

**CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE BENCH**

Commercial Complex (BDA)
Indiranagar
Bangalore - 560 038

Dated : 29 MAR 1989

APPLICATION NO. (S) 137 / 89 (F)

W.P. NO. (S) _____

Applicant (s)

Shri Venkateswara Simhaiah
To

v/s

The Divisional Personnel Officer, Southern Rly,
Bangalore & another

1. Shri Venkatanarasimhaiah
No. 34-B, Broadgauge Colony
Near R.M.S. Office
Bangalore - 560 053
2. Dr M.S. Nagaraja
Advocate
35 (Above Hotel Swagath)
1st Main, Ganthineger
Bangalore - 560 009
3. The Divisional Personnel Officer
Southern Railway
Bangalore Division
Bangalore - 560 023
4. The General Manager (Personnel)
Southern Railway
Park Town
Madras - 600 003
5. Shri M. Sreerangaiah
Railway Advocate
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/NOTIFICATION/INTERIM ORDER passed by this Tribunal in the above said application(s) on 21-3-89

Enc 3 As above

By [Signature]
DEPUTY REGISTRAR
(JUDICIAL)

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BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE BENCH, BANGALORE.

DATED THIS THE TWENTYFIRST DAY OF MARCH 1989

Present : Hon'ble Shri P.Srinivasan .. Member(A)

APPLICATION NO. 137/1989(F)

Shri.Venkatanarasimhaiah,
No.34, B.Broadgaugae Colony,
Bangalore.

.. Applicant

(Shri Dr.M.S.Nagaraja .. Advocate)
vs.

The Divisional Personnel Officer,
Southern Railways,
Bangalore Division,
Bangalore 560 023.

The General Manager (Personnel)
Southern Railways,
Park Town,
Madras 3.

.. Respondents

(Shri M.Sreerangaiah .. Advocate)

This application has come up today before this Tribunal
for Orders. Hon'ble Member (A) made the following:

ORDER

The applicant was working as an Enquiry-cum-Reservation
Clerk(ECRC), Grade-II in the scale of Rs.425-640 in the reserva-
tion office of the Southern Railway in Bangalore City(SBC) in
1985. The Station Superintendent, Bangalore City issued a
Memorandum on 17.11.1985 addressed to a certain M.R.Jayaraman,
ECRC, GradeI relieving him from his post to join in a higher
post in the grade of Rs.550-750. A copy of this Memo was
endorsed to the Divisional Commercial Superintendent, Bangalore
city for information with the following note:

P.Srinivasan



A

simhaiah

*Sh.Venkatanara/ , ECRC Gr.II SBC in scale 425-640 who is the senior most in SBC has been instructed to officiate in scale 455-700 in place of M.R.Jayaraman as per Sr OTS SBC instructions subject to approval of Headquarter Office. Additional CCS/GMAS may kindly be advised further in the matter." Another copy of the same memo was endorsed to the Chief Reservation Supervisor(CRS), SBC with the direction, "Sri Venkatamarasimhaiah ECRC/GrII/SBC may be asked to officiate in scale 455-700 subject to approval from HQ Office/MAS". Accordingly, the applicant assumed the duties of ECRC Grade-I in the scale of Rs.455-700 with effect from 17.11.1985. He, however, proceeded on leave from 27.11.1985 to 9.12.1985 and resumed duty on 10.12.1985 in the same post. He continued in that post thereafter. With effect from 1.1.1986, the 2 grades of ECRC Grade-II and Grade-I were merged into one grade, and so the question of the applicant being promoted regularly as ECRC Grade-I did not arise thereafter. Orders merging the two grades with effect from 1.1.1986 were however issued much later. In the meanwhile, a meeting of the Departmental Promotion Committee was held on 5.3.1986 which approved the applicant for regular promotion as ECRC Grade-I, and his name along with those of others so approved were published in a panel in April 1986. But this was not followedup by any promotion, because, the 2 grades were subsequently merged into one. The applicant's grievance is that when he assumed duties of the post of ECRC Grade-I on 17.11.1985 his pay in that post should have been fixed under FR 22 C with reference to the pay which he was drawing before such promotion, but this was not done.

2. Respondents have filed their reply resisting the application.

3. Dr.M.S.Nagaraja, learned counsel for the applicant and Shri M.Sreerangaiah, learned counsel for the respondents have been invited.

4. The objection of the respondents to the fixation of the applicant's pay under FR 22C in the Pay scale of Rs.455-700 is two fold. First of all, promotions to the post of ECRC Grade I had to be approved by the Head Quarters Office at Madras and could not be made by the Station Superintendent, Bangalore City. Till such promotion is approved by Head Quarters Office the applicant could not be given the pay of the higher post. Secondly, even assuming that the adhoc promotion of the applicant with effect from 17.11.1985 was properly made, he could not get the pay of the higher post unless he worked in that post for 22 days after such promotion. The applicant had proceeded on leave from 22.11.1985, which means that he worked in that post only for 6 days, i.e., from 17.11.1985 to 22.11.1985. Dr.Nagaraja submits that even if it be held that the applicant did not officiate in the higher post for 22 days from 17.11.1985, he had worked for 22 days from 10.12.1985 on which date he resumed duty after leave. Therefore, the second objection of the respondents will not hold from 10.12.1985. He also submitted that it was for the Station Superintendent to seek approval of the Head Quarters for the promotion of the applicant and in fact he sent statement showing the officiating arrangement of the applicant from 17.11.1985 to the Divisional Commercial Superintendent sometime in February 1986(Annexure-A2). If no action was taken by Head Quarters on this, the applicant was not responsible. Sh.Sreerangaiah however, submitted that this statement was not found in the Office of the Divisional Personnel Officer and so he was not sure that such a statement was at all sent by the Station Superintendent.

P. S. [Signature]

5. One thing both parties are agreed on is that the applicant did perform the duties of ECRC Grade-I from 17.11.1985 to 22.11.1985 and again from 10.12.1985 onwards and he did this on the basis of an order issued by his Superior i.e., the Station Superintendent, Bangalore City. There is a controversy over whether the Station Superintendent moved the Head Quarters for approval of this officiating arrangement. It appears that the applicant was asked to officiate as ECRC Grade-I because he was the senior most official in ECRC Grade-II in Bangalore City. One would have thought that a local arrangement of this kind would normally have been approved by the Head Quarters if a proposal had reached them. In any case the applicant cannot be faulted if such approval had not been sought or given. In all fairness therefore, the applicant should have been given the pay of the Higher post from 10.12.1985 from which date he officiated in that post for more than 22 days. The respondents are therefore, directed to fix the pay of the applicant in the grade of Rs.455-700 with effect from 10.12.1985 under the rules governing ^{the subject} in this case.

6. The application is disposed of on the above terms, leaving the parties to bear their own costs.

Sd —

TRUE COPY

MEMBER(A) 21/3/87

bk.

Rajendra Singh
DEPUTY REGISTRAR (JULY 79/3)
CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE