

CENTRAL ADMINISTRATIVE TRIBUNAL  
BANGALORE BENCH

Second Floor,  
Commercial Complex,  
Indiranagar,  
Bangalore-38.

Dated: 25 FEB 1994

APPLICATION NO(s) 574 of 1993.

APPLICANTS: N.Rajamanickam

RESPONDENTS: General Manager, Southern Railway, Madras and Others.

TO.

1. Sri.K.V.Shamanna, Advocate,  
No.1465,14th Main Road,  
West of Chord Road,  
Mahalakshmipuram, Bangalore- 86.
2. The Divisional Personnel Officer,  
Southern Railway, Bangalore-560023.
3. Sri.A.N.Vengapala gowda, Advocate,  
No.8/2,Upstairs,R.V.Road, Bangalore-4.

SUBJECT:- Forwarding of copies of the Orders passed by  
the Central Administrative Tribunal, Bangalore.

-XXX-

Please find enclosed herewith a copy of the  
ORDER/STAY ORDER/INTERIM ORDER/, Passed by this Tribunal  
in the above mentioned application(s) on 17-02-1994.

ISSUED  
25/2/94

*Sri. Shambu* 25/2  
for DEPUTY REGISTRAR  
JUDICIAL BRANCHES.

gm\*

c/c

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL  
BANGALORE BENCH

O.A.NO.574/93

THURSDAY THIS THIS SEVENTEENTH DAY OF FEBRUARY 1994

Shri Justice P.K. Shyamsundar ... Vice-Chairman

Shri T.V. Ramanan ... Member [A]

N. Rajamanickam,  
S/o Narayanaswamy,  
Aged about 60 years,  
Retired Chief Clerk,  
O/o the Divisional Personnel Officer,  
Southern Railway,  
Bangalore Division, Bangalore. ... Applicant

[By Advocate Shri K.V. Shamanna]

v.

1. Union of India represented by  
The General Manager,  
Southern Railway,  
Park Town, Madras-600 003.
2. The Chief Personnel Officer,  
Southern Railway,  
Park Town, Madras-600 003.
3. The Divisional Personnel Officer,  
Divisional Office,  
Southern Railway,  
Bangalore-560 023 ... Respondents

[By Advocate Shri A.N. Venugopal ...  
Standing Counsel for Railways]

O R D E R

By Shri Justice P.K. Shyamsundar, Vice-Chairman:

1. We have heard the learned counsel on either side. We admit this application. We notice that all that we can do to the applicant herein is to direct the respondents to grant him the higher pay scale of Chief Clerk with effect from 8.2.1990, the date on which his immediate juniors had been promoted.
2. We find, that for no reason at all, the said relief of granting higher pay with effect from the date of promotion of the

juniors to the applicant has been denied. This becomes apparent from Annexure A-7 which reads:

"SOUTHERN RAILWAY

No.B/P.535/VI/PB/Vol.III

Divisional Office,  
Personnel Branch,  
Bangalore-23,  
Dated: 07-09-90.

OFFICE ORDER NO.PG/166/9/90

Consequent on discharging the criminal case, Sri N. Rajamanickam, HEAD CLERK, DPO/O/SBC in scale Rs.1400-2300, who has been empanelled in the selection held for the post of Chief Clerk in scale Rs.1600-2660 on 2-12-89, is promoted to officiate as Chief Clerk in scale Rs.1600-2660 with effect from 8-2-90, ie from the date of promotion of his junior Sri R. Sai Prasad, HC/ DPO/O/SBC as Chief Clerk in scale Rs.1600-2660..

The promotion from 8-2-90, against the existing vacancy is only on proforma basis. He is eligible to draw pay on higher rate from 3.9.90 only. The pay on promotion is fixed as under.

Pay in scale Rs.1400-2300 - Rs.1850/- w.e.f. 1.10.88

Fixed on promotion in - Rs.1950/- w.e.f. 8.2.90.  
scale Rs.1600-2660.

Sd/- D?P.O./SBC"

It is an axiomatic principle where promotion is effected from an antecedent date, it must follow with apposite benefits like pay, emoluments, etc. from the earlier date. In this case, the applicant could not be promoted earlier because he was then under a cloud for some time. As a result, his case for promotion after being considered in 1989, the results of such consideration, it appears was put in a sealed cover, a step that was in consonance with the rules. But, when he came out of the eclipse, the sealed cover having been opened, he was found fit for promotion in 1989 itself. Accordingly, his promotion followed relating

it back to the date on which his immediate junior was promoted on 8.2.1990. Having promoted him with effect from 8.2.1990, there was no reason why he should have been denied the higher salary in the promoted cadre. We cannot accept the very naive submission of Shri A.N. Venugopal, the learned Standing Counsel for the Railways that he was not given the higher pay scale because he had not shouldered higher responsibility and hence he was not eligible for the same. But the fact remains he was ever willing to do that but was not allowed to shoulder higher responsibility because of a pending investigation. We think this denial of higher pay from 8.2.1990 was clearly unnecessary.

3. In this view, this application succeeds in part, we quash that portion of the order in Annexure A-7 denying back wages and direct action be taken for computing the pay due to him in the higher scale with effect from 8.2.1990. The department will comply with the above direction within two months from the date of receipt of a copy of this order.

4. We think it appropriate to condone the delay in filing this application. Of course the delay is over two years, but it should not stand in the way as pointed out by the Hon'ble Supreme Court, in the case of A. SAGAYANATHAN VS. DIVISIONAL PERSONNEL OFFICER, SOUTHERN RAILWAY reported in AIR 1991 SC 424. We make it clear

**COPY** that the condonation of delay herein is only in the facts of this case and should not be treated as a general dictum. No

costs.

TRIBUNAL  
ADMN. & FINC<sup>SD</sup>  
BANGALORE  
MEMBER [A]

SD-

VCE-CHAIRMAN