

CENTRAL ADMINISTRATIVE TRIBUNAL  
BANGALORE BENCH

Second Floor,  
Commercial Complex,  
Indiranagar,  
Bangalore-560 038.

Dated:- 8 JUN 1994

APPLICATION NUMBER: 823 of 1993.

APPLICANTS:

RESPONDENTS:

1. Sri.B.P.Palaiah and Other v/s. The General Manager, Wheel & Axle Plant, Bangalore & Others.

- ✓ 1. Sri.S.Ranganatha Jois, Advocate, No.36, 'Vagdevi', Shankara Park, Shankarapuram, Bangalore-560 004.
2. The Chief Personnel Officer, Personnel Branch, Wheel & Axle Plant, Yelahanka, Bangalore-560 064.
3. Sri.A.N; Venugopala Gowda, Advocate, No.8/2, Upstairs, R.V.Road, Bangalore-4.

*copy received*  
*8/6/94*

Subject:- Forwarding of copies of the Orders passed by the Central administrative Tribunal, Bangalore.

Please find enclosed herewith a copy of the ORDER/  
STAY ORDER/INTERIM ORDER/, passed by this Tribunal in the above  
mentioned application(s) on 01-06-1994.

*S. S. Sankar*  
for DEPUTY REGISTRAR  
JUDICIAL BRANCHES. *8/6*

gm\*

*c/c Issued*  
*[Signature]*

CENTRAL ADMINISTRATIVE TRIBUNAL  
BANGALORE BENCH, BANGALORE

ORIGINAL APPLICATION NO.823/1993

WEDNESDAY THIS THE FIRST DAY OF JUNE, 1994

MR. JUSTICE P.K. SHYAMSUNDAR      VICE CHAIRMAN  
MR. T.V. RAMANAN                      MEMBER (A)

1. Shri B.P. Palaiah,  
Chief Clerk,  
Controller of Stores,  
Wheel & Axle Plant,  
Yelahanka,  
Bangalore - 560 064
2. Shri B.N. Narasimha Murthy,  
Chief Clerk,  
Controller of Stores,  
Wheel & Axle Plant,  
Yelahanka,  
Bangalore - 560 064

Applicants

( By Advocate Shri S. Ranganatha Jois )

v.

1. The General Manager,  
Wheel & Axle Plant,  
Yelahanka,  
Bangalore - 560 064
2. The Chief Personnel Officer,  
Personnel Branch,  
Wheel & Axle Plant,  
Yelahanka,  
Bangalore - 64
3. Shri A.S. Prabhakar,  
Office Superintendent,  
O/o Controller of Stores,  
Wheel & Axle Plant, Yelahanka,  
Bangalore - 64
4. Shri Shantha Venkatasubramaniam,  
Office Superintendent,  
Konkan Railway Corporation,  
Belapur Bhavan, Plot No.6,  
Sector No.11, Belapur,  
New Bombay 400 614

Respondents

( By learned Standing Counsel for Railways )  
Shri A.N. Venugopal for R-1 and R-2  
R-3 and R-4 - unrepresented

ORDER

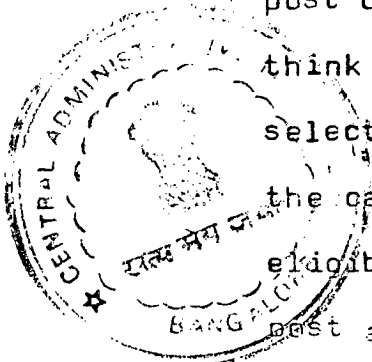
MR. T.V. RAMANAN, MEMBER (A)

Admit.

2. We have heard the learned counsel for the applicants and learned Standing Counsel for the respondents. The applicants herein have challenged the promotion of Respondents 3 and 4 to ~~the~~ posts of Office Superintendent on the basis of implementation of the scheme of promotion as a result of re-structuring of Group 'C' and 'D' cadre vide Ministry of Railways order at Annexure A-1. According to the applicants, if they had been considered for the two posts of Office Superintendent available, strictly on the basis of the instructions contained in the Office Memorandum at Annexure A-1, the post of Office Superintendent, being classified as a non-selection post, they would have secured the posts on promotion strictly on the basis of their seniority, subject to fitness. As regards their fitness, the argument is that they had never been communicated with any adverse remarks and, as such, the authority competent to promote them should have considered their cases strictly on the basis of their seniority and promoted them instead of their juniors namely R-3 and R-4. A perusal of the reply filed by the respondents 1 and 2 shows that the remarks for the relevant years were not adverse but rated as 'average' and that is why those remarks were not communicated to the applicants. However, having considered that their performance was rated as 'average, the respondents have further averred,

their performance was not sufficiently upto the mark for consideration for promotion to the posts of Office Superintendent. It is, however, admitted that the post of Office Superintendent is a non-selection post.

