

CENTRAL ADMINISTRATIVE TRIBUNAL  
BANGALORE BENCH

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

Dated:- 5 JUL 1994

APPLICATION NUMBER: 848 of 1993.

APPLICANTS:

Smt. Irene Balasundaram vs. Chairman Railway Board,  
To. New Delhi and others.

RESPONDENTS:

- ① Sri. C.S. Sathyanarayana, Advocate,  
No. 34, Mount Joy Road, Harumanthanagar,  
Bangalore-560019.
- ② The Financial Adviser and  
Chief Accounts Officer,  
Southern Railway, Madras-600053.
- ③ Sri. N.S. Prasad, Advocate,  
No. 242, Fifth Main Road,  
Gandhinagar, Bangalore-9.

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 22nd June 94

Issued on  
5/7/94  
R.

o/c

for S. S. Shanmugasundaram  
DEPUTY REGISTRAR  
JUDICIAL BRANCHES.

CENTRAL ADMINISTRATIVE TRIBUNAL: :BANGALORE BENCH

ORIGINAL APPLICATION NO.848/93

WEDNESDAY, THE TWENTY SECOND DAY OF JUNE, 1994

Shri V.Ramakrishnan..

..Member (A)

Shri A.N.Vujjanaradhya..

..Member (J)

Smt.Irene Balasundaram,  
Accounts Assistant,  
Office of the Deputy -  
F.A. & C.A.O/L.N.  
Southern Constructions)  
18, Millers Road,  
Bangalore-560 046.

...Applicant

By Advocate Shri C.S.Sathyanarayana.

And

1. The Union of India,  
Ministry of Railways  
represented by its Chairman,  
Railway Board,  
Rail Bhavan,  
New Delhi.
2. The Financial Adviser  
& Chief Accounts Officer,  
Southern Railway,  
Madras Central - 3.
3. The Divisional Accounts Officer,  
Southern Railway,  
Palghat Division,  
Palghat.
4. The Dy. Financial Adviser  
& Chief Accounts Officer,  
Southern Railway (Contn.)  
18, Millers Road,  
Bangalore - Cantonment.

...Respondents

By Advocate Shri N.S.Frasad, C.G.S.C.



O R D E R

Shri V. Ramakrishnan, Member (A)

The applicant herein has approached this Tribunal with a prayer that the Railway Administration should be directed to implement their order dated 10.10.1985; a copy of which is at Annexure A1 and a complete copy of which is at Annexure R1 and that she should be promoted as Sub-head with effect from 1.1.1984 with consequential benefits.

2. We have heard the learned counsel for the applicant and Shri Prasad for the Railways. The Railway Administration issued an order dated 10.10.85 as at Annexure R1 promoting inter alia the applicant as Sub-head with effect from 1.1.84. We are informed that the date of promotion as on 1.1.1984 was done on the basis of re-structuring and as per the decision taken by the Railways in this regard. The order also made it clear that if the stub form, which was enclosed with the order, is not returned by the officials within the specified time i.e. within a week, the same will be treated as refusal of promotion and consequently, the candidate will not be considered for promotion before expiry of one year from the date of such refusal and that the candidate will further become junior to all the candidates promoted in that year. It has further been brought out that the applicant who was serving in Bangalore did not fill-in the appropriate column in the stub form expressing her willingness for promotion to the higher grade and to report at the place of posting of higher post namely Palghat. This is borne out by her representation dated 28.11.1985, a

copy of which is enclosed as second enclosure to Annexure R3, made available by the Railways as enclosure to the reply statement. In this representation, the applicant clearly states:

"I am not able to take up the post of Sub-head at PGT due to domestic problems. I am herewith returning the stub-form."

This clearly establishes that she had refused the promotion. She also submitted further representations. The respondent Railways have made available to us copies of atleast two replies, one through the Union dated 27.11.87 as at Annexure R7 and another dated 16.3.92 as at Annexure R8. Her representation for promotion with effect from 1.1.84 was not acceded to, as there was no vacancy of Sub-head at the place where she was working namely Bangalore. Our attention is also drawn by the Railways to the office order dated 8.7.86, which is at Annexure R5, by which the applicant was promoted as sub-head and retained in Bangalore with effect from 1.5.1986.

3. The learned counsel for the applicant submits that the applicant had genuine difficulties in not being able to move out of Bangalore to Palghat when she got her initial promotion with effect from 1.1.84. She had accordingly represented to the Railways by her letter dated 28.11.85, but the Railways did not consider her representation. He contends that the action of the department in not considering her representation was irregular and that applicant is entitled to be promoted as Sub-head with effect from 1.1.1984.

It is not in dispute that when the promotion was effected by the order dated 10.10.85 as at Annexure R1,



the applicant did not accept the promotion as has been made clear by the representation dated 28.11.85 as at Annexure R3. The order at Annexure R1 made it clear that the candidates, who refused promotion will not be eligible to be considered for promotion for one year from the date of refusal. Normally, the applicant would not have been eligible to be considered prior to November, 1986. However, the Railways had promoted her to the higher post in Bangalore itself with effect from 1.5.1986 when a vacancy arose. We find that the action of the Railways cannot be faulted. We are also surprised to find that the applicant in her application has made certain misleading statements. In particular, we would like to refer to para 3 (d) which gives an impression that the Railways did not respond at all to her representation and that they had failed to give any endorsement to her. This statement is clearly incorrect as is borne out by the communication dated 27.11.87 as Annexure R7 and dated 16.3.92 as at Annexure R8. The Railways had in fact replied to some of her representations. Besides, in the affidavit dated 14.10.93, which seeks to support her application for condonation of delay, which is attached to M.A.409/93 her statement in para 4 gives an impression that the applicant has not been promoted at all to the post of Sub-head, whereas, in fact, she had got her promotion in Bangalore itself with effect from 1.5.1986. We strongly deplore this attitude of the applicant and express our displeasure over her conduct.

5. In the light of the foregoing, we find no merit at all in the application. Accordingly, the application is dismissed with no orders as to cost.

sd —  
TV 22/6/74  
(A.N. VUJJANARADHYA)  
MEMBER (J)

sd —  
24/6/74  
(V. RAMAKRISHNAN)  
MEMBER (A)



TRUE COPY

Sd. S. S. S. S. S.  
SECTION OFFICER  
CENTRAL ADMINISTRATIVE TRIBUNAL  
ADDITIONAL BENCH  
BANGALORE