

(8)

IN THE CENTRAL ADMINISTRATIVE & TRIBUNAL, BANGALORE BENCH
CONTEMPT TRIBUNAL PROCEEDINGS NO. 60 /94

IN
O.A NO.94 of 1993.

BETWEEN

SRI. L.CHRISTO DOSS AND ANOTHER PETITIONERS

AND

SRI. SRI.MURUGAN, (C.P.O) RESPONDENTS
Madras-

MEMO FOR APPEARANCE

I, the undersigned appeared for the
applicant in O.A. No.94 /1993 before this
Hon'ble Tribunal.

Now I am appearing for the petitioner
in the above Contempt petition
as authorised by the petitioner.

Bangalore


Advocate for Petitioner

Date: 17/8/94.

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FOR HEARING (PART HEARD):

24. 7. 976/93

Dharma Setty
by Sh. HKS Holla.

Central FF. Commnr., ND & anr.
by Sh MV Rao.

FOR HG. (CASES FROM WARNING LIST):

25. 512/92

(pt. Htd by Hm. 16)
VR (MA) &
ANV (MJ)

H Nagaraja by
Dr MS Nagaraja.

Director, Incharge (P&C)
Operations, Karn. & Goa
GSI, B'llore & ors by
Sh G Shanthappa for R1 to 3
R4 to 8 sd. unrep.

26. 830/93

(pt. hd - dn)

P Ramasastri by
Dr MS Nagaraja.

DG, GSI, Calcutta & 2 ors
by Sh MSP.

27. 904/93

(pt. hd f/9/90)

VA Reddy
In Person.

Secy., M/Finance, ND & ors
by Sh MSP.

28. 392/94

NK Ahir by
Dr MS Nagaraja.

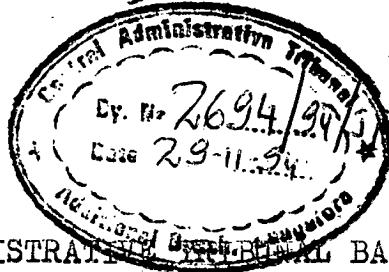
DG, Archeological Survey of
India & anr. by Sh G Shanthappa.

Filed by S. A. N. V. Sankar, Advocate on 29.11.1994.

Copy

S. A. N. V. Sankar

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30-11-94

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL, BANGALORE
BENCH.

CP NO. 60/1994.

Petitioners :- Sri. L. Christo Das and
another.

- V s -

Respondents :- Sri Murugan and others.

Reply statement of Respondents.

The respondents file the following reply
statement :-

1. The petitioners have filed the above petition alleging non compliance with the order made by this Hon'ble Tribunal in OA No. 94/93 dtd. 10/1/94 (Annexure C-1). The application is untenable and is also devoid of merit.
2. The petitioners have not stated the correct facts and have suppressed material information and have also come up with incorrect statements.
3. That upon receipt of the copy of the order produced at Annexure C-1. the Rly. Administration initiated immediate action to comply with the same. Since certain particulars from old records had to be obtained. MP No. 228/94 seeking extension of time was filed before this Hon'ble Tribunal, which was disposed of by order dtd 24/5/94 granting extension of time upto 23.8.1994.

Contd.. 2/-

S. A. N. V. Sankar,
Advocate,
Bench No. 3
Central Admin. Tribunal,
Bench No. 3
S. A. N. V. Sankar

-: 2 :-

4. That in compliance with the order passed by this Hon'ble Tribunal as per Annexure-C1, the competent authority considered the case of the petitioners and took decision which was communicated to the petitioner No.1 on 24/6/94 by RPAD and to petitioner No.2 on 22/10/1994, Since his service particulars were not readily available and thus there was bonafide delay in disposing of his representation. Copies of the communication sent to the petitioners along with the decision of the competent authority are produced herewith as Annexures R-1 and R-2.

5. That in view of the decision taken by the competent authority and communicated to the petitioners, the above petition is wholly untenable and may be rejected in limine.

6. That there is compliance with the order dtd. 10/1/94 passed by this Hon'ble Tribunal in OA No. 94/93. There is no disobedience of the said order by the Rly., Administration and the respondents. The respondents have complied with the said order.

7. It is incorrect and false that the respondents are callous and indifferent to the order made by this Hon'ble Tribunal as per Annexure -C.1.

8. The respondents tender unconditional apology for the bonafide delay that has occurred in considering and disposing of the claim of petitioner No.2 Such

Contd.. 3/-


 4. राज्य प्रशासन अधिकारी,
 राज्य विधान, विधान सभा,
 राज्यपाल नं. 92, 2 अक्टूबर 1993
 राज्य प्रशासन अधिकारी,
 राज्यविधान प्रशासन ब्रांच
 राज्यविधान सभा, विधान सभा

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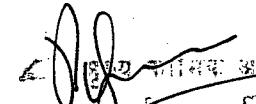
-: 3 :-

a delay came to be occurred since the matter was very old and the service records of petitioner No.2 could not be readily located. Immediately upon tracing out the service records of petitioner No.2, his claim pursuant to the order passed by this Hon'ble Tribunal as per Annexure-C.1 was considered by the competent authority and decision taken. The same may kindly be condoned. The said delay is not intentional or wilful but is only bonafide.

9. Such other averments made in the petition which are contrary to the above and not specifically traversed here in above are hereby denied as incorrect and the petitioners are hereby put to strict proof.

WHEREFORE, it is humbly prayed that this Hon'ble Tribunal may be pleased to drop the proceedings in the ends of Justice.

Advocate for respondents


श्रीमति अमर कुमारी,
श्रीमति अमर कुमारी, कालिकट आखा,
कालिकट आखा, एकास-600003

Chief Personnel Officer,
Headquarters Personnel Branch
Southern Railway, Madras-3

I, P.Murugan, working as Chief Personnel Officer, Southern Railway, Madras, do hereby verify and declare that what is stated above is true to the best of my knowledge, information and belief and are based on records.

Madras.

Dated :- 29-11-94


For respondents
श्रीमति अमर कुमारी, कालिकट आखा,
कालिकट आखा, एकास-600003
Chief Personnel Officer,
Headquarters Personnel Branch
Southern Railway, Madras-3

SOUTHERN RAILWAY

No. B/P.209/CAT/1386/402/92

By R PAD

R. P.
4

Divisional Office,
Personnel branch,
Bangalore-560 023,
Dated: 22. 6. 94

TO

Sri. L. Charles Doss, R tel CT 17

S/o late Doss.....

C/o Mr. Alexander

No. 34, Charles Campbell Award Cox Town, Bangalore-
Sub: Direction of the Hon'ble Central
Administrative Tribunal/Bangalore
issued on 10-1-94 in the
case of Sri L. Charles Doss
and others in OA No. 94193.

560005

The Hon'ble CAT/MAS in their order dated 13-6-94 has
directed the respondent Railway Administration to dispose of
the representation of each applicant.

Accordingly, your representation has been considered
and speaking orders passed by CPO with the personal approval
of GM is enclosed.

Encl: original speaking
order.

✓
Divl. Personnel Officer,
Bangalore-23.

GR21694



5

SOUTHERN RAILWAY

Headquarters Office,
Personnel Branch,
Madras-600 003.

No. P(S)443/III/CTTI/Court Case/
SBC Divn.

Dated: 13.6.94.

To

Shri L. Christodoss,
O.A. no. 94/93.

Sub: Direction of the Hon'ble Central
Administrative Tribunal/Bangalore
issued on 10.1.94 in the case of
Shri L. Christo Doss and 4 others
in O.A.No.94/93.

....

1. Shri L. Christo Doss and 4 others moved the Hon'ble CAT/Bangalore Bench seeking direction to revise the pension and retirement benefits duly fixing their pay on proforma basis in scale of Rs.425-640 with effect from 29.6.1976, in scale of Rs.550-750 with effect from 26.11.76 and in the scale of Rs.700-900 with effect from 1.8.79. The consequential benefit was also sought from the date of filing the application.

2. The Hon'ble CAT/Madras had passed similar order in respect of Shri K.Raman in O.A.161/86 decided on 14.11.1986. However, when he subsequently filed a case for the benefit of arrears, the same was rejected in O.A.No.384/93 ordered on 17.3.93, along with 27 other cases (a batch of 28 cases). A similar order as that of 141/86 was also passed in O.A.No. 590/88 which was based for the disposal of case in O.A.897/90 decided on 13.3.92 and subsequently again in O.A.No.1014/90 decided on 24.6.92. The dates decided for proforma promotion in these judgment were that of the promotions enjoyed by one Shri S.Sivasubramanian of TC/TTE cadre appointed in Madurai Division in the 3 grades viz. 425-640, 550-750 & 700-900.

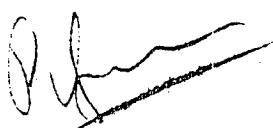
3. The Hon'ble CAT/Madras has disposed 62 applications in O.A Nos.336/92 and other connected applications filed by Shri S.Dhruvasan and 61 others on 1.11.93 with the direction in a single judgement that the respondents consider the case of each applicant for extension of the benefit in terms of the Circular dated 22.9.92 and with further direction based on certain outcome.

....2/-

4. The Hon'ble CAT/SBC has disposed the above mentioned OAs filed by Shri L. Christodoss and 4 others following the judgement given in OAs 336 to 338/92 and other connected applications on 1.11.93 in CAT/MAS and directed the respondents to consider the case of each applicant for extension of the benefit in terms of the circular dated 22.9.92 and with further direction based on certain outcome.

5. Since there were further numerous individual applications filed before the various Tribunals seeking similar order in their favour, it was felt that it would be administratively convenient to deal all these individual applications making similar demands for examination with details to ascertain the veracity and validity of such claims for admittance or otherwise. Accordingly, a circular was issued vide letter No.P(S)443/III/TC/Staff Court Case/TPJ Dn.dated 22.9.92. This Circular refers to the direction given in O.A.897/90, 141/86 and also 1014/90. Four individual applications received earlier were also accordingly referred to the division for examination and decision. However as the appeals were not disposed the above mentioned 5 applicants moved the Hon'ble Tribunal for seeking direction as brought out in para (1) above in which the Hon'ble CAT issued direction for disposal of the applications in terms of the Circular dated 22.9.92.

6. The Hon'ble CAT further directed that it is open to the respondents or any other competent authority to arrive at a decision to call for the application from the individual applicant and to call for the same within a period of one month from the date of receipt of the order. Accordingly, each case was examined in depth taking into account the position of seniority of each applicant vis-a-vis Shri S.Sivasubramanian whose case was referred to in the various CAT's order indicated above. Based on the information on record, your claim has been examined in details and copy of the order disposing the same is enclosed.


CHIEF PERSONNEL OFFICER.

Copy to: ~~SAC~~ DRm|P|SBC.

7

PREAMBLE

1) The cadre of TC/TTE were merged with effect from 1.1.1965, when the pay scales of II Pay Commission were in force. The initial 3 grades in these categories were as under:-

- 1) Rs.110-180
- 2) Rs.130-212
- 3) Rs.150-240

All these 3 grades were divisionally controlled and as such promotion to these 3 grades were to be made based on the seniority prevalent in the respective division only. The promotions made to these grades in the respective division has no relation to the seniority position of TC/TTE in other divisions. With the introduction of the III Pay Commission, with effect from 1.1.1973, these scales were equated as under:-

II Pay Commission
(w.e.f. 1.7.59)

1. Rs.110-180
2. Rs.130-212
3. Rs.150-240
4. Rs.250-380

III Pay Commission
(1.1.73)

Rs.260-400
Rs.330-560

Rs.425-640 (Decentralised
w.e.f. 23.8.78)

2) Thus the promotion upto the grade Rs.150-240 in the II Pay Commission till 31.12.72 and Rs.330-560 during the III Pay Commission, (whether one belongs to either TC or TTE cadre) was to be made based on the divisional seniority only. Till 23.8.78 the promotion to the grade Rs.250-380 of II Pay Commission equated to Rs.425-640 in III Pay Commission was made by a common selection for the entire zone by amalgamating those in scale Rs.150-240 of II Pay Commission equated to Rs.330-560 in 3rd Pay Commission, the date of entry into this grade being the criteria. On decentralisation with effect from 23.8.1978, the promotion to the grade Rs.425-640 was based on the respective divisional seniority only similar to the lower grades.

3) On 1.1.65 when it was decided to merge the two separate cadre of TC & TTE, the Railways assigned seniority either in TC or TTE for both the group of personnel holding the grades Rs.110-180 and Rs.130-212 from the date of entry. The Hon'ble Karnataka High Court held on 1.7.1981 that Railways were wrong in treating all those in grade Rs.110-180 and Rs.130-212 (Rs.60-130 and Rs.80-160 of 1st Pay Commission) at par and held that those who were in grade Rs.130-212 would rank senior to those in grade

Rs.110-180. This resulted in revising the seniority. This revision was to be done in the respective seniority unit viz., divisions only as all along not only before 1.1.65 but also thereafter the promotions upto Rs.100-185 of 1st Pay commission or Rs.150-240 of 2nd Pay Commission were done based on divisional seniority. Only when one reaches the grade Rs.100-185 (1st Pay Commission)/Rs.150-240 (2nd Pay Commission)/Rs. 330-560 (III Pay Commission) he is considered along with other persons of all other divisions for promotion to the next grade viz. 250-380/425-640 based on the integrated seniority, the date of entry in the grade Rs.100-185/Rs.150-240/Rs.330-560 being the criteria.

4) Thus with the revision of seniority in each division it was possible that some but not all who were in scale Rs.130-212 as on 1.1.65 but assigned seniority below those who were in scale Rs.110-180 on the crucial date would have become seniors. It is possible that some who were in scale Rs.130-212 as on 1.1.65 whose date of entry is earlier to the date of entry of those who remained in scale Rs.110-180 as on 1.1.65 would have been assigned seniority above these persons in scale Rs.110-180, not requiring subsequent reversal due to the implementation of the direction of Karnataka High Court.

5) For the integration of seniority of all those in the divisions for common selection to grade Rs.250-380/425-640 the date of entry in scale Rs.100-185/150-240/330-560 will be reckoned and not the dates of appointment/promotion in the lower grades. The pattern of promotion in each division, which constituted a separate seniority unit will be different and there could be situations where loss of seniority within same seniority unit in particular division was possible due to non-appearance, non-qualification and refusal of promotion etc.

6) In any case the seniority reversal consequent to the implementation of the Karnataka High Court could have been necessitated between some of those who were in scale Rs.130-212 and those in scale Rs.110-180 as on 1.1.1965 but certainly not between those who were in the same scale of Rs.110-180 or Rs.130-212 as on the crucial date.

With the above mentioned background of facts a very careful analysis/comparison was done with regard to service particulars of Shri L. Christodoss with Shri S. Sivasubramanian.

9

Shri L.Christodoss O.A.No.94/93.

Shri L.Christodoss was appointed in MAS Division and subsequently transferred to SBC.Dm. when the new division was formed.

From the service records the dates of appointment and promotions of Shri L.Christodoss in SBC Division and Shri S.Sivasubramanian in MDU Division extracted are as under:-

| Sl. No. | Grade. | Date of promotion | |
|------------|------------|---------------------------------------|--------------------------------------|
| | | L.Christodoss. | S.Sivasubramanian |
| 1. | Rs.55-130 | 2-7-1949 Date of initial appointment. | 3-7-1946 Date of initial appointment |
| 2. | Rs.80-160 | 1-4-1956 | 30-11-1959 |
| 3. | Rs.150-240 | 28-1-1971 declined promotion | 16-05-1968 |
| 4. | Rs.150-240 | 11-10-72 declined promotion | |
| 5. | Rs.425-640 | 2-4-1980 | 29-6-1976 |

It is evident that Shri L.Christodoss was appointed only in 1949 while Shri S.Sivasubramanian was appointed in 1946 itself 3 years ahead in Madurai division. In spite of the earlier appointment, Shri S.Sivasubramanian could be promoted to scale Rs.80-160 only on 30-11-1959 which was based on the vacancy position and seniority prevalent in Madurai Division. Sri L.Christodoss was promoted in 1956 itself, 3 years earlier, to grade of Rs.80-160 as per the divisional seniority and vacancy position prevalent in SBC Division. However Shri L.Christodoss declined his further promotion to scale Rs.150-240 in January 1971 and again in Oct., 1972 by which he lost seniority to those who were promoted to scale Rs.150-240 alongwith him as per the rule for assignment of seniority on promotion on these two occasions.

On the crucial date of merger i.e. 1-1-1965 both Shri L.Christodoss and Shri S.Sivasubramanian were in scale Rs.80-160/- Rs.130-212 (i.e) in the same scale and therefore their seniority would have been assigned from the date of entry to the grade of 80-160/130-212. The direction of the Honorable Karnataka High Court is only in respect of assignment of seniority between those who were in scale Rs.110-180 and those who were in scale Rs.130-212 and it has no relevance to those in the same scale. As per the direction of the Hon'ble Karnataka High Court those who were in scale Rs.130-212 will rank senior to those who were in scale Rs.110-180. In respect of those who were in the same scale Rs.130-212 there was no dispute at all.

Shri L.Christodoss having declined his promotion on 21-8-71 & 11-10-72 which was made on the seniority position of Bangalore division, had lost seniority in grade Rs.150-240. Further he was not promoted to scale Rs.150-240 as the scales Rs.130-212 and 150-240 were merged on 3rd P.C. into one scale Rs.330-560. Though he was placed in Rs.330-560 he would rank junior to all those in scale Rs.150-240 and placed in scale Rs.330-560 on 1-1-73 in Bangalore Division.

While Sri S.Sivasubramanian was promoted to grade Rs.425-640 based on the combined seniority on the whole Railway, Shri L.Christodoss was not ^{at} all eligible for such promotion ^{since} his seniority position not permitting, having lost his seniority in Bangalore division as explained above. He became eligible for promotion only after 23-8-76 after decentralisation based on his seniority position prevalent in Bangalore Division.

It was not possible for that Sri L.Christodoss to rank senior to Sri S.Sivasubramanian for the centralised selection for the grade Rs.425-640.

The non promotion of Sri L.Christodoss to scale Rs.425-640 earlier or at par with Sri S.Sivasubramanian was thus due to the lower seniority position of Shri L.Christodoss in the Bangalore division and or due to his non-selection/refusal etc., However in any case seniority issue in this case does not have been remote connection to the dispute raised before the Hon'ble Karnataka High Court.

In this situation, I conclude, the claim of Shri L.Christodoss for proforma promotion at par with Shri S.Sivasubramanian is not at all tenable and cannot be admitted.

प्राप्ति रक्षावृति (रसीद) / नोटरीज़ फॉर, ACKNOWLEDGEMENT *Contra*

* यह पर / पोस्टकार्ड/पैकेट/एक्सप्रेस द्वारा
प्राप्ति की गयी है।

क्रमांक
रजिस्ट्रेशन नं.

० इसे मालदाता द्वारा उपलब्ध कराया गया है। इसका नाम भूरेश्वर लाल

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Addressed to (name)

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† Insured for Rupees

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* ऐसा एकाग्र गतिशील के लिए १ इसे उपलब्ध कराया जाए।

† For insured articles only

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15

दक्षिण रेलवे/SOUTHERN RAILWAY

Divisional Office,
Personnel Branch,
Bangalore - 23.

No. B/P.209/CAT/94/93

21st October, 1994.

Shri. B. S. Sreenivasa Rao,
S/o. Sri. Sundar Rao,
Chief Travelling Ticket Inspector,
(retd.)
No. 345, 6th Main, 15th Cross,
V.V. Mohal,
mysore 570 002.

Sub: Direction of Hon'ble Central Administrative Tribunal/Bangalore issued on 10th January '94 in the case of Sri. L. Christodoss and 4 others in OA No. 94/93.

The Hon'ble Central Administrative Tribunal, Bangalore has directed the respondents Railway Administration to dispose of the representation of the applicants in the OA.

Accordingly, your representation has been considered and speaking orders passed by the CPO is enclosed.

Kindly acknowledge the receipt of the letter.

Encl: Original Speaking Orders.

OR 21/10
Divisional Personnel Officer
Southern Railway
Bangalore.

Received
Copy
Date: 21/10/94
B.S. Subramanyam
(Principal Guest IT)
(Brother of the applicant)

16

SOUTHERN RAILWAY

Headquarters Office
Personnel Branch
Madras-600 003.

No.P(S)443/III/CTTI/Court Case/
SBC Divn.

Dated: 20.10.1994

Shri B.S. Srinivasa Rao,
Retd. CTTI/SBC Divn.

Address:

Sub: Direction of the Hon'ble Central
Administrative Tribunal/Bangalore
issued on 10.1.94 in the case of
Shri L. Christo Doss and 4 others
in O.A.No.94/93.

1. Shri L. Christo Doss and 4 others moved the Hon'ble CAT/Bangalore Bench seeking direction to revise the pension and retirement benefits duly fixing their pay on proforma basis in scale of Rs.425-640 with effect from 29.6.1976, in scale of Rs.550-750 with effect from 26.11.76 and in the scale of Rs.700-900 with effect from 1.8.79. The consequential benefit was also sought from the date filing the application.
2. The Hon'ble CAT/Madras had passed similar order in respect of Shri K. Raman in O.A.161/86 decided on 14.11.1986. However, when he subsequently filed a case for the benefit of arrears, the same was rejected in O.A.No.384/93 ordered on 17.3.93, along with 27 other cases (a batch of 28 cases). A similar order as that of 141/86 was also passed in O.A.No. 590/88 which was based for the disposal of case in O.A.897/90 decided on 13.3.92 and subsequently again in O.A.No.1014/90 decided on 24.6.92. The dates decided for proforma promotion in these judgement were that of the promotions enjoyed by one Shri S. Sivasubramanian of IC/TTE cadre appointed in Madurai Division in the 3 grades viz., 425-640, 550-750 & 700-900.
3. The Hon'ble CAT/Madras has disposed 62 applications in O.A.Nos.336/92 and other connected applications filed by Shri S. Dhruvasan and 61 others on 1.11.93 with the direction in a single judgement that the respondents consider the case of each applicant for extension of the benefit in terms of the Circular dated 22.9.92 and with further direction based on certain outcome.

4. The Hon'ble CAT/SBC has disposed the above mentioned OAs filed by Shri L. Christo Doss and 4 others following the judgement given in OAs 336 to 339/92 and other connected applications on 1.11.93 in CAT/SBC and directed the respondent to consider the case of each applicant for extension of the benefit in terms of the circular dated 22.9.92 and with further direction based on certain outcome.

5. Since there were further numerous individual applications filed before the various Tribunals seeking similar order in their favour, it was felt that it would be administratively convenient to deal all these individual applications making similar demands for examination with details to ascertain the veracity and validity of such claims for admittance or otherwise. Accordingly, a circular was issued vide letter No. P(S)443/III/IC/Staff Court Case/TPJ Dn. dated 22.9.92. This Circular refers to the direction given in C.A.897/90, 141/86 and also 1014/90. Four individual applications received earlier were also accordingly referred to the division for examination and decision. However as the appeals were not disposed the above mentioned 5 applications moved the Hon'ble Tribunal for seeking direction as brought out in para (1) above in which the Hon'ble CAT issued direction for disposal of the applications in terms of the Circular dated 22.9.92.

6. The Hon'ble CAT further directed that it is open to the respondents or any other competent authority to arrive at a decision to call for the application from the individual applicant and to call for the same within a period of one month from the date of receipt of the order. Accordingly, each case was examined in depth taking into account the position of seniority of each applicant vis-a-vis Shri S. Sivasubramanian whose case was referred to in the various CAT's order indicated above. Based on the information on record, your claim has been examined in details and copy of the order disposing the same is enclosed.



CHIEF PERSONNEL OFFICER.

Copy to:

PREAMBLE

1. The cadre of TC/TTE were merged with effect from 1.1.1965, when the pay scales of II Pay Commission were in force. The initial 3 grades in these categories were as under:-

1. Rs. 110-180
2. Rs. 130-212
3. Rs. 150-240

All these 3 grades were divisionally controlled and as such promotion to these 3 grades were to be made based on the seniority prevalent in the respective division only. The promotions made to these grades in the respective division has no relation to the seniority position of TC/TTE in other divisions. With the introduction of the III Pay Commission with effect from 1.1.1973, these scales were equated as under:-

II Pay Commission
(w.e.f.1.7.59)

1. Rs.110-180
2. Rs.130-212
3. Rs.150-240
4. Rs.250-380

~~1~~ (Two scales
~~1~~ were merged
into one in
III Pay Commn).

III Pay Commission
(1.1.73)

Rs.260-400
Rs.330-560
Rs.425-640 (Decentralised
w.e.f.23.8.78)

2. Thus the promotion upto the grade Rs.150-240 in the II Pay Commission till 31.12.72 and Rs.330-560 during the III Pay Commission, (whether one belongs to either TC or TTE cadre) was to be made on the divisional seniority only. Till 23.8.78 the promotion to the grade Rs.250-380 of II Pay Commission equated to Rs.425-640 in III Pay Commission was made by a common selection for the entire zone by amalgamating those in scale Rs.150-240 of II Pay Commission equated to Rs.330-560 in 3rd Pay Commission, the date of entry into this grade being the criteria. On decentralisation with effect from 23.8.1978, the promotion to the grade Rs.425-640 was based on the respective divisional seniority only similar to the lower grades.

3. On 1.1.65 when it was decided to merge the two separate cadre of TC & TTE, the Railways assigned seniority either in TC or TTE for both the group of personals holding the grades Rs.110-180 and Rs.130-212 from the date of entry. The Hon'ble Karnataka High Court held on 1.7.1981 that Railways were wrong in treating all those in grade Rs.110-180 and Rs.130-212(Rs.60-130 and Rs.80-160 of 1st Pay Commission) at par and held that those who were in grade Rs.130-212 would rank senior to those in grade

contd...

Rs.110-180. This resulted in revising the seniority. This revision was to be done in the respective seniority unit viz., divisions only as all along not only before 1.1.65 but also thereafter the promotions upto Rs.100-185 of 1st Pay Commission or Rs.150-240 of 2nd Pay Commission were done based on divisional seniority. Only when one reaches the grade Rs.100-185 (1st Pay Commission/Rs.150-240 (2nd Pay Commission)/Rs.330-560 (III Pay Commission) he is considered along with other persons of all other divisions for promotion to the next grade viz. 250-380/425-640 based on the integrated seniority the date of entry in the grade Rs.100-185/Rs.150-240/Rs.330-560 being the criteria.

4. Thus with the revision of seniority in each division it was possible that some but not all who were in scale Rs.130-212 as on 1.1.65 but assigned seniority below those who were in scale Rs. 110-180 on the crucial date would have become seniors. It is possible that some who were in scale Rs.130-212 as on 1.1.65 whose date of entry is earlier to the date of entry of those who remained in scale Rs.110-180 as on 1.1.65 would have been assigned seniority above these persons in scale Rs.110-180, not requiring subsequent reversal due to the implementation of the direction of Karnataka High Court.

5. For the integration of seniority of all those in the divisions for common selection to grade Rs.250-380/425-640, the date of entry in scale Rs.100-185/150-240/330-560 will be reckoned and not the dates of appointment/promotion in the lower grades. The pattern of promotion in each division, which constituted a separate seniority unit will be different and there could be situations where loss of seniority within same seniority unit in particular division was possible due to non-appearance, non-qualification and refusal of promotion etc.

6. In any case the seniority reversal consequent to the implementation of the Karnataka High Court could have been necessitated between some of those who were in scale Rs.130-212 and those in scale Rs.110-180 as on 1.1.1965 but certainly not between those who were in the same scale of Rs.110-180 or Rs.130-212 as on the crucial date.

With the above mentioned background of facts a very careful analysis/comparison was done with regard to service particulars of Sri B.S. Srinivasa Rao with Sri S. Sivasubramanian.

20

B.S. SRINIVASA RAO - O.A. No. 94/93

Shri B.S. Srinivasa Rao was appointed in Madras Division and subsequently transferred to Bangalore Division during the formation new Division in 1981. He pursued further promotion in Bangalore Division in TC/TTE cadre whereas Shri S. Subramanian having been appointed in Madurai Division was promoted in Madurai Division. From the available data as the service particulars of Shri B.S. Srinivasa Rao is furnished below viz., seniority list dt. 1.1.65 in scale Rs.330-560 as the Service Register is not traceable at this distant date.

| Scale Rs. | | Date of promotion |
|-------------------------------------|---------------------------------------|---|
| | B.S. Srinivasa Rao S. Sivasubramanian | |
| 55-130 (1st Pay Commission) | 24.07.52 (Date of appointment) | 03.07.1946 Date of appoint- ment) |
| 80-160 (1st PC) 130-212 (2nd PC) | 24.07.52 | 30.11.1959 |
| 150-240 (2nd PC) | - | 16.05.1968 |
| 425-640 (3rd PC) | 01.01.84 | 29.06.1976 |

Shri B.S. Srinivasa Rao, having been appointed after 6 years in comparison to Shri S. Sivasubramanian got promoted to scale Rs.80-160(1st PC)/130-212(2nd PC) on 24.07.52 itself based on cadre situation prevalent in Bangalore Division.

In this connection, it is pointed out that Shri S.K. Rajagopalan, a Reid. CTTI of the same division viz., Bangalore is senior to Shri B.S. Srinivasa Rao in all respects by the date of initial and subsequent promotion to different grade in Bangalore Division itself, was petitioner in the above O.A. His case was thoroughly analysed and after careful scrutiny it was found that he was not eligible to be considered for revision of seniority on par with Sri S. Sivasubramanian as Shri S. Sivasubramanian got promoted to grade Rs.150-240 in May 1968, based on his divisional seniority on which date Shri S.K. Rajagopalan was only in grade Rs.80-160/130-212 in Bangalore Division and he could not be promoted to grade Rs.150-240 as per his seniority in that Division. Like-wise in Bangalore Division itself there are many seniors to Shri B.S. Srinivasa Rao, whose cases were analysed in comparison with Shri S. Sivasubramanian based on the direction of the

contd.

Hon'ble CAT/Bangalore and found that all were not eligible to be considered for revision of seniority. They were accordingly replied.

On the crucial date of merger of the cadre of TC and TIE viz. 01.01.1965 both Shri B.S.Srinivasa Rao and Shri S. Sivasubramanian were in the same scale viz. Rs.80-160 (1st Pay Commission)/130-212 (2nd Pay Commission) with the merger of the cadre of TC & TIE with effect from 01.01.1965, there was no dispute at all in respect of those who were in the same scale of Rs.130-212. The issue raised before Karnataka High Court was in respect of the action of the administration in equating the grade Rs.110-180 with that of Rs.130-212, which was struck down by the decision of the Karnataka High Court holding that those in scale Rs.130-212 should rank senior to those who are in the grade Rs.110-180. This decision has no bearing with regard to Shri B.S. Srinivasa Rao vis-a-vis Shri S. Sivasubramanian as both were in the same scale as on 01.01.1965. Consequently the decision of the Karnataka High Court followed by the corrective action taken by the Administration in revising the seniority has no impact at all, on the seniority between these two.

Thus I am satisfied that it does not call for any action to revise the date of promotion of Shri B.S. Srinivasa Rao and he has no claim over Shri S. Sivasubramanian.

CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE BENCH, BANGALORE

CONTEMPT PETITION NO.60/1994 IN
D.A.NO.94/1993

WEDNESDAY THIS THE THIRTIETH DAY OF NOV., 1994

MR. V. RAMAKRISHNAN

MEMBER (A)

MR. A.N. VUJJANARADHAYA

MEMBER (J)

1. L. Christo Doss,
aged about 60 years,
Chief Travelling Ticket
Inspector(Retd), MAS/SBC
C/o Mr. Alexander, No.34,
Charles Campabal Road,
Cox Town,
Bangalore - 560 005

2. B.S. Srinivasa Rao,
aged about 64 years,
Chief Travelling Ticket
Inspector(Retd), MAS/SBC,
345, 6th Main, 15th Cross,
V.V. Mohal,
Mysore-570 002

Applicants/
petitioners

(By Advocate Dr.M.S. Nagaraja)

v.

