

REGISTERED

CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE BENCH
.....

Commercial Complex (BDA),
Indiranagar,
Bangalore- 560 038.

Dated: **13 JUL 1988**

APPLICATION NO 945 / 88 (F)

W.P.No. _____

APPLICANT

Vs

RESPONDENTS

Shri Peter Michael Francis

**The Divisional Railway Manager, South Central
Railway, Hubli & another**


To

1. **Shri Peter Michael Francis**
S/o Shri Michael Francis
H S K II, G.No. 17
Kariganur
Hospet
Bellary District
2. **Shri M. Aswathanarayana Reddy**
Advocate
No. 125, 1st Floor
Sree Raghavendra Market
Avenue Road
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
on 7-7-88.

Encl: as above.


DEPUTY REGISTRAR
(JUDICIAL)

9/c

Handwritten:
K. R. Venk
14.7.88

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE BENCH: BANGALORE

DATED THIS THE SEVENTH DAY OF JULY, 1988

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

Hon'ble Shri L.H.A. Rego...

Member(A)

APPLICATION NO.945/88

Sri. Peter Michael Francis,
Son of Michael Francis,
Aged about 45 years,
C & W Fitter,
H S K, II, G.No.17,
Kariganur. Hospet,
Bellary District.

Applicant

(Shri M. Aswathnarayana..... Advocate)

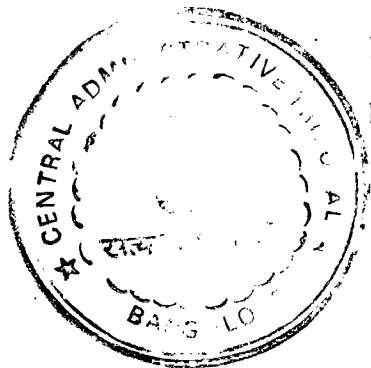
1. The Divisional Railway
Manager, South Central
Railway, Hubli,
Dharwar district.
2. The Senior Divisional
Personnel Officer,
South Central Railway,
Hubli. Dharwar Dist.

Respondents

This application has 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 this application made under Section
19 of the Administrative Tribunals Act, 1985,
the applicant has challenged Order No. H/P.613/
IV/O&W/CI.IV dated 4.4.1988 of the Divisional Personnel
Officer, South Central Railway, Hubli (DPO)
(Annexure A-17) which reads thus:-



"Sub: Seniority of Shri P.M.Francis, C&W
F/HSK-II/KGW

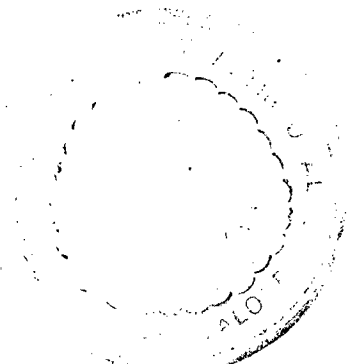
Ref: Your application dated 2/5-2-1988.

Further to this Office letter No.
H/P.535/IV/C&W/HSK-II of 24.8.87 and
28.1.88, the position is as under:-

You joined KGW on 14.6.71 from UBL on request transfer accepting bottom seniority ie from UBL Seniority Unit to GDG Seniority unit. Your seniority in C&W Khalasi category per extent orders. The provisional seniority list of C&W Khalasi Scale Rs. 196-232(RS) published vide this Office No. H/P.613/IV/C&W/CI.IV dt. 31.7.76 was subsequently treated as cancelled vide No. H/P.613/IV/C&W/CI.IV dated 28.11.78. In view of this claiming your position assigned in the above cited seniority list is not correct, so also your contention that S/Shri G.Allabux and S. Habibulla Hussain were substitute on 1.3.71 is also not correct. They were absorbed as temporary C&W Khalasi on regular basis w.e.f. 1.3.71 vide H/P.564/IV/SNG/Mech of 26.2.71/1.3.71 and 19.2.75.

Your seniority has been assigned correctly under Sl.No.72 in the provisional seniority list published on 1.7.82 vide No. H/P.613/IV/C&W/CI.IV and hence the question of revising your seniority does not arise.

Please Note."



In this, the DPO had stated that the applicant had come on transfer on his own request and, therefore, he was bound to be assigned bottom seniority at the new office.

2. In his application, the applicant had not disputed this and had indirectly accepted the same. In answer to our pointed query Shri M. Asvathnarayana Reddy, learned counsel for the applicant on obtaining instruction from his client, who was present in court, admits

the correctness of the fact stated by the DPO in his order. But notwithstanding this Shri Reddy contends that this is a fit case in which this Tribunal should ignore the voluntary transfer of the applicant and regulate the matters as if it was a transfer in the public interest.

3. When once the applicant admits that he had joined the new office on transfer at his own request, he has to be assigned only bottom seniority and his service conditions regulated only on that basis and no other basis. From this it follows that the challenge of the applicant to the order dated 4.4.88 of the DPO and other incidental reliefs sought thereon are ill-conceived and are without any merit. We, therefore, reject this application at the admission stage without notices to the Respondents.

Sd/-

(K.S. PUTTASWAMY) *7/10/88*
VICE-CHAIRMAN

Sd/-

(L.H.A. REGO) *7-7-88*
MEMBER (A)

TRUE COPY

13/7/88
SECTION OFFICER
CENTRAL ADMINISTRATIVE TRIBUNAL
ADDITIONAL DEPUTY
BANGALORE



BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE BENCH: BANGALORE

DATED THIS THE FIRST DAY OF SEPTEMBER, 1988

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

REVIEW APPLICATION NO. 69/1988

Shri Peter Michael Francis
Son of Michael Francis
C & W Fitter
H S K II, G.No.17
Kariganur
Hospet
Bellary District.

.. Petitioner

(Shri M. Ashwathnarayana Reddy, Advocate)

Vs

1. The Divisional Railway Manager
S.C. Railway
Hubli
Dharwar Dist.
2. The Senior Divisional Personnel
Officer
S.C. Railway
Hubli
Dharwar Dist.

.. Respondents

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

O R D E R

Heard Shri M. Ashwathnarayana Reddy for
the applicant.

2. In this application made under Section
22(3) (f) of the Administrative Tribunals Act, 1985, the
applicant has sought a review of our order dated 7.7.1988
rejecting his application No. 945/88(F) at the admission
stage.



3. In A.No.945/88 the applicant had challenged an order made against him in which his claim for seniority over others had been rejected on the ground that he had come on transfer at his own request.

4. In the review application the applicant has claimed that two others viz. Habibulla Hussain and Allabaksh, who also came on transfer at their own request had not been accorded bottom seniority as in his case, which had not pleaded or urged before us. We seriously doubt the correctness of this assertion of the applicant. But we will assume that to be so and examine whether the same constitutes a sufficient ground for review.

5. We are of the view that the mistake, if any committed in the case of others, can hardly be a ground for review of our order which had upheld a correct order made against the applicant.

6. We see no merits in this application. We, therefore, reject this application at the admission stage without notices to the respondents.



mr.

Sd/-
VICE CHAIRMAN 11/9/88

Sd/-
MEMBER (A) 11/9/88

TRUE COPY

for DEPUTY REGISTRAR (JDL) 11/9/88
CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE