

CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE BENCH

Second Floor,
Commercial Complex,
Indiranagar,
Bangalore-560038.

Dated: 22 SEP 1993

APPLICATION NO(S) 239 of 1993.

APPLICANTS: A.Jagadish

v/s. RESPONDENTS: General Manager,

Southern Railways, Madras & Others.

TO.

1. Sri.S.S.Hosur,
Advocate,
No.852, Third 'C' Main,
E-Block, II Stage,
Rajajinagar,
Bangalore-560 010.
2. Smt.M.V.Nirmala,
Advocate, No.53,
N.S.Iyengar Street,
Seshadripuram,
Bangalore-560 020.
3. The Divisional Personnel Officer,
Southern Railway, Mysore Division,
MYSORE.

Subject:- Forwarding of copies of the Order passed by
the Central Administrative Tribunal, Bangalore.

Please find enclosed herewith a copy of the
ORDER/STAY/INTERIM ORDER, passed by this Tribunal in the
above said application(s) on 08-09-1993.

Recd copy for SI. 1
22/9/93

[Signature]
DEPUTY REGISTRAR
JUDICIAL BRANCHES.

22/9/93

CENTRAL ADMINISTRATIVE TRIBUNAL: BANGALORE

DATED THIS THE 8TH DAY OF SEPTEMBER, 1993.

PRESENT:

Hon'ble Mr. Justice P.K. Shyamsundar,

.. Vice-Chairman.

And

Hon'ble Mr. V. Ramakrishnan,

.. Member(A)

APPLICATION NUMBER 239 OF 1993

A. Jagadish,
S/o Anjaneya, Aged about 23 years,
residing at Chikkajajuru,
Taluk Holalkere,
Chitradurga District.

.. Applicant.

(By Sri S.S. Hosur, Advocate)

v.

1. The General Manager,
Southern Railways, Madras.
2. The Divisional Railway Manager,
Southern Railway, Mysore.

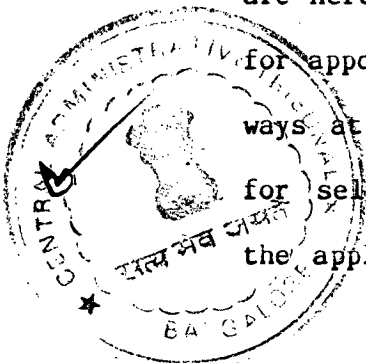
.. Respondents.

(By Smt. M.V. Nirmala, Standing Counsel)

This application having come up for hearing to-day,
Hon'ble Vice-Chairman made the following:-

ORDER

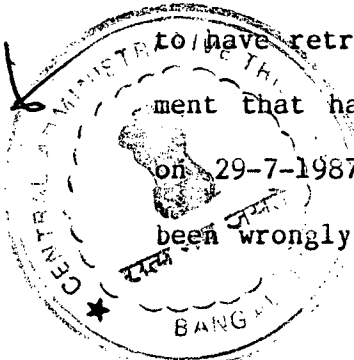
It is clear that the respondents had grossly erred in striking out the name of the applicant for job placement in Group-D category in Railways after having selected him and found him appropriate, is an aspect on which there is no dispute. We are herein concerned with the claim of the applicant, A. Jagadish for appointment to a Group-D category post in the Southern Railways at Mysore. He was admittedly interviewed and empanelled for selection as could be seen from the excerpt produced by the applicant at Annexure-A3. Admittedly there were 112 posts



✓ which had to be filled in and the applicant Jagadish occupied 109th position. Therefore he was clearly well entrenched and in the normal course there should have been no difficulty in bringing his candidature into fusion by appointing him in a Group-D category post. But, that did not happen and instead what followed was a spate of representations made by the applicant as per Annexure-A4 to A6. But, it does transpire that he went before the High Court of Karnataka, filed a writ petition which disposed off in the year 1990 holding that it was not maintainable and inter alia directing him to approach the Administrative Tribunal for relief. For reasons best known to him, he had not pursued the matter till 1993 and on that score given rise to a complaint by the respondents that this application is belated. But, we think that in the facts and circumstances of the case, regard being had to the fact that the applicant a person belonging to scheduled tribe community and noticeably stationed in a remote place like Chikkajajuru it is understandable that he had not kept up appropriate communication with those who were responsible for monitoring his litigation, in the process there is some delay which we think apposite to condone since it has not caused any injury to the department and the only injury that it has caused is what has been suffered by the applicant by exhibiting certain amount of laxity, as he should have come to the Tribunal in the year 1990 itself in which event he probably would have had the job all these three years. We, therefore, do not consider the question of delay to be an insurmountable one and at any rate we do not see any ground not to proceed to dispose of this application on merits.

2. From the objections statement filed by the respondents/- railways what becomes clear to us is after the applicant and others were selected in the list of 112 which was finally prepared the department once again asked to consider the cases of some 5 more people who had also been certified as belonging to the Scheduled Tribe category. But, the certification appears to have been done by authorities who were not recognised as appropriate quarters. Be that as it may, there being a direction by the Headquarters that 5 more applicants be considered for selection after 112 were already selected, done as far back as on 29-7-1987, we find from the records produced by the learned Standing Counsel for the Railways a fresh selection done following an interview held on 27-8-1988 as indicated in the statement of objections, confined to 5 people and on the basis of their interview performance compared vis-a-vis that of others already empanelled, it was found that people starting with the applicant Jagadish at Sl.No.109 in the original list some 4 to 5 have to be displaced to make room for those people. The result was 5 new people were inducted into the list in place of Jagadish and four others leading to the consequence of Jagadish losing the chance of being appointed although he had been empanelled earlier.

3. We think it was improper on the part of the authorities to have retraced their steps in reopening the issue of empanelment that had earlier concluded with the panel being published on 29-7-1987. If the authorities thought that somebody had been wrongly excluded, we think it was not proper on their part



to have included such people to the detriment and at the cost of people like the applicant Jagadish who had already been empanelled. The highest what could have been done was to create some more posts and given it to them but it was not proper on the part of the Railway authorities to snatch away the job from the hands of the applicant Jagadish who had successfully negotiated the interview earlier and was expecting an appointment as per the list published on 29-7-1987. While we cannot take away the jobs offered to others since they have already been appointed, all that we can do is to direct the respondents/railways to appoint the applicant Jagadish if need be by creating one more supernumerary post which would meet the requirement of justice. Hence, we allow this application and issue a direction to the respondent/railways to forthwith appoint the applicant in Gropu-D position without putting forth any pretext of want of vacancies. If there is any difficulty in the fitment of the applicant for want of vacancy they are directed to create one more supernumerary post and appoint the applicant in that position. This should be done and the direction as aforesaid to be complied within 3 months from the date of receipt of a copy of this order. No costs.

Sd-
MEMBER(A)

TRUE COPY

Sd-
VICE-CHAIRMAN.

[Signature]
SENIOR OFFICER

GENERAL MANAGER, RAILWAY BOARD

NEW DELHI

22/9/88