

(62)

# Central Administrative Tribunal

HYDERABAD BENCH : AT HYDERABAD

O.A. No. 264/90.  
T.A. No. -

Date of Decision :

K.KrishnaMurthy

Petitioner.

Shri G.Ramachandra Rao

Advocate for the  
petitioner (s)

Versus

Union of India, represented by Secretary(Establishment),  
Ministry of Railways, Railway Board, Rail Bhavan,  
New Delhi-110001 & 3 others

Advocate for the  
Respondent (s)

Shri N.R.Devaraj,  
SC for Railways

CORAM :

THE HON'BLE MR. J.Narasimha Murthy : Member(Judl)

THE HON'BLE MR. R.Balasubramanian : Member(Admn)

1. Whether Reporters of local papers may be allowed to see the Judgement ?
2. To be referred to the Reporter or not ? Yes.
3. Whether their Lordships wish to see the fair copy of the Judgment ?
4. Whether it needs to be circulated to other Benches of the Tribunal ? Yes
5. Remarks of Vice Chairman on columns 1, 2, 4  
(To be submitted to Hon'ble Vice Chairman where he is not on the Bench)

HJNM  
M(J)

HRBS  
M(A)

(63)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH  
AT HYDERABAD.

O.A.No.264/90.

Date of Judgment 10-6-91

K.Krishna Murthy

.. Applicant

Vs.

1. Union of India,  
represented by  
Secretary(Establishment),  
Ministry of Railways,  
Railway Board,  
Rail Bhavan,  
New Delhi-110001.
2. Union of India per  
General Manager,  
South Central Railway,  
Rail Nilayam,  
Secunderabad.
3. Chief Personnel Officer,  
South Central Railway,  
Rail Nilayam,  
Secunderabad.
4. Lokchand Sarma,  
Deputy Controller of  
Stores(II),  
Office of the  
Controller of Stores,  
South Central Railway,  
Rail Nilayam,  
Secunderabad.

.. Respondents

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Counsel for the Applicant : Shri G.Ramachandra Rao

Counsel for the Respondents: Shri N.R.Devaraj,  
SC for Railways

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CORAM:

Hon'ble Shri J.Narasimha Murthy : Member(Judl)

Hon'ble Shri R.Balasubramanian : Member(Admn)

[ Judgment as per Hon'ble Shri R.Balasubramanian,  
Member(Admn) ]

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This application has been filed by Shri K.Krishna

Murthy under section 19 of the Administrative Tribunals  
Act, 1985 against the Union of India, represented by

Secretary(Establishment), Ministry of Railways, Railway Board, Rail Bhavan, New Delhi-110001 and 3 others.

Respondent No.4 is a private respondent.

2. The applicant who joined the Railways in September, 1962 as Temporary Assistant Engineer had by stages risen to the senior scale in Group 'A' at the relevant time. While he was functioning in the senior scale he was detailed to look after the full duties in the Junior Administrative Grade and he has accordingly been functioning in that position since 1985. In this position he has not been given the regular scale applicable to that post but the lower scale in which he was already functioning plus an officiating pay of Rs.200/- p.m. The applicant is aggrieved that one Shri N.Rajagopalan Nair of the Southern Railway who was junior to him was promoted on a regular basis to the Junior Administrative Grade much earlier. Again, Shri L.C.Sarma, Respondent No.4, who is far junior to the applicant and who was also detailed to look after the duties in the Junior Administrative Grade in August, 1987 was promoted regularly in November, 1989. The applicant is aggrieved that he has not been promoted regularly unlike his juniors on a regular basis to the Junior Administrative Grade. He had been making representations to the respondents requesting that he be fixed in the pay given to his junior Shri N.Rajagopalan Nair with effect from 1.6.85.

After several representations vide proceedings

No.P.508/GAZ/Stores dated 22.5.89 the Chief Personnel

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Officer, South Central Railway had replied the applicant saying that he will be promoted to the Junior Administrative Grade after the finalisation of the vigilance case in which he was involved. It is contended by the applicant that the disciplinary proceedings in progress cannot come in the way of his promotion and it is therefore prayed that he be deemed to have been promoted to the post of Junior Administrative Grade in the scale of pay of Rs.3700-5000 with effect from 1.6.85 with all consequential benefits including arrears of pay after quashing the impugned proceedings dated 22.5.89.

