

REGISTERED

CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE BENCH

Commercial Complex(BDA)
Indiranagar
Bangalore - 560 038

Dated : 5 MAY 1988

CONTEMPT OF COURT APPLICATION NOS. 26, 43 to 49 /88
IN APPLICATION NOS. 6 to 13/86(T)
W.P. NO. _____

Applicant

Shri N. Koteswara Rao & 7 Ors
To

1. Shri N. Koteswara Rao
 2. Shri M.L. Narayana Swamy
 3. Shri N.G. Krishnamurthy
 4. Shri R. Shivaswamy
 5. Shri Govaiah
 6. Shri R. Babu Rao
 7. Shri Munesha Bavi
 8. Shri D. Vinayagam
- (Sl Nos. 1 to 8 -

C/o Shri K. Sreedhar
Advocate
730, 6th Main, Srinagar
Bangalore - 560 050)

9. Shri K. Sreedhar
Advocate
730, 6th Main, Srinagar
Bangalore - 560 050

Respondent

V/s The Chief Personnel Officer, Southern
Railways, Madras & 2 Ors

10. The Chief Personnel Officer
Southern Railways
Park Town
Madras - 600 003
11. The Divisional Railway Manager
Bangalore Division
Southern Railway
Bangalore - 560 023
12. The Divisional Personnel Officer
Bangalore Division
Southern Railway
Bangalore - 560 023
13. Shri A.N. Venugopal
Advocate
Room No. 12, IInd Floor
SSB Mutt Building
Tank Bund Road
Bangalore - 560 009

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 Contempt of Court application on 15-4-88.

9/5/88
11-5-88
Encl : As above

[Signature]
SECTION OFFICER
~~DEPUTY REGISTRAR~~
(JUDICIAL)

c/c

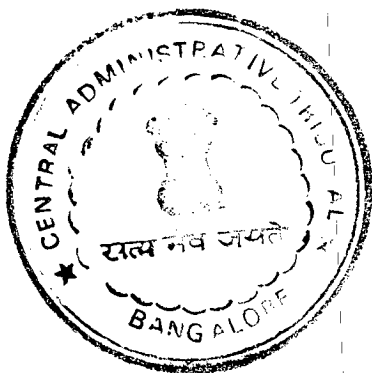
ORDER

In these applications made under Section 17 of the Administrative Tribunals Act, 1985 and the Contempt of Courts Act, 1971 (Central Act 70 of 1971) ('Acts'), the petitioners have moved us to punish the contemnors for not implementing the orders made by this Tribunal in their favour on 31.10.1986 and 14.10.1987 in Application Nos. 6 to 13/86 and in Contempt of Court petition Nos. 31 to 37/87 (Annexure A and B) respectively.

2. In Application Nos. 6 to 13/86 which were transferred applications received from the High Court of Karnataka, the petitioners had sought for diverse reliefs which were resisted by the Railway Administration. On examination of the rival claims, a Division Bench of this Tribunal made an order 31.10.1986 in these terms.

"10. We would delineate the corrective measures as follows, in the light of the Guidelines in so far as they apply to this case.

- (i) The sixth respondent should ensure that a proper CSL is drawn up as on 10.5.1981 to help regulate transfers and promotions in administrative interest between MYS and SBC during the period intervening between 18.5.1981 and 6.2.84.
- (ii) The optants for SBC who were transferred on administrative grounds to MYS during the said intervening period to a station or a section in MYS which was to be transferred to SBC should stand repatriated to SBC with the posts available giving them the benefit of promotion if any, granted to them in the station or section, during this period strictly in



accordance with their seniority in the CSL, on their repatriation to SBC. In all other cases, the promotions during this intervening period should be treated as purely fortuitous and ad hoc.

- (iii) If any of the optants for SBC transferred to MYS on administrative grounds has not been repatriated to SBC within the period upto 31.9.1984, for want of posts, he may be absorbed in MYS, considering him eligible for normal inter-Divisional transfer rules there after.

11. We direct the sixth respondent to finalise the matter in accordance with the above corrective measures within a period of three months from the date of receipt of this Order. We dispose of this application accordingly, with no order to costs."

In contempt petition Nos. 31 to 37/87, decided on 12.10.87 we have extended time till 31.1.1988 for implementing these directions.



3. The petitioners have urged that the contemnors had not so far implemented the orders made in their favour in letter and spirit.

4. Shri K. Sreedhar, learned Counsel for the petitioners, contends that the contemnors had not implemented the orders made in favour of his clients in letter and spirit and therefore, they are guilty of contempt of this Tribunal.

5. Shri A.N. Venugopal, learned Counsel for the contemnors, producing the relevant records, contends that the contemnors had implemented the orders made in favour of the petitioners and therefore urges for dropping the Contempt of Court proceedings against the contemnors.

6. In our order made on 19.10.1987, in C.C.A Nos. 31 to 37/87, we have extended time for complying the directions made in A.Nos. 6 to 13/86.

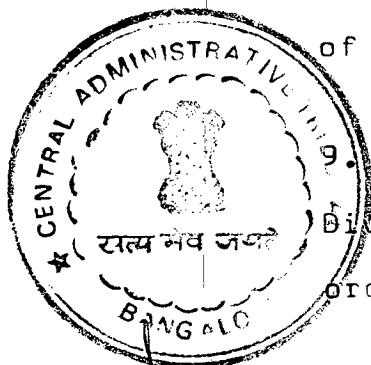
7. The competent authority who had published a provisional seniority list on 7.10.1987 had finalised the same on 13.11.1987 in these words:-

"As there are no representations regarding their position in the seniority list, the provisional seniority list published is treated as final. Please take necessary action to implement the Hon'ble CAT directions (ii) and (iii) of para 10".

Even though the contemnors were justified in holding the provisional list as final, they would have done well to make a formal order and serve the same on all the parties. Shri Venugopal, in our opinion, very rightly submits that the contemnors will do so within 15 days from this day. We grant this request of Shri Venugopal. With this, it follows that the first direction made by this Tribunal in A.Nos.13/86 stands complied with by the contemnors.

8. What now remains to be examined is whether the contemnors had complied with directions (ii) and (iii) of para 10 of our order in A.Nos. 6 to 13/86 or not.

9. On compliance with the other two directions, the Divisional Personnel Officer, Bangalore (DPO) had made orders on 31.1.1988 (Annexure-C), which reads thus:-



" Consequent on the judgment of CAT/SBC in application Nos. 6 to 13 of 1986 (Writ Petition Nos. 5326 to 5333 of 1984) a decision has been taken to accept the verdict of CAT/SBC and to implement the judgment in full. While doing so the seniority of the following staff who were optants of SBC Divn. are accommodated in SBC Divn. against the vacancies occurred prior to 31.8.84 (out off date for bifurcation of the Running cadre):

1. Shri N. Govindan (SC) EE/1330 Guard (A)/Pass/SBC

Since he has taken a mutual transfer with one Sri G. Muniyappa, EE/765 Pass. Guard/MAS now at SBC, the seniority will be regulated based on the provision applicable for inter-divisional mutual transfer.

As against the remaining 4 vacancies of Guard/A in scale Rs.425-600 occurred prior to 31.8.84, the following 4 Guards(A) / (pass Guards) who were transferred to SBC Divn. after 31.8.84 due to administrative reasons are fitted and their original seniority position in Guards/A in scale Rs.425-600 (Pass. Guard/1350-2200) will remain unchanged.

- | | | |
|----------------------------|----------|-----------------|
| 2. Sri K. Srinivasan, (SC) | T/C 157 | Pass. Guard/YNK |
| 3. " V. Gundachar | EM/4544 | Pass. Guard/SBC |
| 4. " Syed Magbool | EMT/1144 | -do- |
| 5. " B.Venkatappa | EMT/1428 | -do- |



Shri N. Kenchaiah, EMT/1313, Pass. Guard/SBC transferred to SBC Divn. in one and the same order along with his seniors SBC Divn. prior to 31.8.84. His case in terms of CAT/SBC judgment is to be regulated as one way transfer from MYS to SBC Divn. on bottom seniority in the recruitment grade of Guard/C (Goods Guard) on the date of his joining SBC Divn. i.e. 16.6.86 or else he should be retransferred to MYS Divn. by restoring his last status on the date of his relief from MYS Divn. He may signify his willingness to go to MYS Divn. or otherwise within 7 days from the date of issue of this order.

