

CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE BENCH

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

Dated: 24 FEB 1994

APPLICATION NO(s) 753 of 1993

APPLICANTS:

G. Deenadayalan Ambedkar

RESPONDENTS: Secretary, Ministry of
v/s. Railways, New Delhi and Others.

TO.

1. Sri.M.S.Anandaramu, Advocate, No.27, Chandrasekhar Complex,
First Floor, First Main Road, Gandhinagar, Bangalore-9.
2. The Divisional Personnel Officer,
Southern Railways, Bangalore Division,
Bangalore City.
3. Mrs.M.V.Nirmala, Advocate,
53, N.S. Iyengar Street,
Seshadripuram, Bangalore-20.

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 10-02-1994.

Issued
25/2/94

for *S. Shankar* 24/2
DEPUTY REGISTRAR
JUDICIAL BRANCHES.

gm*

o/c

CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE BENCH: BANGALORE

APPLICATION NO. 753/1993

THURSDAY, THE TENTH DAY OF FEBRUARY, 1994

Present: Mr. Justice P.K. Shyamsunder, Vice Chairman

Mr. T.V. Ramanan, Member(A)

Shri G. Deenadayalan Ambedkar
Son of S.M. Gangadharan
Aged about 33 years
Staff No. BT 267, now working as
Station Master Grade III

Kuppam Railway Station (BG)
Bangalore Division, Southern
Railway and residing at Railway
Quarters No. 19-B, Kuppam,
Chittoor District, Andhra Pradesh

.... Applicant

(By Shri M.S. Anandaramu, Advocate)

Vs.

1. The Union of India
represented by the Secretary to
The Government, Ministry of Railways
Rail Bhavan, New Delhi.
 2. The Railway Board
represented by the Chairman
Rail Bhava, New Delhi
 3. The General Manager
Southern Railway, Madras.
 4. The Divisional Railway Manager
Bangalore Division, Southern Railway
Bangalore.
 5. The Divisional Personnel Officer/SBC
Bangalore Division, Southern Railway
Bangalore City Railway Station, Bangalore.
 6. Shri John V. Abraham
Staff No. BT 269
Station Master Grade III
Southern Railway City Railway Station
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 7. Shri K. Sagar
Staff No. BT 270
Station Master Grade III
Southern Railway, White Field
Railway Station, White Field, Bangalore. ... Respondents
- (By Ms. M.V. Nirmala, Advocate)



O R D E R

(Mr. T.V. Ramanan, Member (A))

In this application under Section 19 of the Administrative Tribunal Act, 1985, the applicant has challenged the higher seniority of respondents no.6 & 7 vis-a-vis his own in the cadre of Station Masters and has also sought his promotion on a regular basis as Station Master with effect from 12.5.1987, the date on which he was promoted as Station Master on an officiating basis.

2. Learned counsel for the applicant did not press M.A. No.59/94 in this O.A. as regards production of documents. Further, whatever documents are needed for disposal of this O.A. have been made available by the Standing Counsel for respondent nos.1 to 5.

3. The facts of the case in brief are:- The applicant and 28 others including respondent nos. 6 & 7 were selected for induction as Assistant Station Masters by the Railway Recruitment Board in the year 1985. Of the 29 so selected, 25 were selected under normal conditions and 4 candidates including the applicant were selected under relaxed norms (Annexure-R1). The candidates so selected were to be sent for initial training at the Zonal School which is mandatory and their absorption/confirmation and seniority was to be regulated on their passing the initial training. As is usual, before appointments are made, the character and antecedents of each and every candidate are to be verified. Normally, such verification is got done through the Deputy Commissioners/District

Collectors of the Districts to which the candidates belong.

However, as per the Central Government's orders verification of character and antecedents of candidates hailing from

Kerala and West Bengal are got done through the Ministry of Home Affairs. As it was found that in most cases such

verification was not complete because there was a shortage of

personnel available to man the posts of Assistant Station

Masters, it was decided to make offers of appointment provisionally and depute for training ~~provisionally~~ the selected

candidates excepting those hailing from Kerala in which category

respondents no. 6 & 7 fell. After giving offers of appointment

and acceptance of the same by the selected candidates, some

held candidates were sent for training/between 21.10.1985 and 20.4.1986

in batch no.182 and 2 others including the applicant were sent

for training held between 23.12.1985 and 22.6.1986 in batch no.184.

It was decided that respondents no. 6 & 7 should not be sent for

training after giving offers of appointment to them unless

clearance or regards their character and antecedents was received

from the Central Government. As such clearance was received

much later, Respondents no. 6 & 7 could be given offers of

appointment only in 21.7.1986 and upon their acceptance of the

offer, on the same ^{day,} they were sent for initial training held

between 20.10.1986 and 20.4.1987 in batch no.187.

4. According to the applicant he was appointed as Assistant Station Master on 24.12.1985 in the scale of Rs 1200-2040 much before the appointment of respondents no. 6 & 7 as Assistant Station Masters in the ^{same} scale on 20.10.1986 and as such he should

rank senior to respondents no. 6 & 7. Further, as he was allowed to officiate in the grade of Station Master (Rs 1400-2300) w.e.f. 12.5.1987 (Annexure-A1) i.e., much before respondents no. 6 & 7, he should have been given a higher seniority vis-a-vis both the aforesaid respondents. He, has, therefore, challenged the provisional seniority list of Assistant Station Masters in scale Rs 1400-2300 as on 1.1.1990 (Annexures-A2 and A3) and seniority list of Station Masters in scale Rs 1400-2300 as on 1.1.1990 published after considering representations received (Annexures-A5 and A6). It may be stated here that both the applicant and the respondents no. 6 & 7 were promoted regularly ^w to the scale of Rs 1400-2300 w.e.f. 30.6.1988. In the provisional seniority list (Annexures-A2 and A3) and in the final seniority list (Annexures-A5 and A6), the applicant figures below respondents no. 6 & 7. The applicant had made a representation against the ranking assigned to him in the provisional seniority list claiming that he should be placed above respondents no. 6 & 7 in the matter of seniority. However, when the final seniority list was issued on 28.1.1992, the applicant was still shown as junior to respondents 6 & 7. He further represented against the position assigned to him in the final seniority list, but to no avail. The applicant has also questioned the promotion of respondents no. 6 & 7 in the scale of Rs 1400-2300 before they have completed 2 years of service.

5. We have heard the learned counsel for the applicant and the Standing Counsel for respondents 1 to 5 and also perused the record of the case as also the Service Books and other records made available by the learned Standing Counsel.

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D R D C R

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6. It is common ground between the parties that the applicant as well as respondents no. 6 & 7 came through a common selection through the Railway Recruitment Board. The point stressed by the learned counsel was that the department had not gone by para-303 of the Indian Railway Establishment Manual. For the sake of convenience, the said Rule is reproduced below:-

"Para-303: The seniority of candidates recruited through the Railway Service Commission or by any other recruiting authority should be determined as under:-

- (a) Candidates who are sent for initial training to training schools will rank in seniority in the relevant grade in the order of merit obtained at the examination held at the end of the training period before being posted against working posts.
- (b) Candidates who do not have to undergo any training the seniority should be determined on the basis of the merit order assigned by the Railway Service Commission or other recruiting authority. "

According to the learned counsel for the applicant clause(a) of para-303 very clearly states that candidates who are sent for initial training to training schools will rank in seniority in the relevant grade in the order of merit obtained at the examination held at the end of the training period before being posted against working posts. His argument was that since the applicant took part in training in the 184th batch between 23.12.1985 and 22.6.1986, that is, earlier to respondents no.6&7 who received training in the 187th batch between 20.10.1986 and 20.4.1987, the application of clause(a) of this Rule would entitle the applicant to be ranked higher in seniority vis-a-vis the respondents no. 6 & 7. Learned Standing counsel for the Railways countered this by stating that it was due to administrative reasons that respondents no. 6 & 7 could



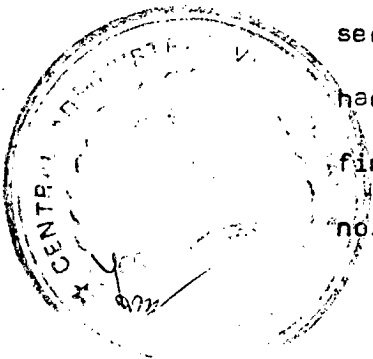
not be sent for training along with others in the 182nd batch itself in that fortunately or unfortunately as they hail from Kerala due to the special guide lines for verification of character and antecedents of those hailing from Kerala and West Bengal issued by the Central Government, the department could not issue even provisional offers of appointment to them and send them for training as they did in case of other normally selected candidate(s) many of whom had not even been cleared for character and antecedents by the Deputy Commissioners/District Magistrates concerned. She further argued that it was not the fault of respondents no.6 & 7 that they came to be issued offers of appointment much later only after the verification of their character and antecedents was done and they were cleared for appointment.