3. The application is opposed by the respondents.

It is their contention that his case for promotion on a regular basis to the Junior Administrative Grade was considered and at that time there was a charge-sheet issued against him and disciplinary case was in progress. Hence, in accordance with the instructions on the subject the findings of the Departmental Promotion Committee have been kept in a sealed cover and that his promotion would be considered only after the disciplinary case against him is finalised.

4. We have seen the case and heard the learned counsel for the applicant and the respondents. We have also called for the Railway records and examined them.

5. A meeting of the Railway Board presided <sup>over</sup> by the Chairman was held on 26.10.89 to draw up a panel of suitable officers of I.R.S.S. for promotion to the

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Junior Administrative Grade. The applicant was one among the officers concerned and it was remarked by the Railway Board that the findings of the Departmental Promotion Committee in respect of the applicant would be kept in a sealed cover after the Railway Board and the Minister of State for Railways approved the proceedings. Accordingly they have placed the recommendations of the Railway Board in a sealed cover in accordance with the instructions of the Govt. of India and the Railway Board. We also find that his case was considered on a earlier occasion also. His junior in the All India seniority list in the senior scale Shri N.Rajagopalan Nair was placed on J.A.G./I.R.S.S. panel approved on 1.6.82. At that time itself the case of the applicant was also submitted and the Railway Board Members wanted to see the vigilance case pending against him. This examination by the Railway Board of the applicant's case was started in March, 1988 under repeated representations from the applicant. In accordance with the practice of the Railway Board prevalent at that time an officer should have at least three good reports with certification of fitness for promotion in the last two of the three. It was observed by the Railway Board that the applicant fulfilled this condition. At that time the Railway Board examined the charge-sheet served on the applicant on 11.11.87. It is on the basis of this charge-sheet of 11.11.87 that the Railway Board which met on 26.10.89 decided to keep <sup>its</sup> the recommendations in a sealed cover.

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When the Railway Board took into account in its deliberations in September, 1988 the very same charge-sheet served on him on 11.11.87 it was observed by one of the Members of the Railway Board "At the operative time of consideration for promotion to the Junior Administrative Grade he was eligible. His promotion with effect from 27.5.85 should therefore be ratified as concurred to by other Members." This note was dated 5.9.88. Thereafter, the case after due approval by the Chairman, Railway Board was put up to the Minister of State for Railways who gave his approval to the proposal on 19.9.88. Instead of issuing the orders based on this decision of the Railway Board as approved by the Hon'ble Minister In-charge, the Railway Board considered his case again on 26.10.89 this time deciding to keep the findings in a sealed cover. When they had consciously taken note of the charge-sheet pending against the officer and also came to a considered decision that the particular charge-sheet not having been there at the operative time his promotion should be ratified it is totally wrong on the part of the Railways not to have issued the regular promotion order. To have overlooked that decision and again considering his case in October, 1989 this time invoking the Govt. of India's decision is unacceptable. He was due for promotion alongwith his junior Shri N.Rajagopalan Nair and the Railway Board approved his promotion with effect from 27.5.85. At that time there was no charge-sheet. We, therefore, find sufficient force in the prayer of the applicant

who has been discharging the duties in the Junior Administrative Grade from 1.6.85 although not on the regular scale but in his substantive scale plus an officiating pay of Rs.200/- p.m. We, therefore, allow the application directing the respondents to treat the applicant as having been promoted to the Junior Administrative Grade with effect from 1.6.85 with all consequential benefits including arrears of pay since he has all the time been discharging the duties in that grade. The respondents shall implement the order within two months of the date of receipt of this judgment. There is no order as to costs.

( J.Narasimha Murthy )  
Member(Judl).

R.Balasubramanian  
( R.Balasubramanian )  
Member(Admn).

Deputy Registrar(A)

Dated

10<sup>th</sup> June 91

To

1. The Secretary (Establishment), Union of India, Ministry of Railways, Railway Board, Railbhavan, New Delhi.
2. The General Manager, Union of India, S.C.Rly, Railnilayam, Secunderabad.
3. The Chief Personnel Officer, S.C.Rly, Railnilayam, Secunderab
4. One copy to Mr.G.Ramachandra Rao, Advocate, CAT.Hyd.
5. One copy to Mr.N.R.Devraj, SC for Rlys, CAT.Hyd.
6. One copy to Mon'ble Mr.J.Narasimha Murty, Member(J)CAT.Hyd.

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