

Encl: As above

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE BENCH: BANGALORE

DATED THIS THE THIRTEENTH DAY OF DECEMBER, 1988

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

APPLICATION NO.524/1988

Shri K. Alexander
Permanent Way Inspector
Southern Railway
Bangalore Division
Bangalore.

.. Applicant

(Shri M.R. Achar, Advocate)

Vs.

The Divisional Personal Officer
Southern Railway
Bangalore.

.. Respondent

(Shri M. Sreerangaiah, Advocate)

This application having come up for hearing
before the Tribunal today, Hon'ble Vice Chairman, made
the following:

ORDER

This is an application made by the
applicant under Section 19 of the Administrative
Tribunals Act, 1985 ('the Act').

2. Shri K. Alexander, the applicant
before us, a member of a scheduled caste (SC) is
working as Permanent Way Inspector ('PWI') Grade-III
from 12.12.1981. On two occasions namely as on
1.1.1984 and 19.2.1987 he was eligible for promotion
to the post of PWI Grade-II. On those occasions, the
competent authority considered the case of the
applicant and did not promote him. In this application
made on 4.4.1988 the applicant has challenged his



non-promotion on both the occasions and has sought for a direction to promote him on the very first occasion.

3. In resisting the application, the respondent has filed his reply and has produced the records.

4. Shri M.R. Achar, learned counsel for the applicant contends that the post of PWI Grade-II was a non-selection post and the promotion to that post had to be given to his client as a matter of course without making an assessment of his fitness or otherwise as done and in so doing, the authority had acted illegally.

5. Shri M. Sreerangaiah, learned counsel for the respondent contends that the post of PWI Grade-II had to be filled by seniority-cum-fitness and not as a matter of course.

6. We have perused the papers relating to the promotions as on 1.1.1984 and 19.2.1987. On both the occasions, the promoting authority considered the applicant being eligible for promotion and did not promote him.

7. As on 1.1.1984 the promoting authority had not promoted any one who is junior to the applicant though it inaptly held that he had to be passed over as he was not fit for promotion. When we find that no one who was junior to the applicant was promoted as on 1.1.1974, the fact that the authority somewhat inaptly described his case does not at all alter the position. On this

view, the claim of the applicant for promotion as on 1.1.1984, which also appears to be barred by time, as urged by Shri Sreerangaiah, is liable to be rejected. With this we now pass on to examine the claim of the applicant as on 19.2.1987.

8. On an evaluation of the CRs of the applicant for three years ending on 31.3.1984, 31.3.1985 and 31.3.1986, the promoting authority had found the applicant as not fit for promotion and had passed over him on 19.2.1987. The authority had adopted this procedure in the case of the applicant and all other eligible officials. Every one of the circular instructions on which Shri Achar relies do not support his contention that the applicant is entitled for promotion as a matter of course. On the other hand, the procedure adopted by the promoting authority supports the case of the respondent that eligible officials who are fit for promotion can only be promoted and they cannot be promoted to the post of PWI Grade-II as a matter of course.

9. We have carefully perused the Confidential Rolls of the applicant and the assessment of the authority holding him not fit for promotion. We are of the view that the assessment of the promoting authority is in conformity with the CRs of the applicant. An assessment made by the promoting authority on the basis of the CRs, which are reliable material cannot be examined by us as if we are a court of appeal and a different conclusion



reached. On this view, the claim of the applicant for his non-promotion as on 19.2.1987 cannot be interfered with by us.

10. As all the contentions urged for the applicant fail, this application is liable to be dismissed. We, therefore, dismiss this application. But, in the circumstances of the case, we direct the parties to bear their own costs.



Sd/-
VICE CHAIRMAN

Sd/-
MEMBER(A)

TRUE COPY

MR.

P. Thyagaraj 22/12/88
SECTION OFFICER
CENTRAL ADMINISTRATIVE TRIBUNAL
ADDITIONAL BENCH
BANGALORE