Similar to para 2 above, the following 2 Guards/C grade (Goods Guard) who joined in SBC Divn. after 31.8.84 due to administrative reasons although their transfer was ordered prior to 31.8.84 against the clear vacancies are fitted against the above vacancies restoring their original seniority position in Guard C/grade (goods Guard):

1. Shri Syed Ahmed Goods Guard/BYPL
2. " Syed Gaffar Sab/EMT/1712 -do-

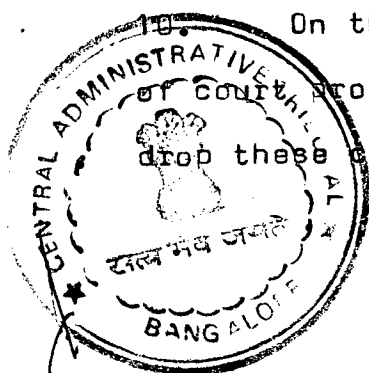
S/Shri N. Koteswara Rao and others who are the applicants in the above case erroneously promoted against vacancies occurred in SBC Divn. prior to 31.8.84 ie. on 11.4.84 their promotion will now be regulated against the vacancies occurred in SBC Divn. after the cut off date of 31.8.84 as shown against each, consequent on fitting in the senior optees in Guard/A Grade against the vacancies occurred prior to 31.8.84:

- | | | | |
|---------|--------------------|--------|---------|
| 1. Shri | M.L. Narayanaswamy | w.b.f. | 13.3.85 |
| 2. " | N.G. Krishnamurthy | " | 1.4.85 |
| 3. " | D.B. Ningaiah | " | 1.7.85 |
| 4. " | N. Koteswara Rao | " | 1.12.85 |

Sd:

Divl. Personnel Officer
Bangalore City "

We have carefully perused the directions made by this Tribunal at para 10(ii) and (iii) and the orders made by the DPO on 31.1.1988. We are of the view that the orders made by the DPO on 31.1.1988 are in compliance with the directions issued by this Tribunal at para 10(ii) and (iii). We cannot examine the correctness of these orders in Contempt of Court Proceedings. Even assuming that the contemnors had misunderstood the scope of the orders of this Tribunal and reached an erroneous conclusion, then also the proper remedy for the petitioners is to challenge them in separate proceedings under the Act.



On the foregoing discussions we hold that these contempt proceedings are liable to be dropped. We, therefore, drop these contempt of court proceedings, against the contemnors,

with no order as to costs. But this does not prevent the petitioners from challenging the final seniority list or the orders dated 31.1.1988 of the DPO on all such grounds as are available to them in separate proceedings.

Sd/-
VICE-CHAIRMAN 15/4/88

Sd/-
MEMBER (A)

mr/Mrv.

TRUE COPY



5/5/88
SECTION OFFICER
CENTRAL ADMINISTRATIVE TRIBUNAL
ADDITIONAL JUDGE
BANGALORE

CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE

DATED THIS THE 15TH DAY OF APRIL, 1988

Present | Hon'ble Shri Justice K.S. Puttaswamy, Vice-Chairman
and
Hon'ble Shri P. Srinivasan, Member (A)

CONTEMPT OF COURT APPLICATION NOS 26, 43 TO 49/88

1. Shri N. Koteswara Rao,
2. Shri M.L. Narayanaswamy,
3. Shri N.G. Krishnamurthy.
4. Shri Govaiah
5. Shri R. Shivaswamy,
Guard-A,
Bangalore Division of Railways,
Bangalore.
6. R. Babu Rao.
7. Shri Munesha Bavi
Guard-C,
Bangalore Division of Railways,
Bangalore.
8. Shri D. Vinayagam,
Commercial Clerk,
Bangalore Division of Railways,
Bangalore.

.... Petitioners.

(Shri K. Sridhar, Advocate)

v.

1. Shri K.K. Gopala Rao,
Chief Personnel Officer,
Southern Railways,
Madras.
2. Shri R. Sundareshan,
Divisional Railway Manager,
Bangalore Division,
Southern Railway,
Bangalore.
3. Shri V. Pitchaiah Raju,
Divisional Personnel Officer,
Bangalore Division,
Southern Railway,
Bangalore.

... Contemnors.

(Shri A.N. Venugopal, Advocate)

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



O R D E R

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