3. We do not understand the logic as to how once their performance was considered to be 'average', the respondents could reach the conclusion at the same time that their performance was not sufficiently upto the mark for consideration for promotion to the post of Office Superintendent particularly when the post of Office Superintendent is a non-selection post. If the said post had been a selection post, it was difficult for one securing 'average' rating to get promoted to that post. But the post of Office Superintendent being a non-selection post, the simple criterion of seniority subject to fitness alone should have been the consideration. On the contrary, the respondents have acted in a manner which would go to show that the post of Office Superintendent is a selection post while in fact it is not so. If, as the respondents have averred, the post of Office Superintendent is all that important and a person with an average grading cannot hold the post on promotion then the respondents should think of converting this post from one of non-selection to selection. However, that being not the case, the respondents cannot assess those eligible for promotion to this post treating the post as a selection post.



4. To conclude, we find that injustice has been done to the applicants in the matter of their non-promotion to the two posts of Office Superintendent. We, therefore, accept this application, set aside the order of promotion dated 13.8.93 at Annexure A-2 in so far as it relates to R-3 and R-4 and direct the respondents to consider the case of the applicants for promotion to the two available posts of Office Superintendent as on 1.3.93 with due regard to the instructions contained in Annexure A-1.

The application is accordingly disposed of with no order as to costs.

  
*Sd/-*  
*[Signature]*  
( T.V. RAMANAN )  
MEMBER (A)

*[Signature]*  
*Sd/-*  
( P.K. SHYAMSUNDAR )  
VICE CHAIRMAN

ua

*[Signature]*  
SECTION OFFICE

OA NO. 823/93 ✓

B-714

CENTRAL ADMINISTRATIVE TRIBUNAL, BANGALORE BENCH, BANGALORE

CONTEMPT PETITION NUMBER 62 OF 1994

THURSDAY, THIS THE 17TH DAY OF NOVEMBER, 1994

Mr. Justice P.K. Shyamsundar,

Vice-Chairman.

Mr. T.V. Ramanan,

Member(A)

1. B.P. Palaiah,  
Chief Clerk,  
Controller of Stores,  
Wheel & Axle Plant,  
Yelahanka, Bangalore-560 064.

2. B.N. Narasimha Murthy,  
Chief Clerk,  
Controller of Stores,  
Wheel & Axle Plant,  
Yelahanka, Bangalore-560 064.

.. Petitioners.

(By Advocate Shri S. Ranganatha Jois, absent)

v.

1. Shri Naubat Lal,  
General Manager,  
Wheel & Axle Plant, Yelahanka,  
Bangalore-64.

2. Shri Manchonda, SC  
Personnel Officer,  
Wheel & Axle Plant,  
Yelahanka, Bangalore-64.

.. Respondents.

(By Standing Counsel Shri A.N. Venugopala Gowda)

ORDER

Mr. Justice P.K. Shyamsundar, Vice-Chairman:-

Heard Shri A.N. Venugopala Gowda, learned counsel for the Railway Administration against whom there is a charge that it has not complied with the directions of this Tribunal recorded while disposing off Original Application No. 823 of 1993 directing consideration of the case of the petitioner for promotion to the post of Office Superintendent. That direction has apparently been considered and given effect to as could be seen from Anne-

xure-R1 produced to-day on behalf of the respondents/railways. Annexures-R1 and R2 are communications from the petitioners stating that they have assumed charge of the higher post by making a grievance of non-payment of the salary of the higher post from 1-3-1993 to 1-9-1994. It now transpires even that grievance has been remedied by the order at Annexure-R3 dated 27-9-1994 which reads -

"WHEEL AND AXLE PLANT

GENERAL MANAGER'S OFFICE  
(Personnel Branch)  
Yelahanka, Bangalore-64.

OFFICE ORDER NO.WAP/ESTT/261 DATED 27-9-1994.

The undermentioned Chief Clerks of Stores Department, who have been promoted as Office Superintendent in scale Rs.2000-3200 (RPS) w.e.f. 1-3-1993 in pursuance to directions of Hon. CAT/Bangalore Bench are allowed monetary benefits retrospectively from the same date against the restructured vacancies, instead of 'on proforma basis' as indicated earlier in this office O.O.No.WAP/ESTT/233 of 31-8-1994.

The pay fixed in the promoted grade in favour of above staff is also indicated against each.

PAY FIXED IN SCALE Rs.2000-3200

- |                                  |                    |
|----------------------------------|--------------------|
| 1. Shri B.N.Narasimhamurthy (SC) | Rs.2000/- 1-3-1993 |
| Staff No.030533.                 | Rs.2060/- 1-3-1994 |
| 2. Shri B.P.Palaiah (ST)         | Rs.2000/- 1-3-1993 |
| Staff No.030681                  | Rs.2060/- 1-3-1994 |

This has the approval of the competent authority.

Sd/- Asst. Personnel Officer."

Under the circumstances it becomes clear that the grievance of the petitioners regarding non-payment of salary in the higher post is no longer available. It is also brought to our notice that the payment of arrears has also been made and we have been shown the payment vouchers issued in that behalf. In the circumstances this contempt application does not survive and as such the proceedings are dropped.

Sd/-

MEMBER(A)

Sd/-

VICE-CHAIRMAN.

TRUE COPY

Section Officer

Central Administrative Tribunal  
Bangalore Bench  
Bangalore