

CENTRAL ADMINISTRATIVE TRIBUNAL

BANGALORE BENCH

Commercial Complex (BDA)
Indiranagar
Bangalore - 560 038

Dated :

22 MAR 1989

CONTEMPT

PETITION (CIVIL) APPLICATION NO (S)

186 & 187

/88

IN APPLICATION NOS.

270 & 271/87 (F)

W.P. NO (S)

Applicant (s)

Shri V.G. Veri & another

v/s

The General Manager, South Central Railway,
Secunderabad & another

To

1. Shri V.G. Veri
Chiteguppi Chawl
Station Road
Hubli
Dharwad District

4. The General Manager
South Central Railway
Rail Nileyan
Secunderabad (A.P.)

2. Shri V.N. Sunkad
Seeta Nileya
Ghatikar, Oni
Hubli - 580 020
Dharwad District

5. The Divisional Railway Manager
South Central Railway
Hubli
Dharwad District

3. Shri Chandrakanth R. Goulay
Advocate
90/1, 2nd Block, Near Ganesh Mandir
Post Office Road, Thyagaraja Nagar
Bangalore - 560 028

6. Shri M. Sresrangaiah
Railway Advocate
No. 3, S.P. Building, 10th Cross
Cubbonpet Main Road
Bangalore - 560 002

Subject : SENDING COPIES OF ORDER PASSED BY THE BENCH

Please find enclosed herewith a copy of ORDER / ~~ORDER~~ / ~~ORDER~~ / ~~ORDER~~
passed by this Tribunal in the above said application(s) on 16-3-89

RECORDED
DEPUTY REGISTRAR
(JUDICIAL)

Encl : As above

OK

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE BENCH, BANGALORE.

DATED THIS THE SIXTEENTH DAY OF MARCH 1989.

Present: Hon'ble Shri Justice K.S.PUTTASWAMY .. VICE CHAIRMAN

Hon'ble Shri L.H.A.REGO .. MEMBER(A)

CONTEMPT PETITION NOS.186 & 187/88

1. Y.G.Yeri,
Retd. Chief Ticket Inspector,
Grade II, SC Railways,
Hubli Dist.Dharwad.

2. V.N.Sunkad,
Chief Ticket Inspector,
Grade II, SC Railways,
Hubli, Dist.Dharwad.

.. Applicants.

(Shri Chandrakant Goulay .. Advocate)

vs.

1. The General Manager,
S.C.Railways,
Secunderabad.

2. The Divisional Railway Manager,
S.C.Railways, Hubli,
Dist. Dharwad.

.. Respondents

(Shri M.Sreerangaiah .. Advocate)

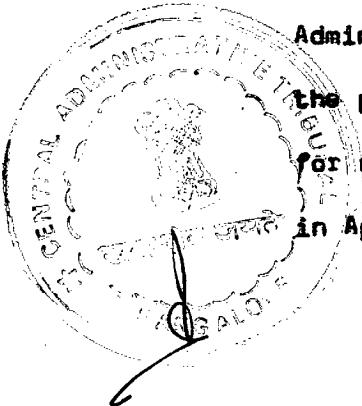
This application has come up today before this
Tribunal for Orders. Hon'ble Vice Chairman made the following:

O P D E R

Petitioners by Sh.Chandrakandth Goulay.

Respondents by Sh.M.Sreerangaiah.

In these petitions made under section 17 of the
Administrative Tribunals Act,1985, and the Contempt of Court Act,1971,
the petitioners have moved this Tribunal to punish the respondents
for non-implementation of the order made in their favour on 12.2.1988
in Application Nos.270-271/1987.