7. We have carefully considered the arguments advanced by both the sides. It is quite evident that respondents no. 6 & 7 were cleared by the Central Government after verification of their character and antecedents only in January, 1986. They were offered appointment on 21.7.1986 as is evident from their Service Books made available by the Standing Counsel for the Railways. It is further evident from a perusal of page-2 of their Service Book that in response to the offer of appointment they reported to the Department on 21.7.1986 itself and they were appointed temporarily in the relevant pay scale and deputed for institutional training in batch no.187 and they received their training between 20.10.1986 and 20.4.1987. After completion of the training, they were posted as Assistant Station Masters in the scale of Rs 1200-2040. Subsequently, they were promoted to the higher grade of Rs 1400-2300 with effect from 30.6.1988. The record also says that because of the considerable delay in obtaining clearance as regards the character and antecedent they could not be sent for

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training in 1985 itself but had to wait till 1986 for being sent for training. Due to no fault of theirs, respondents no. 6 & 7 could not go with the others for training in batch no.182 or even in batch no.184 in which the applicant found a place.

8. Taking up Para-303 of the Indian Railway Establishment Manual, we do not agree with the learned counsel for the applicant that just because the applicant had undergone training earlier than respondents no.6 & 7 he would rank senior to the 2 respondents. A careful study of clause (a) of para-303 makes it amply clear that the intention of the Rule is that candidates selected for appointment at the same selection shall have seniority in the relevant grade in the order of merit obtained at the end of the training course examination, irrespective of whether the selected candidates were trained in batch nos. 182 or 184 or 187 and irrespective of whether the end-of-the-course examination relates to batch nos. 182 or 184 or 187. The marks obtained by the candidates belonging to a particular selection sent for training even in different batches will get their seniority fixed on the basis of the merit secured by them at the end of the course examination held for each batch as reflected in the marks obtained by them. Otherwise, it would militate against the concepts of equality and equal opportunity. In the present case, seniority has been determined on the basis of the order of merit. While respondent no.6 secured 249 marks and respondent no.7 244 marks, the applicant had secured only 212 marks (Annexure-R2). We do not, therefore, find any infirmity in the assignment of seniority to respondents no.6 & 7 above the applicant.



9. By the same token our views in 2 other matters are expressed below: (1) The applicant even if he has officiated in the higher grade of Rs 1400-2300 ^{fortuitously} prior to respondents no. 6 & 7, does not have a case to claim higher seniority because in point of fact he is junior to respondents no. 6 & 7. (2) We also do not hold that respondents 6 & 7 could not have been promoted in the grade of Rs 1400-2300 having not completed 2 years of service as Assistant Station Master because their seniority vis-a-vis the applicant is higher and if the applicant was to get promoted to the grade of Rs 1400-2300, they had every right to be considered and promoted to that grade by virtue of their higher seniority.

10. In view of the foregoing, we do not find any substance in this application and we accordingly dismiss it.
No costs.

Sd/-
(T.V. RAMANAN)
MEMBER(A)

Sd/-
(P.K. SHYAMSUNDER)
VICE CHAIRMAN

TRUE COPY

SECTION OFFICER
CENTRAL ADMINISTRATIVE TRIBUNAL
ADDITIONAL BENCH
BANGALORE



**CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE BENCH: BANGALORE**

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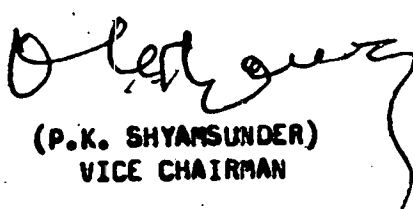
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(T.V. RAMANATHAN)
MEMBER(A)



(P.K. SHYAMSUNDER)
VICE CHAIRMAN

mr.

In the Central Administrative Tribunal
Bangalore Bench
Bangalore

REVIEW Application No. 22/94 IN O.A.No. 753 of 1993

ORDER SHEET (contd)

Date	Office Notes	Orders of Tribunal
		<p><u>PKS(VC)/TVR(MA)</u> 1.3.1995</p> <p>We have heard the counsel for the applicant. We see no substance in this R.A. We notice the applicant wants to reargue the O.A. dismissed that we cannot permit in the course of a R.A. This application is hereby dismissed. No costs.</p> <p>Sd/- Sd/-</p> <p>MEMBER (A) VICE CHAIRMAN</p> <p>TRUE COPY</p> <p> Section Officer Central Administrative Tribunal Bangalore Bench Bangalore</p>