case, nor the proposition laid down therein have anything common.

~~Relevance to the facts of the present case on hand~~



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9. In the result, the application is allowed as indicated above. There will be no order as to costs.



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(CH. RAMAKRISHNA RAO)
MEMBER (JM)
17.10.1986.

8/-

(P. SRINIVASAN)
MEMBER (AM)
17.10.1986.

dms.

- True copy -

Chennai
SECTION ORDER
CENTRAL ADMINISTRATIVE TRIBUNAL
ADDITIONAL BENCH
BANGALORE

REGISTERED

CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE BENCH

Commercial Complex (BDA)
Indiranagar
Bangalore - 560 038

Dated : 13 OCT 1988

CONTEMPT

PETITION (CIVIL) APPLICATION NO. 62
IN APPLICATION NO. 88
W.P. NO. 896/86(T)

Applicant(s)

Shri S.N. Venkata Rao
To

1. Shri S.N. Venkata Rao
Additional Chief Engineer/Construction
Southern Railway
No. 18, Miller's Road
Bangalore - 560 046

2. Shri M.R. Lekshmikanth Raja Urs
Advocate
Law Associates
195/2, Brigade Road
Bangalore - 560 001

3. The Chairman
Railway Board
Rail Bhawan
New Delhi - 110 001

Respondent(s)

V/s The Chairman, Railway Board & another

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

5. Shri M. Sreerangaiah
Railway Advocate
3, S.P. Building, 10th Cross
Cubbonpet
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(s) on 30-9-88.
Contempt

*Recd
K. Venkata Rao
14.10.88*

1 : As above

d/c

A. S. Rao
SECTION OFFICER
REXXREXXREXXRAXX
(JUDICIAL)

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE BENCH, BANGALORE

DATED THIS THE 30TH DAY OF SEPTEMBER 1988

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

Hon'ble Shri P. Srinivasan . Member(A)

CONTEMPT PETITION (CIVIL) NO.62/88

S.N.Venkata Rao,
Additional Chief Engineer/
Construction, Southern Railways,
No.18, Miller's Road,
Bangalore-560 046.

• Complainant

(Shri M.R.Lakshmikant Raj Urs ..
Advocate)

v.

The Chairman,
Railway Board,
Rail Bhavan,
New Delhi.

General Manager,
Southern Railways,
Madras.

• Respondents

(Shri M. Srirangaiah .. Advocate)

This petition came up before this Tribunal for hearing
today. Hon'ble Vice-Chairman made the following:-

O R D E R

In this petition made under Section 17 of the Administrative Tribunals Act, 1985 and the Contempt of Courts Act (Central Act No.70 of 1971), the petitioner has moved us to punish the respondents, for non-implementation of an order made in his favour in A No.896/86 on 7.10.1986.

2. In A No.896/86 which was a transferred application, the applicant had sought for a direction to the respondents to fix his seniority as in the case of Respondent 4 to that application and also consider his case for retrospective



promotion. On an examination of the rival claims a Division Bench of this Tribunal consisting of one of us (Hon'ble Shri P. Srinivasan, Member (A) and Hon'ble Shri Ch. Ramakrishna Rao, Member (J), allowed the same on 17.10.1986.

3. Aggrieved by this order, the Railway Administration, carried the matter to the Supreme Court in a Special Leave Petition, which stands rejected on 23.9.1988. On these facts Shri M. Srirangaiah, learned counsel for the respondents, prays for a reasonable time to comply with the order of this Tribunal which is not rightly opposed by Shri M.R. Lakshmikant Raj Urs, learned counsel for the petitioner. He, however, submits that it is necessary to direct the respondents to comply with the order well before the applicant retires from service.

4. We have earlier noticed that the order of this Tribunal was challenged by the Railway Administration before the Supreme Court in a Special Leave Petition, which had rejected the same on 23.9.1988. In its order, this Tribunal had not fixed any time for complying with the directions. In these circumstances we consider it proper to grant time to the respondents till 31.12.1988 to comply the order of this Tribunal. We accordingly grant time to the respondents till 31.12.1988 to comply with the order made in A No. 896/86(T). But in the meanwhile we drop these contempt of court proceedings with no order as to costs. We do hope and trust that the respondents will comply with our order without giving room for any further legal proceedings.



TRUE COPY

[Signature] 23/9/88
SECTION OFFICER
CENTRAL ADMINISTRATIVE TRIBUNAL
ADDITIONAL BENCH
BANGALORE

SECTION OFFICER
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ADDITIONAL BENCH
BANGALORE

SECTION OFFICER
CENTRAL ADMINISTRATIVE TRIBUNAL
ADDITIONAL BENCH
BANGALORE

Sd/-

VICE CHAIRMAN 23/9/88

Sd/-
MEMBER (A)