

CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE BENCH

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

Dated: 24 SEP 1993

APPLICATION NO(S) 235/92 and 578/1993.

APPLICANTS: Gopi Naik

v/s.

RESPONDENTS: General Manager,

TO.

Southern Railway, Madras & Others.

1. Sri.N.R.Naik,
Advocate,
No.211, Sree Rama Road,
Second Block,
Thyagarajanagar,
Bangalore-560 028.
2. Sri.N.S.Prasad,
Advocate, No.242,
Fifth Main Road,
Gandhinagar,
Bangalore-560 009.

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 08-09-93.

Issued
gm*

For N. Jais
DEPUTY REGISTRAR
JUDICIAL BRANCHES. 24/9/93

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)

APPLICATIONS NUMBERS 235/92 & 578/93.

Gopi Naik,
S/o P. Rama Naik, Aged 42 years,
Chargeman-B, Diesel Shed,
Krishnarajapuram,
Bangalore-560 036.

.. Applicant.

(By Sri N.R. Naik, Advocate) in both applications

v.

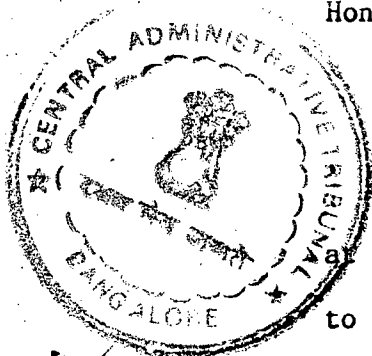
1. Union of India
represented by General Manager
Southern Railway, Park Town,
Madras. .. Respondent-1
in both Applications.
2. The Chief Motive Power Engineer/R&L,
Mechanical Branch, Madras. Respondent-2 in A.No. 235/92.
3. The Divisional Personal Officer,
Bangalore Division,
Bangalore City Railway Station,
Bangalore. .. Respondent-3
in both applications.
4. The Deputy Chief Mechanical Engineer,
Diesel Shed, Krishnarajapuram,
Bangalore. .. Respondent-4 in A.No. 235/92
5. The Divisional Railway Manager,
Bangalore Division,
Bangalore City Railway Station,
Southern Railway, Bangalore. .. Respondent-2 in A.No. 578/93.

(By Sri N.S. Prasad, Standing Counsel)

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

ORDER

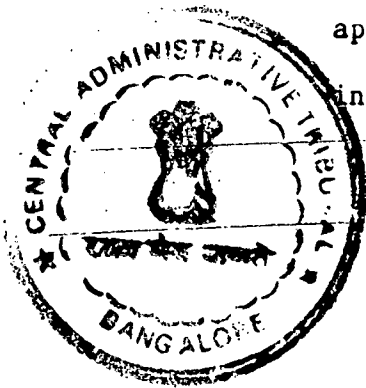
Having heard Mr. N.R. Naik, learned counsel for the applicant
length, we find this case pertains to an employee who appears
to be most indisciplined. In order to improve his service pros-
pects, he was directed to take training at the Diesel workshop



at Tiruchchirappalli not once but thrice, on each occasion he turned his back by putting forward a lame excuse for not undergoing the training, as a result his posting as Chargeman-B was taken away and he was then posted as Diesel Fitter Grade-I. It is not in dispute that in order to be a Chargeman-B he had necessarily to be equipped by undergoing appropriate training and that is what he lacked. The Department on an earlier occasion appears to have taken the view that he should be posted as Chargeman-B and continued as such subject to undergoing training vide Annexure-R1 produced along with the reply in A.No.578 of 1993. The said order is clearly conditional stipulating that he would continue as Chargeman-B provided he takes the appropriate training and is declared successful therein. After the man turned his back not once but three times displaying his reluctance to take training the department finding it difficult to countenance this kind of indiscipline, therefore after issue of a notice choose to revert him as Diesel Fitter Grade-I. He had come to the Tribunal on an earlier occasion, in Application Number 368 of 1990 and at that time he succeeded, the Tribunal having found that he not could not have been reverted without giving him a show cause notice but in the course of the order the Tribunal gave direction to the Railways to take action afresh if it so desired after rectifying the lucunae pointed out. Accordingly the authorities thereafter issued a show cause notice and after consideration of the representation ordered his reversion by passing the impugned order. In the order impugned in A.No.578 of 1993 as per Annexure-A3, reversion is mainly based on the fact that the man was not equipped for holding the post of Chargman-B and that he turned down all opportunities to equip himself for that post and also taking notice of the fact that the earlier recommendation to put him into Chargeman-B was futile because in the same section there was no Chargeman-B post to

which he could be fitted. The order impugned in Application No.578 of 1993 is clearly based on administrative expediency and suffers from no flaw either legal or factual. In that view of the matter, we find no substance in either of these two applications which are disposed off by this order culminating in their dismissal. We may make it clear that it is open to the applicant to take the next opportunity of undergoing appropriate training in Diesel Locomotive and if he successfully undergoes that training the Railway Authorities should consider him again for the Chargeman-B post. No costs.

After we pronounced this order, Mr. Naik urged that if no post of Chargeman-B in Boiler Section was available, the applicant may be posted in any other position but continued in Chargeman-B grade. We cannot accede to that request.



Sd-
MEMBER(A)

Sd-
VICE-CHAIRMAN.

TRUE COPY

n. Naik 24/9/93
SECTION OFFICER
CENTRAL ADMINISTRATIVE TRIBUNAL
ADDITIONAL BENCH
BANGALORE