

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE

DATED THIS THE TWELFTH DAY OF AUGUST, 1988

Present : Hon'ble Sri Justice K.S.Puttaswamy Vice chairman

Hon'ble Sri P.Srinivasan

Member (A)

APPLICATION No. 799/87.

Natarajakumar.R.
D.No.660, 21st Cross,
2nd Block, Rajajinagar,
Bangalore - 10.

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Applicant

(Sri V.Lakshminarayana ... Advocate)

vs.

1. The Divisional Railway Manager,
Southern Railways,
Bangalore.

2. The Divisional Personal Officer,
Southern Railways,
Bangalore.

3. P.Subramanian,
Elc/A.D.R.S.
Southern Railways,
Bangalore.

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Respondents

(Sri M.Sreerangaiah ... Advocate)

This application has come up before the
Tribunal today, Hon'ble Sri P.Srinivasan, Member (A)
made the following :

O R D E R

1. The applicant who was appointed as a Khalasi
in the Southern Railway in 1976 and received promotions
thereafter, complains in this application that respon-
dent-3 was wrongly promoted to the post of Chargeman
Grade-A on 30.10.1986 while he being senior should
have been appointed to that post.

2. By an order dated 30.1.1981, the applicant

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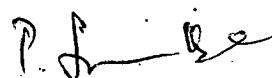
was promoted on ad hoc basis to the post of Chargeman Grade-B. Respondent-3 was similarly promoted on ad hoc basis to the post of Chargeman Grade B w.e.f. 15.3.1982. However, by order dated 30.10.1986 (Annexure-C to the application), respondent-3 was given promotion to the still higher post of Chargeman Grade-A while the applicant still continues to officiate as Chargeman Grade-B on ad hoc basis. The applicant's contention is that he having been promoted to Grade-B earlier, was senior to respondent-3 in that grade and so he should have been considered and promoted to Chargeman Grade-A in place of respondent-3 who was his junior.

3. Sri V.Lakshminarayana, learned counsel for the applicant submitted that when the applicant was promoted as Chargeman Grade-B on 31.1.1981 his seniority in that grade should be reckoned from that date. Respondent-3 having been promoted more than a year later was, therefore, junior to the applicant. Under Rule 314 of the Indian Railway Establishment Manual, a person once promoted would rank in the seniority above a person who is promoted later. Therefore, respondent-3 who was promoted to the post of Chargeman Grade-B later could not have a higher claim for promotion than the applicant.

4. Sri M.Sreerangaiah, learned counsel for respondents 1 and 2, submitted that though the applicant was promoted as Chargeman Grade-B on 31.1.1981, it was only an ad hoc promotion. A roster is main-

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tained for ad hoc appointments and according to that roster the applicant was promoted to a post against a scheduled tribe point, though he was otherwise too junior for promotion. A separate roster is maintained for regular promotion. In 1984, regular promotions had to be made. Initially it was estimated that there would be 6 vacancies of Charge-man Grade-B available for promotion. 15 persons were in the zone of consideration including the applicant. They were called for written test and after qualifying therein were subjected to oral test. 5 persons qualified in both the tests taken together, applicant being one of them. Respondent-3 was senior to the applicant in the lower grade of Highly Skilled Grade-I and he also secured more marks in the test. He, therefore figured above the applicant in the list of 5 qualified candidates. Of the original estimate of 6 vacancies, one point was reserved for scheduled tribes and if those vacancies had continued, the applicant would have got promotion against scheduled tribe point. But, as a result of the re-structuring of cadres, the number of posts of Chargeman Grade-B available for promotion was reduced to 3, two being general vacancies and one being a scheduled caste vacancy. Subramanian, respondent-3 and another both being seniors to the applicant and having obtained higher marks than the applicant were selected for the two general vacancies. The scheduled caste vacancy was carried forward since there was no scheduled caste



candidate who qualified in the test. That is how in 1984 respondent-3 was promoted on regular basis to the post of Chargeman Grade-B and the applicant was not. Therefore, respondent-3 was clearly senior to the applicant as Chargeman Grade-B. It was on this basis that he was subsequently promoted to the higher post of Chargeman Grade-A on ad hoc basis in the impugned order dated 30.10.1986. There was nothing illegal about the promotion of respondent-3. Infact, in 1987, again regular promotion had to be made to two posts of Chargeman Grade-B. The zone-of consideration at 3 three times the number of vacancies was 6 and the applicant being the seventh person in the gradation list was not considered. When vacancies available for promotion arise in future, the applicant will no doubt have his chance. Thus, Sri Sreerangaiah submitted that the order promoting respondent-3 was a valid order and this Tribunal should dismiss the application.

5. Having heard counsel on both sides extensively and having perused the records maintained by the respondents in great detail, we are of the view that this application has to be dismissed. The promotion of the applicant to the post of Chargeman Grade-B on ad hoc basis on 31.1.1981 did not automatically confer on him any rights of seniority because ad hoc promotions are subject to regular promotions to be made in due course of time. As the respondents have urged in their reply, regular promotions opened up in 1984. We have gone through the relevant records of this promotion. The records confirm what has been stated in the reply viz., that

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there were only three vacancies of Chargeman Grade-B available for promotion and in the list of 5 persons who qualified in the written and oral test, the applicant's number was 5. There was no vacancy reserved for scheduled tribes in the said 3 vacancies and so the applicant could not be promoted. Papanna and Subramanian who were the top two in the select list were promoted in the two vacancies. We find nothing wrong or illegal about this selection.

Since Subramanian was regularly promoted to the post of Chargeman Grade-B while the applicant has not so far been promoted to that post regularly, it was only proper that Subramanian was promoted as Chargeman Grade-A and not the applicant. We have also perused the records relating to regular promotions made in 1987. Here also, as urged by respondents 1 and 2, there were two vacancies and the zone of consideration was 6, but the applicant at Sl.No.7 did not come up for consideration. It was in these circumstances that even upto 1987, the applicant did not hold a regular post of Chargeman Grade-B and as such he could not be considered for promotion to the post of Chargeman Grade-A. In view of all this, we have no alternative but to dismiss this application. On going through the seniority list of Chargeman Grade-B we find that if vacancies arise in future, the applicant has a good chance of appearing in the zone of consideration for promotion. We are sure when such vacancies arise, the case of

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the applicant will be duly considered both according to seniority and according to the fact that he belongs to a scheduled tribe.

6. Application is, therefore, dismissed with the observations made above. Parties to bear their own costs.

~~N.B. Phareey~~
VICE CHAIRMAN
~~12/18/88~~

~~P. S. B.~~
MEMBER (A) 12/18/88

np/an.