1. Shri Murugan,
Chief Personnel Officer,
Southern Railway,
Park Town,
Madras - 600 003

2. Shri Ashok Bhatnagar,
Chairman,
Railway Board,
Rail Bhavan,
New Delhi - 110 001

3. Shri Mazihuzzman,
Secretary to Government of
India, Ministry of Railways,
New Delhi - 110 001

Respondents/
Alleged contemnners

O R D E R

MR. V. RAMAKRISHNAN, MEMBER (A)

We have heard Dr.M.S. Nagaraja for the
contempt petitioners and Shri A.N. Venugopal,

learned Standing Counsel for the alleged contemners. The direction of the Tribunal was to consider the case of the applicants for extension of the benefit in terms of the Circular order No.P(S) 443/III/T.C. Staff/Court Case./TPJ Dn.(Pilot) dated 22.9.92 and take further action in case they are found eligible etc. Shri Venugopal submits that the Railway Administration have considered the case of the applicants and taken a decision but the same is not favourable to the petitioners. In view of the above, contempt petition does not survive and the alleged contemners are discharged. If the applicants are still aggrieved, it is open to them to take appropriate steps in the matter. No costs.

A. N. Venugopal

MEMBER (J)

Venugopal

MEMBER (A)

CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE BENCH

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

Contempt Petition No. 60/94

Dated: 13 DEC 1994

IN APPLICATION NO: 94 of 93.

APPLICANTS:- L. Christo Doss and another

v/s.

RESPONDENTS:- Sh. M. Nurnagan, Chief Per. Officer, S. Railway
Madras and others.,

To

① Dr. M. S. Nagaraja
Advocate, No. 11,
1st cross, 11th floor,
Sri Jayalakshmi Complex,
Gandhinagar
Bangalore-9

② Sri. A. N. Venugopala Gouda,
Advocate, no. 8/2, R.V. Road,
Bangalore-4

Subject:- Forwarding of copies of the Order passed by the
Central Administrative Tribunal, Bangalore.

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Please find enclosed herewith a copy of the ORDER/
STAY ORDER/INTERIM ORDER/ passed by this Tribunal in the above
mentioned application(s) on 30-11-94

Issued on
13/12/94

of

to DEPUTY REGISTRAR
JUDICIAL BRANCHES.

gm*

CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE BENCH, BANGALORE

CONTEMPT PETITION NO. 60/1994 IN
D.A. NO. 94/1993

WEDNESDAY THIS THE THIRTIETH DAY OF NOV., 1994

MR. V. RAMAKRISHNAN

MEMBER (A)

MR. A.N. VUJJANARADHAYA

MEMBER (J)

1. L. Christo Doss,
aged about 60 years,
Chief Travelling Ticket
Inspector (Retd), MAS/SBC
C/o Mr. Alexander, No.34,
Charles Campaball Road,
Cox Town,
Bangalore - 560 005

2. B.S. Srinivasa Rao,
aged about 64 years,
Chief Travelling Ticket
Inspector (Retd), MAS/SBC,
345, 6th Main, 15th Cross,
V.V. Mohal,
Mysore-570 002

Applicants/
petitioners

(By Advocate Dr. M.S. Nagaraja)

v.

1. Shri Murugan,
Chief Personnel Officer,
Southern Railway,
Park Town,
Madras - 600 003

2. Shri Ashok Bhatnagar,
Chairman,
Railway Board,
Rail Bhavan,
New Delhi - 110 001

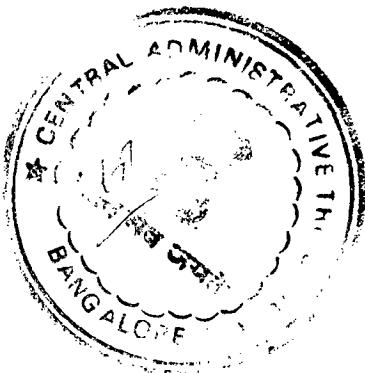
3. Shri Mazihuzzman,
Secretary to Government of
India, Ministry of Railways,
New Delhi - 110 001

Respondents/
Alleged contemners

ORDER

MR. V. RAMAKRISHNAN, MEMBER (A)

We have heard Dr. M.S. Nagaraja for the
contempt petitioners and Shri A.N. Venugopal,



learned Standing Counsel for the alleged contemners. The direction of the Tribunal was to consider the case of the applicants for extension of the benefit in terms of the Circular order No.P(S) 443/III/T.C. Staff/Court Case./TPD Dn. (Pilot) dated 22.9.92 and take further action in case they are found eligible etc. Shri Venugopal submits that the Railway Administration have considered the case of the applicants and taken a decision but the same is not favourable to the petitioners. In view of the above, contempt petition does not survive and the alleged contemners are discharged. If the applicants are still aggrieved, it is open to them to take appropriate steps in the matter. No costs.

Sd -

MEMBER (J)

Sd -

MEMBER (A)

FILE COPY

13/12/94
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