

REGISTERED

CENTRAL ADMINISTRATIVE TRIBUNAL  
BANGALORE BENCH  
\* \* \* \* \*

Commercial Complex (BDA)  
Indiranagar  
Bangalore - 560 038

Dated : 7 OCT 1988

APPLICATION NO.

1007

/ 88(T)

O.S.

XXX NO.

9643

/ 80 in City Civil  
Court, Bangalore

Applicant(s)

Shri N.E. Chelladurai

v/s

To

Respondent(s)

The General Manager, Southern Railway,  
Madras & 2 Grs

1. Shri N.E. Chelladurai  
C/o Shri M.K. Gulam Mohiyuddin  
Advocate  
No. 6, Clarks Road  
Bangalore - 560 005
2. Shri M.K. Gulam Mohiyuddin  
Advocate  
No. 6, Clarks Road  
Bangalore - 560 005
3. The General Manager  
Southern Railway  
Park Town  
Madras - 600 003

4. The Divisional Personnel Manager  
Divisional Office  
Southern Railway  
Mysore
5. The Divisional Superintendent  
Southern Railway  
Mysore
6. Shri J. Nagaraj  
Railway Advocate  
75, Chickpet  
Bangalore - 560 053

Subject : SENDING COPIES OF ORDER PASSED BY THE BENCH

Please find enclosed herewith the copy of ORDER/SPK/ ~~RECORDED~~  
passed by this Tribunal in the above said application(s) on 26-9-88.

Encl : As above

o/c

*Hari*  
SECTION OFFICER  
~~RECORDED~~  
(JUDICIAL)

7-10-88

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL  
BANGALORE

DATED THIS THE 26th DAY OF SEPTEMBER, 1988

Present : Hon'ble Sri Justice K.S.Puttaswamy Vice Chairman  
Hon'ble Sri L.H.A.Rego Member (A)

APPLICATION No. 1007/88 (T)

N.E.Chelladurai,  
Gatekeeper, W/a Byappanahalli  
Railway Station,  
Bangalore. ... Applicant  
( Sri M.K.Gulam Mohiyuddin ... Advocate )

vs.

1. Southern Railway by its  
General Manager,  
Madras.
2. The Divisional Personnel  
Manager, Divisional Office,  
Southern Railway, Mysore.
3. The Divisional Superintendent,  
Southern Railway,  
Mysore. ... Respondents  
( Sri J.Nagaraj ... Advocate )

This application has come up before the Tribunal for  
hearing today. Hon'ble Vice-Chairman made the following :

O R D E R

This is a transferred application and is received  
from the Court of City Civil Judge, Bangalore (Civil Court)  
under Section 29 of the Administrative Tribunals Act, 1985  
(ACT).

2. Sri N.E.Chelladurai, the applicant before us,  
commenced his career on 7.8.1955 in the Southern Railway(SR)

as a 'Hamal' then classified as Class IV post which is now designated as a Group 'D' post. After working at different places, he has been working at Byappanahalli Railway Station from 2.7.1961 first as a Gatekeeper till 14.12.67 and thereafter as a Hamal.

3. Some time in 1979 the Railway Administration offered to the applicant to undergo initial training for the post of a Gatekeeper. On that offer, there was correspondence between the applicant and the Railway Administration which did not bear any fruit.

4. On 22.7.80 the applicant as plaintiff commenced O.S.No.1483 of 1980 in the Court of Munsif, Bangalore City, which then exercised jurisdiction, for a declaration that he had been appointed as a 'regular Gatekeeper' from 16.12.58 and was entitled to continue in that post without undergoing any further training. On the constitution of the City Civil Courts in the city of Bangalore, the said suit was transferred to the City Civil Court in which Court it was numbered as O.S.No.9643/80. On the constitution of this Tribunal, that suit has been transferred to this Tribunal on 27.6.1988 and the same is registered as A.No.1007/88(T).

5. The respondents-defendants in their written statement have resisted the suit inter alia on the ground that the posts of Hamal, Gatekeeper and various other posts were interchangeable.

6. On an examination of the pleadings, the Civil Court on 7.1.1982 had framed the following issues -

Hamal

1. Whether the posts of Box Boy, <sup>or</sup> Mahal and Gatekeeper were of the same cadre and interchangeable, as contended by the defts ?
2. Whether pltfm proves that he was posted as Gatekeeper in office order No.Y/P/677/I and II dt. 16.12.58 ?
3. Whether the pltfm further proves that he was working as gatekeeper since then ?
4. Is pltfm entitled to declarations sought for ?
5. What order; what decree ?"

On these issues, the Civil Court had recorded evidence in past.

7. Sriyuths M.K.G. Mohiyuddin and J.Nagaraj learned Advocates, who were representing the parties in the Civil Court, have represented them before us.

8. Sri Mohiyuddin contends that the post of 'Gatekeeper' to which the applicant had been appointed at an earlier stage was a separate and different post to that of Hamal and therefore he can neither be posted as a Hamal nor directed to undergo initial training as a 'Gatekeeper' which he had earlier undergone.

9. Sri Nagaraj contends that the posts of Gatekeeper and Hamal, carrying one and the same scale of pay were interchangeable and the option to undergo initial training was in the interest of the applicant himself and does not justify the grant of the relief sought by the applicant.

10. We heard this case on 19.9.1988 at length, on which day we drew the attention of Sri Mohiyuddin and the applicant to the option exercised by him to come over to the revised scales of pay from 1.1.1973. We adjourned the case to



this day at the request of Sri Mohiyuddin who is unable to offer any explanation on the same even today.

11. We are of the view that the option exercised by the applicant from 1.1.1973 by itself disentitles him ~~for~~ <sup>in</sup> ~~t~~ for the reliefs sought by him in the suit/application.

12. From 1.1.1973, the applicant has come over to the revised scales of pay sanctioned in pursuance of the <sup>VIth Central</sup> recommendations of the III Pay Commission, which is revised from 1.1.1986 on the recommendations of the IVth Pay Commission and the orders made thereto. On this development which is not in dispute and in any event is established beyond all doubt, the applicant is not entitled for the reliefs sought by him. On this view this application calls for dismissal.

13. We will even ignore the options exercised and service register of the applicant and proceed to examine the merits.

14. In their written statement, the respondents, have stated that the posts of Gatekeeper, Hamal and various other ~~6 interchangeable~~ posts were all ~~interchanged~~ class IV or Group D posts. We have no reason to doubt the correctness of this assertion. Even otherwise an examination of the relevant Rules and orders supports this assertion of the respondents.

15. Chapter VIII of the Open Line (Railways in India) General Rules, 1929, on which reliance was placed by Sri Mohiyuddin even assuming they are still in force do not help us to hold otherwise.

16. On any view, the reliefs sought by the applicant cannot be granted.

17. In the light of our above discussion, we hold that this application is liable to be dismissed. We therefore dismiss the same with no order as to costs.

an.

Sd/-

VICE CHAIRMAN

26/1/88

Sd/-

MEMBER (A)

26/1/88

TRUE COPY

  
SECTION OFFICER  
CENTRAL ADMINISTRATIVE TRIBUNAL  
ADDITIONAL BENCH  
BANGALORE