2. In Application Nos.270-271/87, the petitioners had sought for a direction to promote them to the post of Chief Travelling Ticket Inspectors (CTTI) from 1.1.1984 from which date there was a restructuring of certain cadres which was contested by the respondents. On an examination of the rival contentions, a Division Bench of this Tribunal, inter alia, directed thus:

"We therefore direct the respondents to give both the applicants promotion with effect from 1.1.1984 to the pre-revised scale of Rs.700-900. However, the applicants will not be entitled to arrears of pay on account of such promotion till the dates of their retirement, but their pay and allowances on the dates of their retirement will be refixed nationally as if they were promoted from 1.1.1984 for determining their pension and other terminal benefits on retirement."

The petitioners have asserted that these directions had not been implemented by the respondents.

3. In their reply filed today, the respondents have asserted that the directions issued in favour of the petitioners had been implemented in letter and spirit. In support of their statement, the respondents have also produced the orders made by the competent authorities on 19.4.1988 and 30.9.1988.

4. On an examination of the reply filed and the orders produced along with the reply, we find that the respondents had complied with the orders made by this Tribunal in letter and in spirit. On this, these contempt of court cases are liable to be dropped. We, therefore, drop these contempt of court proceedings. But in the circumstances of the cases, we direct the parties to bear their own costs.

P.T. Venkateshwaran Sd/-

DEPUTY REGISTRAR (JDL) S.271/3

CENTRAL ADMINISTRATIVE TRIBUNAL

BANGALORE

bk.

16/1
VICE CHAIRMAN

Sd/-

MEMBER(A)

16.3.1988

-5-

REGISTERED

CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE BENCH

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

Dated: 22 FEB 1988

APPLICATION NOS. 270 & 271 /87 (F)

W.P.No.

APPLICANT

Vs

RESPONDENTS

Shri Y.G. Yeri & another

The GM, South Central Railways, Secunderabad
& another

To

1. Shri Y.G. Yeri

5. The Divisional Railway Manager
South Central Railway
Hubli
Dharwad District

2. Shri V.N. Sunkad

6. Shri M. Sreerangaiah
Railway Advocate
3, S.P. Building, 10th Cross
Cubbonpet Main Road
Bangalore - 560 002

(Sl Nos. 1 & 2 - C/o Shri R.U. Goulay
Advocate
90/1, 2nd Block
Near Ganesh Mandir
Post Office Road
Thyagarajanagar
Bangalore - 560 028)

3. Shri R.U. Goulay

Advocate
90/1, 2nd Block
Near Ganesh Mandir
Post Office Road
Thyagarajanagar
Bangalore - 560 028

4. The General Manager
South Central Railway
Secunderabad(Andhra Pradesh)

Subject: SENDING COPIES OF ORDER PASSED BY THE BENCH

Please find enclosed herewith the copy of ORDER/SCAMX

order passed by this Tribunal in the above said application

on 12-2-88.

Encl: as above.

B. Venkatesh
DEPUTY REGISTRAR
(JUDICIAL)

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE BENCH : BANGALORE

— 6 —

DATED THE TWELTH DAY OF FEBRUARY, 1988

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

Application Nos. 270 & 271/87

1. Y.G.Yeri,
Retired Chief Ticket Inspector,
Grade II, S.C.Railways,
Hubli, Dist. Dharwar.
2. Shri V.N.Sunkad,
Chief Ticket Inspector,
Grade II, S.C. Railways,
Hubli, Dist. Dharwar. ... Applicants
vs. (Shri R.U.Goulay, Advocate)

1. The General Manager,
S.C.Railways,
Secunderabad (A.P)
2. The Divisional Railway Manager,
S.C.Railways, Hubli,
Dist. Dharwar. ... Respondents
(Shri M.Sreerangaiah, Advocate)

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

ORDER

In these applications, the applicants, who were working as Chief Ticket Inspectors Grade II in the scale of Rs 550-750 (pre-revised), complain that they should have been promoted as Chief Ticket Inspectors Grade I in the scale of Rs 700-900 (pre-revised) with effect from 1-1-1984 as per restructuring of scales ordered in General Manager, South Central Railway's circular dated 27-12-1983. The respondents' contention is that though the applicants passed the written examination for the purpose of promotion, they retired before the oral test was held so that they could not be given promotion to the higher post as a result of the restructuring.

2. Shri M. Sreerangaiah, learned counsel for the respondents, raised a preliminary objection that these applications are barred by limitation because the cause of



action arose on 1-1-1984, the date from which the applicants claim promotion and that with reference to that date, these applications are badly delayed.

3. Shri R.U. Goulay, learned counsel for the applicants, opposed the contentions of Shri Sreerangaiah and submitted that these applications were in time. Even if they are considered out of time so far as the promotion of the applicants to the higher posts from 1-1-1984 is concerned, the decision not to promote them affected their pension and other terminal benefits which is a continuing grievance, and that with reference to these benefits, the application is certainly in time.

4. After considering the rival contentions, we are of the view that while Shri Sreerangaiah may be right about the limitation having set in in respect of the applicant's claim for monetary benefits from promotion with effect from 1-1-1984, it certainly does not operate to deny the applicant's higher pension and terminal benefits that would have been due to them if, as claimed by them, they were entitled to be given promotion from 1-1-1984.

5. Shri Goulay submits that though orders of restructuring were passed in December 1983 and the restructuring should have been brought about by 31-3-1984 according to the letter of the General Manager, South Central Railway, dated 27-12-1983, the respondents took a long time to conduct the written and oral tests for promotion to the higher posts. The applicants took and passed the written test which was held on 20-1-1985 but this examination was cancelled by the respondents later and a fresh written test was held on 11-8-1985 by which time both the applicants had retired. The oral test was scheduled for 9-4-1986 in which naturally the applicants could not appear. For no fault of the applicants, the restructuring, which should have been



completed by 31-3-1984 according to the letter dated 27-12-1983 of the General Manager, South Central Railway, was delayed much beyond that date and even beyond the dates of retirement of both the applicants which were in March and April 1985. When the circular letter was issued on 27-12-1983 both the applicants were in service and expected to be promoted within a short time after the prescribed procedure was completed. For no fault of theirs, the whole procedure took time and they had to retire in the meanwhile. For this reason, they should not be made to suffer.

6. Shri Sreerangaiah opposing the contention of Shri Coulay submitted that delays were inevitable in a huge organisation like the Railways and for that reason, the applicants could not be given promotion without passing the qualifying tests.

7. We have considered the rival contentions carefully. A similar matter came up before another Bench of this Tribunal in which one of us (Hon'ble Shri P.Srinivasan) was a party - application No. 657/86. While disposing of this application, this Tribunal held that when the process of promotion as a result of restructuring is delayed for no fault of the official concerned, he could not for that reason be denied the promotion to a post which had come into existence well before he retired from service. In that case, we were concerned with an order of restructuring dated 27-9-1983 and the tests for promotion in that case were held long after the circular bringing about restructuring was issued and because of the delay, the applicants therein could not take the test and qualify for promotion. We held that in the circumstances of those cases, the applicants therein should be considered



P. S. — 8 —

- 9 -

for promotion with reference to their service records without requiring them to pass written and oral tests and if found fit, they should be given promotion from the date the restructured posts came into existence. We feel that there is no point, on the peculiar facts of these cases, in asking the respondents to consider the fitness of the applicants for promotion at this late stage long after both of them have retired. We therefore direct the respondents to give both the applicants promotion with effect from 1-1-1984 to the pre-revised scale of Rs 700-900. However, the applicants will not be entitled to arrears of pay on account of such promotion till the dates of their retirement, but their pay and allowances on the dates of their retirement will be refixed notionally as if they were promoted from 1-1-1984 for determining their pension and other terminal benefits on retirement.

8. The application is disposed of on the above terms. Parties to bear their own costs.

Sd/-

VICE CHAIRMAN

Sd/-

MEMBER(A)



12/2/88
TRUE COPY



R. Venkatesh
DEPUTY REGISTRAR (JDL)
CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE