

07/00
CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH
GUWAHATI-05

8

(DESTRUCTION OF RECORD RULES, 1990)

INDEX

O.A/T.A No. 1391/2004

R.A/C.P No.

E.P/M.A No. 125/06

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SECTION OFFICER (Judl.)

FORM NO. 4
(SEE RULE 12)
CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

ORDER SHEET

139/2004

✓ Org. App./Misc Petn/Cont. Petn/Rev. Appl.....

In O.A.....

Name of the Applicant(s) Shri A.K. Jagannath Khan.....

Name of the Respondent(s) UOI & IAS.....

Advocate for the Applicant M. G.K. Bhattacharyya, B. Choudhury,
D. Goswami

Counsel for the Railway/CGSC..... Rly. Comst. Dr. M.C. Sarma

ORDER OF THE TRIBUNAL

OFFICE NOTE

DATE

7.6.2004

Heard Mr. G.K. Bhattacharyya, learned
Sr. counsel for the applicant.

The application is admitted. Issue
notice to the parties, returnable by four
weeks. List on 19.7.2004 for order.

This application is in form
is filed/C. F. for the 1st time
deposited vide AP BD
No. 11G 389593

Dated 01/6/04.....

Dy. Registrar

bb

19.7.2004
u/s
u/s 1/6/04

present: The Hon'ble Shri K.V. Sachidananda
Member (J).

The Hon'ble Shri K.V. Prahladan
Member (A).

When the matter came up for hearing, Mr. B.C. Pathak, learned ~~Ex~~ Rail-
way counsel took notice for the respondents and submits that he would like to
have four weeks more time to file written statement. Let it be done and the
applicant is at liberty to file rejoinder, if any, within two weeks thereaf-
ter. Post on 6.9.2004 for order.

D. J. Dhar
Member (A)

Member (J)

D/Memo No = 1011

To 1015, dt. 10/6/04.

10/6/04

ALD card return from
CSP. No - 5.

bb

1/ A/D card return
from resp. Nos-1 to 4.

8/9/04

6.9.04. Four weeks time is allowed to the Respondents to file written statement.

List on 5.10.04 for filing of written statement and further orders.

KV Prahadan
Member

3-9-04
Notice. Duly Served

on 2-9-04. 1 to 4
No-arts. have been filed.

lm

5.10.2004 Present: The Hon'ble Mr. Justice R.K. Batta, Vice-Chairman.

The Hon'ble Mr. K.V. Prahadan
Administrative Member.

AB

None for the parties. Adjourned to

17.11.2004.

KV Prahadan
Member (A)

Vice-Chairman

✓ Notice Duly Served

on 2-9-04. 1 to 4

✓ S/R. ~~accused~~ Ben.

2-9-04. 5

✓ No-arts. have been filed.

16-11-04

24.11.04. Present: Hon'ble Mr.K.V. Prahadan, Administrative Member

Written statement has not been filed. List the case for hearing on 12.1.05. The applicant may file rejoinder if any, within two weeks.

KV Prahadan
Member

lm

19.1.05.

The learned counsel for the applicant states that rejoinder shall be filed within four weeks. Copy of the rejoinder be furnished to the learned counsel for the respondents before the next date of hearing. Let this case be listed for hearing on 14th March, 05.

KV Prahadan
Member

Vice-Chairman

NO Rejoinder has
been filed.

11/3/05

lm

(3)

3

Notes of the Registry Date Order of the Tribunal

14.03.2005

present: The Hon'ble Mr. Justice G.Sivarajan
Vice-Chairman
The Hon'ble Mr. K. V. Prahladan,
Member (A).

At the request made by the parties
adjourned to 17.3.2005 for hearing.

[Signature]
Member

[Signature]
Vice-Chairman

bb

17.03.2005

post on 21.3.2005 for hearing.

[Signature]
Member

[Signature]
Vice-Chairman

bb

21.3.05.

Present: Hon'ble Mr. Justice G.Sivarajan,
Vice-Chairman
Hon'ble Mr.K.V.Prahladan, Adminis-
trative Member.

At the request of learned counsel
for the applicant case is adjourned to
24.3.05.

[Signature]
Member

[Signature]
Vice-Chairman

lm

29.4.2005

List on 19.5.2005 for hearing.

[Signature]
Vice-Chairman

mb

19.5.2005

At the request of learned counsel
for the applicant the case is adjourned
to 31.5.2005.

[Signature]
Member

[Signature]
Vice-Chairman

mb

(6)

31.5.2005

Mr D. Goswami, learned counsel for the applicant is present. At the request of Mr B.C. Pathak, learned Railway Counsel the case is posted to 13.6.05 as first item in the hearing list.

K. Barua
Member

D. Barua
Vice-Chairman

nkm

13.6.05.

At the request of Mr. D. Goswami, learned counsel for the applicant case is adjourned to 21.6.05.

K. Barua
Member

D. Barua
Vice-Chairman

lm

21.6.2005

At the request of learned counsel for the parties the case is adjourned to 28.7.2005 for hearing.

K. Barua
Member

D. Barua
Vice-Chairman

bb

28.7.05

28.7.2005

Mr. B. Choudhury, learned counsel for the applicant is present. Mr. B.C. Pathak, learned counsel for the Railways is absent. Post on 12.8.2005.

K. Barua
Member

D. Barua
Vice-Chairman

mb

12.8.05

Mr. B. Choudhury, learned counsel for the applicant is present. Mr. B. Barua, on behalf of Mr. B.C. Pathak, learned Railway counsel prays for adjournment.

Post before the next division Bench.

K. Barua
Member

D. Barua
Vice-Chairman

4-10-05

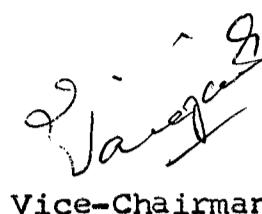
① Wts has been bailed. pg

② No. Rejoinder has been bailed.

5.10.2005 Mr. B. Choudhury, learned counsel for the applicant seeks for short adjournment. Post on 21.11.2005

9-3-06


Member


Vice-Chairman

No Reply under his
been filed.



21.11.2005

Post before the next Division Bench

mb


Vice-Chairman

bb

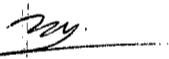
10.3.2006

When the matter came up for hearing Mr. B. Choudhury, learned counsel submits that Sr. counsel in this case Mr. G. K. Chatterjee has some personnel difficulty and could not come today. Hence he prayed for adjournment.

Post on 24.4.2006.

21-4-06

No Reply under his
been filed.



Vice-Chairman (J)


Vice-Chairman (A)

bb

24.4.2006

Post before the next Division Bench
after ~~three weeks~~ three weeks.

28-7-06

OWS filed.



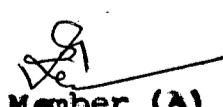
mb

Vice-Chairman

31.07.2006 Present : Hon'ble Sri K. V. Sachidanandan
Vice-Chairman.

Hon'ble Sri Gautam Ray,
Administrative Member.

Post on 01.08.2006.


Member (A)


Vice-Chairman

mb

1.8.2006 Present: Hon'ble Shri K.V. Sachidanandan,
Vice-Chairman

Hon'ble Shri Gautam Ray,
Administrative Member.

Pl. Compty order
dte 1.8.06.

sts 218/06.

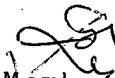
Received for
Res:ns.

ccr T-8-06
H.G. Ray/MLC

Mr G.K. Bhattacharyya, learned
counsel for the applicant and Dr M.C.
Sharma, learned counsel for the
respondents are present.

When the matter came up for
hearing, learned counsel for the
parties submitted that the DPC file is
required since that is under dispute
and prayed that the case be posted in
the next Division Bench. The
respondents are accordingly directed to
produce the DPC file as well as the
ACRs. The matter may be posted before
the next Division Bench for hearing.

Copies of the order may be
furnished to the learned counsel for
the parties.


Member

nk

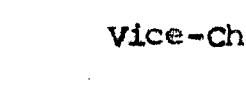

Vice-Chairman

27.11.2006

Post the matter on 12.1.2007.

bb

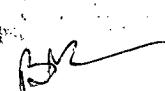
12.1.07


Post the matter on 22.1.07.

lm


Vice-Chairman

~~Post the matter on 22.1.07. (dated 21.11.2006)~~


Abi


Vice-Chairman

OA-139/06

22.1.2007

Post on 8.2.2007 along with the M.P.

Vice-Chairman

/bb/

8-2-67x When the M.R. came exp for hearing Mr.
HCO 18th Nov 1967. exp. 1967. exp. 1967. exp. 1967.

8.2.06. Post the matter on 21.2.07 alongwith
M.P.No.125 of 06. 1-

Vice-Chairman

1mm

27.2.07

Let the case be listed on
01.3.07.

CE
Member

vice-Chairman

1m

Reed copy of judgment
here
25 July 2007

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH, GUWAHATI

O.A. No. 139 of 2004.

DATE OF DECISION : 02.03.2007

Sri Aruna Kumar Jagannadham Applicant/s

Shri D. Goswami Advocate for the
..... Applicant/s.

- Versus -

U.O.I & Others Respondent/s

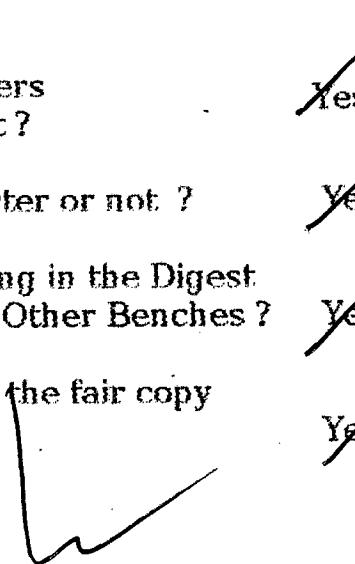
Dr. M. C. Sarma, Railway Counsel. Advocate for the
..... Respondents

CORAM

HON'BLE MR K.V. SACHIDANANDAN, VICE-CHAIRMAN

HON'BLE MRS CHITRA CHOPRA, ADMINISTRATIVE MEMBER

1. Whether reporters of local newspapers may be allowed to see the Judgment? Yes/No
2. Whether to be referred to the Reporter or not? Yes/No
3. Whether to be forwarded for including in the Digest Being complied at Jodhpur Bench & Other Benches? Yes/No
4. Whether their Lordships wish to see the fair copy of the Judgment? Yes/No


Vice-Chairman/Admn. Member

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**CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH**

Original Application No. 139 of 2004

Date of Order: This the 2nd day of March 2007.

THE HON'BLE SHRI K.V.SACHIDANANDAN, VICE CHAIRMAN

THE HON'BLE MRS CHITRA CHOPRA, ADMINISTRATIVE MEMBER

Shri Aruna Kumar Jagannadham,
Senior Divisional Operations Manager,
N.F.Railway, Lumding,
District Nagaon, Assam

.....Applicant

By Advocate Shri D. Goswami.

- Versus -

1. Union of India,
Represented by the Chairman,
Railway Board, Rail Bhawan,
New Delhi.
2. Member (Traffic)
Railway Board, Rail Bhawan,
New Delhi.
3. Member (Staff)
Railway Board, Rail Bhawan,
New Delhi.
4. Shri A.K. Bagchi,
Joint Director,
Railway Board, Rail Bhawan,
New Delhi.
5. General Manager,
N.F.Railway, Maligaon,
Guwahati.

.....Respondents

By Advocate Dr M.C.Sarma, Railway counsel.

O R D E R (ORAL)

SCCCHIDANANDAN K.V (V.C)

The applicant who is working as Sr. Divisional Operations Manager, N.F.Railway is aggrieved by the fact that his next promotion to the post of Senior Administrative Grade has not been given



at the time of filing of the O.A and his juniors have been granted promotion. The specific allegations of the O.A among other things is that he has been deprived of the promotion alongwith the 45 senior scale IRTS officers issued by Railway Board's letter No.E(O) III-91PM/98 dated 17.10.01 effective from 3.10.91 where the applicant's name was not included and one of his juniors Shri R.S. Meena was included superseding the applicant. Aggrieved by certain action of the respondents he has filed this O.A seeking a direction on the respondents to promote the applicant to Senior Administrative Grade post from the date his juniors were so promoted.

2. The respondents have filed a written statement contending that because of a large number of disciplinary proceedings and other clouds he could not have been promoted. However, he was also not found fit in some of the DPCs. When the matter came up for hearing Dr M.C.Sarma, learned counsel for the respondents filed a Misc. Petition No.125/06 contending that the matter agitated by the applicant has been decided in favour of the applicant vide order dated 3.10.2006 passed by the Railway Board and the said order has been produced as Annexure-A to the M.P. The same is reproduced below :

"No.E(O)III-2006/PM/07 (.) Ministry of Railways have with the approval of the President decided that Shri A.K. Jagannadham, SG/IRTS/South East Central Railway, should be appointed to officiate in SA Grade in the cadre of South East Central Railway itself, on notional basis with effect from 28.2.05. The date of promotion of his junior Shri R.S.Meena and actual benefits be given from the date Shri Jagannadham actually assumes charge(.)

Date on which Shri Jagannadham assumes charge may be advised(.)"

Dr Sarma, learned Railway counsel submitted that the applicant has been promoted against his immediate junior Shri R.S.Meena and steps had been taken to grant actual benefits from the date of promotion to the



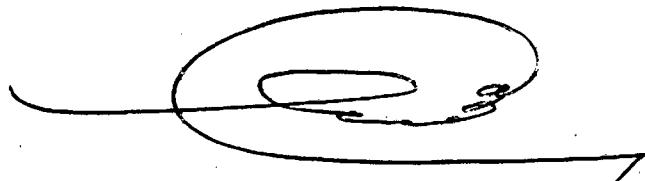
Senior Administrative Grade. The learned counsel for the applicant Mr D.Goswami also submitted that he has received promotion from above R.S.Meena his immediate junior but another 16 officers had already been superseded him and he should be placed above them. But those officers are not made parties to this proceeding and definitely that will adversely affect their interest.

3. Considering all the aspects of the matter the learned counsel for the applicant submitted that the in terms of the Railway Board's order promoting him to the SAG with that of Shri R.S. Meena the O.A can be closed. Accordingly O.A is closed. However, liberty is granted to the applicant to agitate the matter, if any, before the appropriate forum.

O.A. is accordingly disposed of. No order as to costs.

Chitra Chopra

(CHITRA CHOPRA)
ADMINISTRATIVE MEMBER



(K.V.SACHIDANANDAN)
VICE CHAIRMAN

Central Administrative Tribunal

4 JUN 2004

ORIGINAL APPLICATION NO. 10 OF 2004

Bench

Sri A.K. Jagannadham - Versus - Union of India & ors.

LIST OF DATES/SYNOPSIS

1982 : Cleared Civil Service Examination conducted by U.P.S.C. and was allocated Indian Railway Traffic Service cadre.

1985 : On successful completion of probation and training period the applicant was as Area Officer in Junior Scale at Vijayawada at present he is posted as Service Divisional Operations, Manager, N.F. Railway, Lumding where he joined on 07.11.2003.

1991 : While the applicant was waiting for promotion to Junior Administrative Grade after 5 years in the Senior Scale, a disciplinary proceeding for major penalty was instituted against him.

17.10.1991 : 45 Senior Scale IRTS Officers were promoted to J.A.G Applicant's name was not included and one of his junior who was at serial No. 45 superseded the applicant.

Annexure-I, Page-29

20.07.1993 : The applicant was exonerated in the inquiry instituted in the year 1991.

Annexure-II, Page-32

19.12.1995 : While the first proceeding was pending finalisation, the applicant was implicated in another fictitious and flimsy proceeding by charge memorandum dated 09.12.1991 which was later dropped by order dated 19.12.1995.

Annexure-III, Page-41

29.01.1992 : Applicant was issued another charge sheet on complaint of bigamy.

1992 : Due to slow progress of the two disciplinary proceedings and continued denial of promotion to J.A. Grade, the applicant approached Hon'ble CAT, Hyderabad Bench for quashing the charge sheets.

12.03.1993 : The Hon'ble Tribunal, Hyderabad Bench, issued directions to give ad-hoc promotion and to conduct a review DPC.

Annexure-IV, Page-42

13

Filed by the applicant/
through Advocate, 4/6/104

15.11.1994 : As per Tribunal's Order the applicant was promoted to J.A. Grade. 14

1994 : The applicant again approached the Hon'ble Tribunal, Hyderabad for quashing the charge memo No. 29.01.1992 of bigamy.

10.09.1997 : The Hon'ble Tribunal disposed of the original application directing the respondents to conclude the inquiry within 4 months and not later than 6 months, otherwise the charge sheet dated 29.01.1992 shall stand quashed.

Annexure-V, Page-46

1998 : The respondent authorities in the above original application filed a miscellaneous application as the time fixed by the Tribunal has elapsed seeking further 6 months to complete the inquiry. The Tribunal rejected the prayer stating that the order dated 10.09.1997 had become final or otherwise it would amount to modifying the order.

1998 : The authorities then filed a writ petition before the Hon'ble High Court of Andhra Pradesh at Hyderabad challenging the order of CAT in Miscellaneous Application.

26.03.1999 : The Hon'ble High Court rejected the ~~writ~~ petition.

Annexure-VI, Page-51

In view of the High Court order the charge sheet dated 29.01.1992 stood quashed, the respondent's ought to have issued promotion orders to J.A. Grade and then to selection Grade of J.A. grade from the date his juniors were promoted in both grades.

28.06.2000 : While working as Principal, Zonal Training College, Secunderabad, the applicant filed an FIR against a Deputy Chief Vigilance Officer (Traffic). Later on the complaint was transferred to CCS Detective Department and assigned to one A.C.P. 27.11.2000 the applicant appealed to the A.C.P. but the A.C.P. asked to withdraw the complaint.

03.12.2000 : Written examination for the post of Assistant Driver was held. During examination in one of the centres in Hyderabad a candidate was caught red

adopting unfair means. A complaint was lodged wherein the applicant was falsely implicated alongwith the candidate and the applicant was arrested and remanded to judicial custody. While he was in judicial custody he was forced to withdraw the complaint against the Deputy Chief Vigilance Officer.

18.12.2000 : Owing to detention the applicant was placed under deemed suspension and the applicant was kept under suspension till 25.4.2003 when it was revoked.

Annexure-VIII, Page-74.

31.1.2002 : 18 Officers in Selection Grade of J.A. Grade were promoted to Senior Administrative Grade out of which 16 juniors.

Annexure - VIII A, Pg. 75

Being aggrieved by the inaction of the action of the authorities in the matter of his promotion to J.A. Grade since 3.10.91 and to Senior Grade of J.A. grade since 1996, the applicant filed an original application in the Hyderabad Bench of C.A.T.

6.4.04 : Judgment was delivered directing to issue promotion order with all consequential benefit.

Annexure - IX, Pg. 79.

21.1.93 : Railway Board circular laying down the procedure and the guidelines to be followed in the matter of promotion from Group 'B' to Group 'A' and within Group 'A'.

Annexure - X, Pg. 87

15.9.2003 : Representation to General Manager, South Western Railway, Hubli to give his due promotion to SA Grade from the date his juniors were promoted.

Annexure - XI, Pg. 93

16
Central Administrative Tribunal

4/2004

গুৱাহাটী বৰাবৰী
Guwahati Bench

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL: GUWAHATI

BENCH : GUWAHATI

(An Application under Section 19
of the Administrative Tribunal Act, 1985)

O.A. NO. 139 OF 2004

Sri Aruna Kumar Jagannadham ... Applicant

-Versus-

Union of India and others ... Respondents

I N D E X

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Filed by

Bishwan Choudhury
4-6-2004
Advocate

17

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL: GUWAHATI

BENCH: GUWAHATI

(An application under section 19 of the
Administrative tribunal Act, 1985)

O.A NO 139 of 2004

Sri Aruna Kumar Jagannadham,
S/o Late Nagaiah,

~~Aruna Kumar Jagannadham~~
Senior Divisional Operations
Manager, N.F. Railway,
Lumding District Nagaon,
Assam.

... Applicant

-Versus-

1. Union of India

Represented by the Chairman,
Railway Board, Ministry of
Railways, Rail Bhavan,
New Delhi.

2. Member (Traffic), Railway
Board, Rail Bhavan,
New Delhi.

3. Member (Staff), Railway
Board, Rail Bhavan, New
Delhi.

Received by the Secretary
Bikram Ghoshal, Adv. A.G. 04
Filed by the Secretary
Bikram Ghoshal, Adv. A.G. 04

4. Sri A.K. Bagchi,
Joint Director, Railway
Board, Rail Bhavan,
New Delhi.

5. General Manager,
N.F. Railway, Maligaon,
Guwahati.

... Respondents

1. PARTICULARS OF THE ORDER AGAINST WHICH THE APPLICATION IS MADE.

- i. Non-consideration of the case of the applicant for promotion to Senior Administrative Grade Post.
- ii. Railway Board's order issued on 31.01.2002 under Wireless Message No. E(O) III-2003/PM/20 promoting 18 IRTS Officers to Senior Administrative Grade ignoring the claim of the applicant.
- iii. Non-consideration of the representation dated 15.09.2003 filed by the applicant.

2. JURISDICTION OF THE HON'BLE TRIBUNAL:

The applicant declares that the subject matter of the order against which he wants redressal is within the jurisdiction of this Tribunal.



3. LIMITATION :

The applicant further declares that the application is within the limitation prescribed under section 21 of the Administrative Tribunal Act'1985.

4. FACTS OF THE CASE :

1. That the applicant is a citizen of India belonging to Scheduled Tribe Community and is entitled to all the fundamental rights and privileges guaranteed under the Constitution.
2. That, the applicant cleared Civil Service Examinations conducted by UPSC in 1982 and was allocated Indian Railway Traffic Service cadre and was appointed on probation in 1982 and on successful completion of training he was posted as Area Officer in Junior Scale at Vijayawada in 1985 and thereafter as Assistant Operations Manager (G) /Guntakal in 1986. Owing to his dedicated and efficient service he was promoted to Senior Scale in 1986 and posted as Divisional Commercial Manager, Hubli in 1986, in which post he continued to work upto 1988. Thereafter he was transferred as Senior Commercial Manager (G), Secunderabad in 1988 where he worked upto 1990 and in 1990 he was posted as Divisional Safety Officer, Hubli for two years. In the year 1992 he was posted as Senior

Rev

Transportation Manager(G). That in 1994 he was promoted ad-hoc to the post of Senior Divisional Commercial Manager, Hubli; that from 1995 to 1997 he worked as Sr. Divisional Safety Officer, Secunderabad. That in 1997 he was posted as Principal, Zonal Training College, Secunderabad where he worked upto the year 2000. That he was granted Study Leave from 9.10.2000 for two years but the same was cancelled on 11.1.2001. That he worked as Dy. Chief Operations Manager(G), Hubli from April, 2003 to 30.10.03 and was transformed to N.F.Railway and posted at Lumding as Senior Divisional Operations Manager where he joined on 07.11.03.

3. That the applicant most humbly states that during his entire service the applicant has worked with devotion and he has been appropriately rewarded by the Railway Administration from time to time. While he was Principal of Zonal Training College, Secunderabad he was given a cash reward of Rs.5000/- for exemplary service in 1998. Prior to that he was given Safety Shield in 1996 for his exemplary services as Senior Divisional Safety Officer, Secunderabad in addition to several cash rewards and certificates of commendations during his career.

4. That, the applicant states that in spite of his dedicated and sincere services certain



vested interests were always after him to spoil his career, particularly when he was at the threshold of getting promoted to higher grades.

5. That while the applicant was hoping for promotion to Junior Administrative Grade after five years of immaculate service in the Senior Scale, a disciplinary proceeding for major penalty on a flimsy and fictitious charge was instituted against him so as to deprive him of promotion. Accordingly, promotions of 45 Senior Scale IRTS Officers were issued vide Rly. Board's order vide Wireless message No.E(O)III-91PM/98 dated 17.10.91 effective from 03.10.91 where the applicant's name was not included and one of his juniors Shri R.S. Meena (at SN-45 of the list) superseded the applicant.

That after a protracted inquiry the applicant was exonerated from the charge by the inquiry / officer, Commissioner of Departmental Inquiries, Central Vigilance Commission, vide his report dated 20.7.93.

A copy of the order dated 17.10.91 is annexed herewith and marked as Annexure-I and a copy of the report dated 20.7.93 is annexed herewith as Annexure-II.

See

6. That while the first proceeding was pending finalisation, the applicant was again implicated in an equally fictitious and flimsy proceeding by issuance of another charge memorandum dated 9.12.1991. That in that proceeding too the applicant was fully exonerated by the inquiry officer and the disciplinary authority vide his order dated 19.12.95 dropped the charges.

A copy of the order dated 19.12.95 is annexed herewith and marked as Annexure-III.

7. That, in the year 1992 itself the applicant was issued with yet another charge sheet on a false and vexatious complaint of bigamy.

8. That, being aggrieved by the slow and tardy progress of the earlier two disciplinary proceedings and continued denial of promotions to him to JA Grade, the applicant filed an application u/s 19 of A.T. Act before the Hon'ble Central Administrative Tribunal, Hyderabad Bench in O.A. No.1113/92 for quashing the charge sheets and the Hon'ble Tribunal after discussing the instructions dated 12.1.88 and 14.9.92 of D.O.P and Ministry of Personnel, Public Grievances and Pensions (corresponding to Rly. Board's instructions laid down in its letter dated 21.2.93) issued a direction, vide judgment dated 12.3.93 to (a) give

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ad-hoc promotion to the applicant in terms of para 5 of instructions dated 12.1.88 and (b) to conduct a review DPC within three months from the date of receipt of the order and review the case of fitness or otherwise of the applicant for regular promotion as on the date that was considered by the previous DPC and the findings kept in a sealed cover and acted upon at the appropriate time i.e. after the expiry of two years from the date on which the original DPC met as required in para 5, *ibid*.

A copy of the judgment dated 12.3.93 in O.A. No. 1113/92 is annexed herewith and marked as Annexure-IV.

9. That, in obedience to the Tribunal's order the applicant was promoted to JA grade by letter dated 15.11.1994 and accordingly his pay and allowances were also drawn in the JA grade w.e.f. 23.11.1994.

10. That being aggrieved by the denial of reasonable opportunity of being heard by supplying documents essential to his defence against the charge of bigamy, the applicant filed O.A. No. 1370/94 before the Hon'ble Tribunal at Hyderabad for quashing the charge memo dated 29.1.1992 and the Hon'ble Tribunal was pleased to issue direction vide judgment dated 10.9.97 to the disciplinary

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authority to conclude the inquiry expeditiously by securing the originals of documents sought to be inspected by the applicant and permitting him to inspect the same. The Tribunal fixed a time limit of 4 months for conclusion of the inquiry and in any case not later than 6 months beyond the date of receipt of the order and in case the respondents failed to conclude the disciplinary proceedings within the time stipulated above or within the extended period, if any, then the charge sheet dated 29.1.92 shall stand quashed.

A copy of the judgment of CAT/Hyderabad dated 10.9.97 in O.A. No.1370/94 is annexed herewith and marked as Annexure-V.

11. That admittedly the order dated 10.9.97 of the Tribunal was received by the respondents on 28.9.97 but no effort was made to comply with the order and the maximum limit of six months fixed by the Tribunal vide the order was allowed to expire by 28.3.1998. Thereafter the respondents-authorities filed Miscellaneous Application No.302 of 1998 under Rule 8 of Central Administrative Tribunal Rules, 1987, seeking two reliefs, viz. (i) to permit the respondents to proceed with the inquiry based on the court certified copies/photo copies of the documents; and (ii) to grant further

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six months time to complete the inquiry from the date of receipt of the order in that M.A.

However, the Tribunal rejected the second relief of granting further six months time to complete the inquiry holding that the order passed by the Tribunal in O.A. No.1370 of 1994 on 10.9.97 had already worked out and had become final and if extension of time as prayed for is granted, it would amount to modifying the earlier order granted by it on 10.9.97.

12. That the authorities then filed a writ application under Article 226 of the Constitution before the Hon'ble High Court of Andhra Pradesh at Hyderabad challenging the order of the CAT in M.A. No.302 of 1998, its quashing and seeking six months more time for completing the inquiry against the applicant herein, in Writ Petition No.29127 of 1998.

13. That, a Division Bench of the Hon'ble High Court of Andhra Pradesh by judgment dated 26.3.1999 while rejecting the writ application observed as follows -

"On a perusal of the affidavit filed by Shri N.V. Ramana Reddy, Deputy Chief Personnel Officer in the office of the petitioner, at para-4, it is evident that as many as 205 officers who are junior to the first respondent on All India Railways were

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promoted to Junior Administrative Grade on regular basis, out of which 59 officers have been further placed in Selection grade of the said Junior Administrative Grade. Among the above said promoted officers, 27 officers (which include six officers placed in Selection Grade of Junior Administrative Grade) belong to South Central Railway ..." (page 9 and 10 of the judgment).

The Court further held -

"The writ petitioner, which is a State within the meaning of Article 12 of the Constitution of India, initiated disciplinary proceedings against the first respondent on the basis of a complaint that the first respondent had contracted second marriage while his first wife is alive. However, the said enquiry has not been completed by the petitioner on one pretext or the other. In the guise of pendency of inquiry proceedings against the first respondent, he was denied his legitimate promotion and more than 200 officers who were juniors to him were promoted. We are, therefore convinced that the attempts made by the petitioner, which is the State within the meaning of Article 12 of the Constitution of India, are nothing but an attempt to deny the legitimate promotion to the first respondent and also subjecting him to mental agony. The writ petitioner being a State within the meaning of Article 12 of the Constitution of India,

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all its actions are expected to be fair. However, the events unfolded from the narration of facts by the first respondent, undoubtedly lead to an irresistible conclusion that the writ petitioner is not fair enough while dealing with the first respondent and has tried to abuse the process of law."

A copy of the judgment dated 26.3.99 of the High Court of Andhra Pradesh in W.P. No. 29127 of 1998 is annexed herewith and marked as Annexure-VI.

14. That, as consequence of the above order of the High Court the charge sheet issued vide memo dated 29.1.92 stood quashed.

15. That after quashing of the charge sheet dated 29.1.92 there was no pending case against the applicant and as such the respondents ought to have issued promotion orders to Junior Administrative Grade w.e.f. 3.10.91 i.e. the date his juniors were promoted and to Selection Grade of the Junior Administrative grade w.e.f. 1996 when several of his juniors were promoted to Selection Grade of Junior Administrative Grade. However, instead of adopting this fair procedure the respondents proceeded on a trail of vendetta. Although the

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applicant was promoted to JA Grade on regular basis w.e.f. 23.3.97 vide Rly. Board's order issued under Wireless message No.E(O)III 97 PM/53 dated 1.7.97 he was later reverted and when the reversion order was assailed before CAT/Hyderabad the reversion order was withdrawn without the consequential restoration of salary and allowances for the JA Grade post.

16. That on 28.6.2000 while he was working as Principal, Zonal Training College, Secunderabad, the applicant filed an FIR No. 106/2000 under section 3(i) (IX) (X) of SC and ST Act, 1989 and S 506 IPC at PS Tukaramgate against A. Ramanujam, Deputy Chief Vigilance Officer (Traffic), SC Railway. The complaint was transferred to CCS Detective Department, Hyderabad and assigned to one Shri N. Yugandhar, Asstt. Commissioner of Police, South Zone Crimes CCS DDH Hyderabad for investigation. That the said Asstt. Commissioner of Police vide notice u/s 160 Cr. P.C. dated 23.11.2000 summoned the applicant to appear before him on 27.11.2000 for examination and recording his statement u/s 161 Cr. P.C. and also to produce other witnesses or documents, if any, available in support of his allegation.

17. That when the applicant appeared before the said A.C.P. on 27.11.2000 in obedience of the notice, the said A.C.P. asked him to withdraw the

complaint against the said accused as he was close to him, but the applicant refused to accede to his request.

18. That, on 3.12.2000 Railway Recruitment Board, Hyderabad, held the written examination for the post of Diesel Assistant Driver. During the examination in one of the centers at Hyderabad, a candidate, R.S. Suresh Kumar was caught red handed in adopting unfair means in the examination. That a complaint was lodged by one Shri A.N. Reddy, Secretary, RRB Hyderabad, Kachiguda Police Station not only against the candidate concerned but also implicating the applicant and his son and the police recorded FIR crime No. 350 of 2000 u/s 420 IPC against 4 persons including the applicant. When the applicant came to know about the lodging of the FIR he surrendered before the VI Metropolitan Magistrate, Hyderabad, on 18.12.2000 and sought bail whereupon his prayer was rejected and he was remanded to judicial custody.

19. That while the applicant was in judicial custody, the ACP of South Zone Crimes CCS DD, Hyderabad, Shri N. Yugandhar, who had earlier asked the applicant to withdraw his case against the Deputy Chief Vigilance Officer (T), Secunderabad, Shri Ramanujam, visited the jail and forced the applicant to sign on the application seeking withdrawal of his complaint against the said

vigilance officer. This fact clearly indicate that the applicant was falsely implicated in the case No. 350/2000 u/s 420 IPC just in order to coerce him to withdraw the case against the said vigilance officer and it was done in connivance with the Secretary, RRB, Hyderabad, Vigilance Officer and Kachiguda police at the behest of ACP.

20. That, owing to his detention, the applicant was placed under deemed suspension w.e.f. 18.12.2000. However, the applicant was granted bail by IInd Additional Metropolitan Sessions Judge, Hyderabad, on 18.1.2001.

21. That, the applicant was falsely implicated in the case is evident from the fact that the Chairman, RRB, Hyderabad, denied reports in a section of the press that question papers of the RRB written examination held on Dec. 3 for Diesel Assistants had been leaked.

A copy of the newspaper clipping appearing in Indian Express dated 25.12.2000 regarding denial of paper leakage by Chairman, RRB, is annexed herewith and marked as Annexure-VII.

22. That although he was released on bail on 18.1.2001, his deemed suspension was not revoked by

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the departmental authorities until 25.4.2003 and the applicant was kept under suspension illegally for over two years without any justification for the same in violation of departmental instructions to the contrary.

A copy of revocation order
No.P/SC/227/0/44 dated
25.4.2003 issued by General
Manager, S.C.R. Railway, is
annexed herewith and marked
as Annexure-VIII.

23. That some time in the year 2001 DPC was constituted to consider the promotion of IRTS officers in SG grade of JA grade to Senior Administrative Grade and that since the applicant was free from any proceeding certain persons with vested interests conspired to implicate the applicant in a criminal proceeding so as to deprive him from promotion to Senior Administrative Grade. Accordingly, the results of the DPC were circulated by the Railway Board vide wireless message No.E(O) III-2003/PM/20 dated 31.01.2002 promoting 18 officers to Senior Administrative Grade out of which 16 were juniors to the applicant.

A copy of the said order
dated 31.1.02 is annexed

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herewith and marked as Annexure-VIII A.

24. That being aggrieved by the inaction of the authorities in the matter of his promotion to JA grade since 3.10.91 and to SG of JA grade since 1996, the applicant filed O.A. No. 338/2003 in the Hyderabad Bench of the Central Administrative Tribunal and the Hon'ble Tribunal vide judgment dated 6.4.04 issued direction directing the respondents to issue orders promoting the applicant to JA grade w.e.f. 3.10.91 and to Selection Grade of Junior Administrative Grade w.e.f. 1996, with consequent benefits.

A copy of the judgment dated 6.4.04 is annexed herewith and marked as Annexure-IX.

25. That the applicant states that the respondents have pursued a policy of harassing, persecuting and maligning the applicant eversince he was due for promotion to JA grade and every time he was within the zone of consideration for promotion a proceeding was instituted to act as a lever to deny him promotion on the ground of pendency of a case. That while pursuing this policy the respondents have cared little for fairness of procedure prescribed for meeting with the situation. That the respondents have all along

violated the norms laid down by the Railway Board itself in the matter of procedure to be followed when a Railway servant is under ~~cloud~~ before a promotion.

26. That the Railway Board vide its letter No. E(D&A) 92RG6-149(B) dated 21.1.1993 laid down the procedure and the guidelines to be followed in the matter of promotion from Group 'B' to Group 'A' and within Group 'A' of Railway Officers against who disciplinary/Court proceedings are pending.

That in terms of para 2, *ibid.*, at the time of consideration of the cases of Government servants for empanelment, details of Government servants in the consideration zone for promotion falling under the following categories should be specifically brought to the notice of the Departmental Promotion Committee.

(i) Government servants under suspension;

(ii) Government servants in respect of whom a chargesheet has been issued and the disciplinary proceedings are pending;

(iii) Government servants in respect of whom prosecution for a criminal charge is pending.

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That the above three circumstances are the conditions precedent to the applicability of the Sealed Cover Procedure.

27. That in terms of para 2.1, the Departmental Promotion Committee shall assess the suitability of the Government servants coming within the purview of the circumstances mentioned above alongwith other eligible candidates without taking into consideration the disciplinary case/ criminal prosecution pending.

A copy of the said circular dated 21.1.93 is annexed herewith and marked as Annexure-X.

28. That the applicant states that in terms of the above instructions while he was within the zone of consideration for selection for promotion to Senior Administration Grade posts as 16 of his juniors were considered, the Departmental Promotion Committee ought to have considered his case for such promotion. But the DPC did not consider his case for promotion to SAG in clear violation of the above instructions. By such non-consideration the applicant not only was greatly prejudiced but also his fundamental right guaranteed under Article 16(1) of the Constitution of India was infringed.



29. That the applicant states that he has been falsely implicated in the criminal case No.350/2000 u/s 420 IPC just in order to deprive him of his promotion to Senior Administrative Grade and that for the purpose his deemed suspension which was ordered on 10.1.2000 was continued upto 25.4.2003 whereas he had been released on bail on 18.1.2001, that is, after a month of detention. That it was done so as to omit the applicant from consideration in the selection for SAG posts.

30. That the applicant states further that in spite of his suspension the applicant's case ought to have been considered by the DPC along with others and that the respondents have clearly erred in not considering his case.

31. That the applicant states that in terms of extent rules the applicant's case should have been considered by the DPC for his promotion to the SAG post and the result of the DPC ought to have been kept in the sealed cover as he was under suspension at the time of declaration of results and that after his suspension was revoked and as the police had not filed the charge sheet in court when the applicant was free from suspension the case of the applicant should have been considered for promotion.



32. That the applicant states that in terms of para 4 of Railway Board's instructions contained in its letter dated 21.1.93, the appointing authorities concerned should review comprehensively the cases of government servants whose suitability for promotion to a higher grade has been kept in a sealed cover on the expiry of 6 months from the date of convening of the first DPC which had adjudged his suitability and kept its findings in the sealed cover and that such a review should be done subsequently also every six months. That the applicant states that the respondent authorities did not act in accordance with the above instructions and never reviewed his case for promotion to higher grade.

33. That the applicant states that in terms of para 5, ibid, the appointing authority has been ordained to consider the desirability of giving the government servant ad-hoc promotion provided he is not under suspension if the disciplinary/ criminal case against him are not concluded even after the expiry of two years from the date of the meeting of the first DPC which had kept its findings in respect of the Govt. servant in a sealed cover. That while doing so, the appointing authority is expected to keep the following aspects in view while considering the desirability of giving him ad-hoc promotion.

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- a) whether the promotion of the officer will be against public interest ;
- b) whether the charges are grave enough to warrant continued denial of promotion;
- c) whether there is no likelihood of the case coming to a conclusion in the near future;
- d) whether the delay in the finalisation of proceedings, departmental or in a court of law is not directly or indirectly attributable to the Government servant concerned;
- e) whether there is any likelihood of misuse of official position which the Government servant may occupy after an ad-hoc promotion, which may adversely effect the conduct of the departmental case/ criminal case.

34. That the applicant states that none of the aspects laid down in para 5, as reproduced above came in the way of applicant's case being considered for ad-hoc promotion to SAG post in as much as, as stated above, the Chairman, RRB, Hyderabad, himself claim that there was no paper leakage in the said examination, that no charge sheet had been filed upto the date when the applicant was released from suspension in April'

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2003, that the applicant was not directly or indirectly responsible for the delay nor he was in a position influence the investigation of the case in any manner as he was transferred to South Western Railway, Hubli, Karnataka and thereafter to N.F. railway.

35. That the applicant states that he submitted an application dated 15.09.2003 to the General Manager, South Western Railway, Hubli, inter alia, requesting him for his promotion to SA Grade from the date his juniors were promoted but the said application was not heeded to.

Copy of the representation dated 15.9.03 is annexed herewith and marked as Annexure-XI.

36. That the applicant states that from the facts and circumstances narrated hereinabove it is evident that the respondents have acted in bad faith and with oblique motives in denying to him his promotion to SA Grade and the actions of the respondents to this regard have been unfair and unjust and iniquitous and that the applicant has no other remedy except to approach this Hon'ble Tribunal for the redressal of his grievances.

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5. GROUNDS FOR RELIEF WITH LEGAL PROVISIONS :

I. For that, the actions of the authorities in not considering the case of the applicant for promotion to SA Grade and his supersession by not less than 16 of his juniors is malafide, unlawful and unconstitutional and is in blatant violation of the constitutional guarantee enshrined in Article 16(10 and 16(4) of the Constitution.

II. For that, the continuation of the applicant's deemed suspension even after he was released on bail after about one month's detention was bad in law and that the deemed suspension was prolonged upto 23.4.2003 with ulterior motives and for oblique reasons in clear violation of extent instructions of the Railway Board to keep the period of suspension to the barest minimum.

III. For that, the respondents ought to have acted in accordance with the extent instructions of the Railway Board as laid down in its letter dated 21.2.93 and considered the case of the applicant for promotion to SA Grade without taking into



consideration the criminal case under investigation.

IV. For that, the respondents ought to have kept the result of the applicant in the sealed cover if he was under suspension and reviewed his case every 6 months but the respondents did neither consider his case for promotion to SA Grade nor reviewed his case any further.

V. For that, after expiry of two years from the date when the DPC first met and considered the cases of his juniors for promotion to SA Grade the respondents should have considered his case for giving him ad-hoc promotion to SA Grade particularly when no progress had been made in the investigation into the criminal case and no charge sheet had been filed against him in the court.

VI. For that, the applicant is entitled to his promotion to JA grade w.e.f. 3.10.1991 and to Selection grade of JA grade w.e.f. 1.1.96 as all the charges against him based on which those promotion were withheld have failed and resulted in his exoneration and accordingly the Hon'ble Central Administrative Tribunal, Hyderabad Bench in

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its judgment dated 06.04.2004 in O.A. No.338/2003 issued directions to the respondents to issue promotion orders to these grades with consequential benefits with effect from the dates his juniors were promoted after opening the sealed cover and if the applicant is found fit.

VII. For that, the applicant is entitled to a direction to the respondents from this Tribunal to hold a review DPC to consider the case of the applicant for promotion to SA Grade as on the date his juniors were considered and also to issue orders for promotion of the applicant SA Grade w.e.f. 01.5.2003 on which date he was neither under suspension nor any charge sheet had been filed in the court in criminal case No. 350/2000 in accordance with the law declared by the Apex Court in UOI Vs. K.V. Jankiraman, AIR 1991 SC 2010.

6. **DETAILS OF REMEDIES EXHAUSTED:**

The applicant had submitted a representation to the General Manager, South Western Railways on 15.09.2003 praying that his case for promotion be considered but till date the applicant has not received any response to the said representation.

[Handwritten signature/initials 'bav' is present at the bottom left corner.]

7. MATTERS NOT PREVIOUSLY FILED OR PENDING WITH ANY OTHER COURT :

The applicant further declares that he has not previously filed any application, writ petition or suit regarding the matter in respect of which this application has been made before any Court or any other authority or any other Bench of the Tribunal nor any such application, Writ petition or suit is pending before any of them.

8. PRAYER:

It is, therefore, prayed that Your Lordships would be pleased to admit this application, call for the entire records of the case, ask the Respondents to show cause as to why an order or direction should not be issued as applied for and after perusing the cases shown, if any, and hearing the parties, issue an order or direction directing the respondents to promote the applicant to Senior Administrative Grade Post from the date his juniors were so promoted and/or pass

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any order/ orders or directions as Your Lordships may deem fit and proper.

And for this act of kindness, the applicant as in duty bound shall ever pray.

9. INTERIM ORDER: NIL

10. DOES NOT ARISE:

11. PARTICULARS OF BANK DRAFT/POSTAL ORDER IN
RESPECT OF THE APPLICATION FEE.

(i) I.P.O No. : 11G 389593

(ii) Date. : 1.6.2004

(iii) Issued by Guwahati Post Office.

(iv) Payable at Guwahati.

12. LIST OF ENCLOSURES :

As stated in the INDEX



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VERIFICATION

I, Sri Aruna Kumar Jagannadham, aged about 49 years, S/o Late Nagaiah, presently serving as Senior Divisional Operations Manager, N.F. Railway, Lumding in the district of Nagaon, Assam do hereby verify that the statements made in Paragraphs No. 1,2,3,4,7,9,14,15,17,18,19,20,21,25,28,29,30 31,32,33,34,35 and 36 are true to my personal knowledge and the statements made in paragraphs No. 5,6,8,10,11,12,13,16,22,23,24,26 and 27 are believed to be true on legal advice and that I have not suppressed any material fact.

And I sign this verification on this the 4th day of June, 2004 at Guwahati.

Place: Guwahati

Date: 4.6.04.



SIGNATURE OF THE APPLICANT

GOVERNMENT OF INDIA (BHARAT SARKAR)
MINISTRY OF RAILWAYS (RAIL MANTRALAYA)
(RAILWAY BOARD)

WIRELESS/POST COPY
ISSUED ON: 17.10.91

THE GENERAL MANAGERS,

CENTRAL RAILWAY/BOMBAY,
EASTERN RAILWAY/CALCUTTA,
NORTHERN RAILWAY/NEW DELHI,
NORTH EASTERN RAILWAY/GORAKHPUR,
NORTHEAST FRONTIER RAILWAY/GUWAHATI,
SOUTHERN RAILWAY/MADRAS,
SOUTH EASTERN RAILWAY/CALCUTTA,
SOUTH CENTRAL RAILWAY/SECUNDERABAD,
WESTERN RAILWAY/BOMBAY.

NO.E(O)III-91PM/98(.) MINISTRY OF RAILWAYS HAVE DECIDED THAT THE FOLLOWING SENIOR SCALE OFFICERS OF IRTS, SHOULD BE ALLOWED JA GRADE PAY WITH EFFECT FROM THE DATE SHOWN AGAINST EACH:-

S.NO.	S/SHRI (NAME)	RAILWAY/ORGANISATION	DATE
1.	M RAJU	SC	03.10.91
2.	SANJIV GARG	N	-DO-
3.	V PRAKASH RAJ	C	-DO-
4.	SANJAY DAS	N	-DO-
5.	VK ASTHANA	W	-DO-
6.	A BHATNAGAR	W	-DO-
7.	RD SHARMA	W	-DO-
8.	CBK SINGH	N	-DO-
9.	A CHAUDHARI	E	-DO-
10.	AS UPADHYAY	E	-DO-
11.	AK SRIVASTAVA	ME	-DO-
12.	GD SHARMA		-DO-
13.	SHAILENDRA JHA	E	-DO-
14.	MUKUL MURWAH	W	-DO-
15.	YOGENDRA KUMAR SHARMA	C	-DO-
16.	PK MISRA	SE	-DO-
17.	V SRI RAM	S	-DO-

CONTD..2..P.

Attested by
Anand Chawry
Date

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18.

<u>S.NO.</u>	<u>S/SHRI (NAME)</u>	<u>RAILWAY/ORGANISATION</u>	<u>DATE</u>
18.	AMITABH PANDEY	C	03.10.91
19.	ASHOK KUMAR	C	-DO-
20.	SB GANDHI	W	-DO-
21.	AC LATHE	NE	-DO-
22.	K MUKHOPADHYAYA	E	-DO-
23.	RV SINGH	NE	-DO-
24.	CMT. SEMIRA BACCI	M	-DO-
25.	V AGARWAL	E	-DO-
26.	RN KALITA	NF	-DO-
27.	S MUKHERJEE	E	-DO-
28.	DK MISRA	RDSO	-DO-
29.	RAJENDRA BHARDWAJ	ME	-DO-
30.	ASHOK CHOWDHURY	C	-DO-
31.	JN JHA	SE	-DO-
32.	RBA MESHRAM	C	-DO-
33.	RN WIGHMAR	C	-DO-
34.	NP SINGH	NF	-DO-
35.	SATIS CHANDRA	N	-DO-
36.	RASHEY SHYAM	NE	-DO-
37.	BILKAR SINGH	N	-DO-
38.	SINJEEB HU DAR	S	-DO-
39.	JAGDISH PRASAD	C	-DO-
40.	SUSHIL KUMAR	E	-DO-
41.	JAGAT PAL	N	-DO-
42.	BL MEENA	NF	-DO-
43.	PS GOND	SE	-DO-

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<u>S.NO.</u>	<u>S/SHRI (NAME)</u>	<u>RAILWAY/ORGANISATION</u>	<u>DATE</u>
44.	RK MEENA	SE	-DO-
45.	RS MEENA	NE (CONSTRUCTION)	-DO-

SHRI. NK TULI AND KUM. GAURI SAXENA, SENIOR SCALE OFFICERS OF IRTS,
SHOULD BE ALLOWED JA GRADE PAY FROM THE DATE OF TAKING OVER JA GRADE
POST(.)

R.L. Agarwala
RAILWAYS(.)

R.L. Agarwala
(R.L. AGARWALA)
DY. SECRETARY(E)/RAILWAY BOARD

Copy to:-

1. The General Managers, All Indian Railways, the Units, the Principal, Railway Staff College, Madodara and the DG/RDSO, Lucknow.
2. The General Secretaries, IFCI/New Delhi and the Secretary General, FROA, Room No.334, Rail Bhawan, New Delhi.
3. The Directors of Audit, All Indian Railways.
4. The FA & CAOs, All Indian Railways.
5. The Director of Accounts, RDSO/Lucknow.
6. PSs to MR, MOS(R), CRB, M.T, Secy., Adv(Tfc), Adv(Comm.), ED(V), EDCC, EDN, EDE(N), JS(G), JS(C), DE(GC), JDMS, DS(E), US(E), CA/Secy., E(GC), ERB-I.
7. OSD/MR.
8. PS, Chairman, Passenger Amenities Committee, Railway Board.

ANNEXURE-II

Confidential

No.D2/VK/21(15)
GOVERNMENT OF INDIA
CENTRAL VIGILANCE COMMISSION.

R E P O R T

Subject: Departmental Inquiry against Shri A.K.Jagannadham,
STM (Safety) S.C.Railway, Secunderabad.

I was appointed inquiry officer vide order No.P.SC.227.O.27 dated 3-12-1992 to hold an cas 1 inquiry in the case of Shri A.K.Jagannadham, STM (Safety) S.C.Railway, Secunderabad. Shri Thomas John, Inspector, Office of the Superintendent of Police, CPI, SPE, Bangalore was appointed as the presenting Officer vide order No.P.SC.227.O.27 dated 30-1-1990.

2. ARTICLES OF CHARGE:

Shri A.K.Jagannadham, STM (Safety) HQrs/Secunderabad, S.C. Railway Sec'bad while functioning in the capacity of Civil Commercial Superintendent, South Central Railway, Hubli during 1987 obtained from Shri Potharaju, Room Manager, Railway Catering Unit, South Central Railway, Hubli, against whom he had initiated Major Penalty proceedings by issuing a Charge sheet dated 16-7-1987, a revised explanation to the charge sheet on 16-8-1987 and with ulterior motives, omitted to bring it on record but took it home and left it lying there and thereby violated Rule 3(1) (i), (ii) and (iii) of the Railway Services (conduct) Rules, 1966 and failed to maintain absolute integrity and devotion to duty and acted in a way unbecoming of a Railway servant.

3. BRIEF HISTORY:

The preliminary Hearing in this case was held on 4-4-1990 at New Delhi which was attended by the CO and PO's representative Shri Prabhudev. The Regular Hearing in the case was held on 10th and 15th June 1993 at New Delhi which was attended by the CO and Shri G.Prabhakaran, Police Inspector, CPI, Bangalore on behalf of the PO. The prosecution introduced 11 documents which were marked and taken on record as Ex:5-1 to 5-11. The CO introduced a

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Attested by
Abdul Khayy
Adv

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defence documents which were marked and taken on record as Ex:D1 to D-4. The PO examined 3 prosecution witnesses whose depositions were recorded as SW-1 and SW-3. The CO did not produce/examine any defence witness. The CO also did not offer himself as witness. He was therefore examined in general by me. The written brief from the PO was received on 8-7-93. The written brief from the CO was received on 16-7-1993.

4. ANALYSIS OF EVIDENCE:

During 1987, Shri A.K.Jagannatham was functioning as Divisional Commercial Supt., South Central Railway, Hubli. On 16-7-1987, he issued a chargesheet to Shri Potharaju, Room Manager, Railway Catering Unit, South Central Railway, Hubli initiating major penalty proceedings against him. On 18-8-87, Shri Potharaju submitted an explanation to the chargesheet.

5. In the first week of September 1987, Shri Jagannatham told Shri Potharaju that his explanation dated 18-8-1987 had not been properly drafted and directed him to Shri P. Harsha Rao, Executive Asstt. to DRM/Hubli to get a new explanation drafted. Shri Potharaju accordingly got a new explanation drafted by Shri Harsha Rao. To this he got some more material added by Shri Ankiah, Asst. Claims Officer, South Central Rly, Hubli. He then got the final draft typed by Shri Padmanabhan, Stenographer Office of the DPO, South Central Railway, Hubli. Shri Potharaju handed over the revised explanation to Shri Jagannatham on 16-8-87.

6. But Shri Jagannatham did not bring the revised explanation on record. He carried it home and left it there. On 23-12-87, the Bangalore branch of the CPI conducted a search at his house during the course of the investigation of case No.RO 52/87-CBI/BLR registered against Shri Harsha Rao and him. In the course of the search, the revised explanation submitted by Shri Potharaju was recovered from Shri Jagannatham's house.

7. The PO has referred to the deposition of Shri Potharaju (SW-1) and his statement (Ex.S-7) to prove that Shri Potharaju had submitted the new explanation to the CO personally at his chamber on 16.9.87. Shri Potharaju has further stated that the CO directed him to go and meet Shri Harsha Rao. He accordingly met

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Shri Harsha Rao who demanded illegal gratification. On the complaint of Shri Potharaju (Ex.S-5), Shri Harsha Rao was caught red handed while accepting the illegal gratification. SW-1 in his examination-in-Chief has confirmed the correctness of the complaint (Ex.S-5) and the contents of his statement (Ex.S-7). After the trap of Shri Harsha Rao, the CBI officials conducted search at the residence of the CO. The independent witnesses (SW-2 & SW-3) present during the search have identified the revised explanation dt.9/87 of Shri Potharaju (Ex.S-3) recovered from the residence of the CO. They have also identified the search list marked as Ex.7-4. The PO has thus tried to prove that the revised explanation was in fact, found at the residence of the CO.

8. The CO has explained that he had initiated major penalty proceedings against Shri Potharaju on 16.7.87 (Ex.S-1). Shri Potharaju submitted his explanation on 18.8.87 (Ex.S-2). This explanation was submitted through proper channel and same was put up to the CO by the concerned official of the Catering Section, Shri M.R.Srinivasan on 18.8.87 itself. This fact is also confirmed in the pre-recorded statement of Shri M.R.Srinivasan which is a listed prosecution document (Ex.S-11). The explanation of Shri Potharaju dt.18.8.87 was not accepted and an inquiry was ordered by the CO to be conducted by Shri K.V. Niranjan, CCI/HQ/UBL. The orders to this effect were passed on 30.8.87. This fact is also confirmed in the pre-recorded statement of Shri M.R.Srinivasan (Ex.S-1 & Ex.D-2). The CO has explained that there is no provision under the rules to entertain a revised explanation after the first explanation has been taken on record and an enquiry already ordered.

9. The CO has referred to the cross examination of SW-1 wherein Shri Potharaju has confirmed that the CO never asked him to give a revised explanation for the charge-sheet dt. 16.7.87. It is further stated by him that the CO did not ask him to meet Shri Harsha Rao to get the revised explanation drafted. SW-1 has further deposed that the CO did not demand money directly or indirectly through Shri Harsha Rao. Apart from the complaint dt. 22.12.87 (Ex.S-5), there is no evidence adduced by the prosecution to prove that the CO asked Shri Potharaju to meet Shri Harsha Rao or to submit revised explanation or that he demanded money from Shri Potharaju directly or indirectly. The CO has explained that the complaint of Shri Potharaju (Ex.S-5) can not be relied upon as it has been practically disowned by him

during his deposition. Shri Potharaju(SW-1) has contradicted the main and important facts recorded to the complaint in respect of Shri Jagannatham. He was further stated that the complaint was not narrated/dictated by him but by Shri V.V. L.N.Subba Rao the then RSO/Hubli.

10. The CO has also denied that the revised explanation dated 09-87 was recovered from his residence during the search conducted by the CBI. The search list (Ex:S-4) does not specifically mention about the seizure of this revised explanation. SW-2 & SW-3 have admitted that they were not told the purpose of search of his residence by the CBI on 23-12-1987. SW-2 has stated that he had ~~initialled~~ initialled the papers seized from the residence of the CO separately and they were put into separate bunches later. However SW-3 has stated that first the seized papers were put into the bunches and he ~~was~~ was initialled the papers individually thereafter. According to CO, in such circumstances, it is not possible for the independent witnesses (SW-2&SW-3) to specifically identify one particular paper. Moreover the said revised explanation which is stated to have been seized from his residence, has been initialled by SW-2 & SW-3 without mentioning any date. The so called revised explanation that he was not shown the papers seized from his residence. He has further mentioned that it is not made clear whether the original or a copy of the so called revised explanation was recovered from his residence. Even during the enquiry only a photocopy of the said revised explanation has been filed (Ex:S-3). The CO has explained that item at S.No.1 of the seizure memo(Ex:S-4) refers to one bunch of 12 papers regarding employment notice, request for transfer and photostate copies of the certificates. The bunches of S.No.2 and 3 also mention about Photostat copies only. This proves that the so called undated revised explanation stated to have been seized from the residence of the CO was a photostat copy only. This raises doubt as to where the original of the so called revised explanation has gone. The CO has drawn attention to the deposition of SW-1 wherein he has stated that he had given the revised explanation to Sri Subba Rao, RSO/Hubli. The CO has thus tried to emphasize

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that the so called revised explanation if any, was given by Shri Potharaju (SW-1) to Shri Subba Rao, RSO. The CO has further explained that he was in fact, nowhere in the picture regarding drafting of the revised explanation by Sri Potharaju or demanding or acceptance of gratification by Shri Harsha Rao from Shri Potharaju. The CO has referred to the complaint (Ex:S-5) wherein Shri Potharaju has stated that he was asked by Shri Harsha Rao to submit the revised explanation in the office of the DCB. It is not stated therein that the so called revised explanation was to be handed over to the CO personally.

11. The CO has further brought out that Shri Potharaju was punished by him on 3 different occasions for dereliction of duty as can be seen from the entries dated 4-5-87, 6-5-87 and 20-1-88 in his service book (Ex:D-1). Moreover Shri Potharaju was transferred from Miraj to Hubli due to his inefficiency and underhand dealings as Manager/PRR Miraj. The CO has further explained that the integrity of Shri Potharaju was in question can also be judged from the letter written by the Divisional Security Commissioner, Hubli on 25-6-1987 (Ex:D-3) Shri Potharaju after the initiation of the major penalty proceedings vide charge sheet dated 16-7-87 was placed under suspension on 29-8-87 due to seriousness of the irregularities committed by him. In view of this background Shri Potharaju made a complaint (Ex.S-5) against the CO which is concocted and baseless. The seriousness of the irregularities committed by Shri Potharaju can be gauged from the penalty imposed upon him by the Disciplinary authority. He was reduced to the next lower grade with loss of seniority for a period of 2 years with cumulative effect. It was also observed in the penalty order that though higher penalty was attracted in this case, keeping in view his limited experience, a lenient view was being taken.

12. It is a fact that the original explanation submitted by Shri Potharaju on 10-8-87 (Ex:S-2) was taken on record and the same was put up by the concerned official of the catering Section Shri M.R.Srinivasan to the CO on 10-8-87. The CO ordered an inquiry against Shri Potharaju on 20-8-87 (Ex:S-11 and Ex:D-2). An inquiry officer was also nominated by the CO on 30-8-87. The CO's contention that the rules don't provide for

a revised explanation to be taken on record after the enquiry has been ordered has some weight. The prosecution has tried to establish that as the inquiry had not commenced against Shri Potharaju, there was a possibility of substitution of the original explanation with the revised explanation. But the inquiry had been ordered by the CO against Shri Potharaju on 30.8.87 and the file thereafter was in the personal custody of Shri M.R.Srinivasan. An inquiry officer had also been nominated. The possibility of substitution was remote more so as the file had passed through various different officials. Moreover no evidence has been adduced by the prosecution to show that there was connivance of any sort between the CO and the officials under him to substitute a revised explanation in place of the original explanation. Moreover Shri Potharaju was placed under suspension by the CO on 29.8.87 under specific directions from CCS (Ex.D-4). It is thus not possible to believe the contention of the prosecution that the revised explanation was meant to be substituted in place of the original explanation.

13. The prosecution has also not adduced any other evidence except the complaint and the statement of the complainant (Ex.S-5 & S-7) to prove that the CO had shown the original explanation to Shri Potharaju in the first week of September'87 and asked him to meet Shri Harsha Rao to get a revised explanation drafted. The prosecution has referred to the draft revised explanation (Ex.) which is stated to have been corrected by Shri Harsha Rao and to which some more material has been added in long hand to the dictation of Shri Ankaiah, Asst.Claim Officer, but these documents do not prove that the revised explanation was drafted at the instance of the CO. From the complaint (Ex.S-5), it is clear that Shri Harsha Rao didn't ask Shri Potharaju to hand over the revised explanation personally to the CO. He only asked him to submit the same in the office of the CCS. But why was a revised explanation dictated by Shri Harsha Rao on behalf of Shri Potharaju? One possibility could be that Shri Potharaju may not have told Shri Harsha Rao that he had already submitted an explanation in reply to the charge sheet. This possibility is supported from the fact that in the revised explanation, there is no reference to the original explanation. Moreover the revised explanation refers to charge sheet of a different date and also the file No. is different. The facts brought out by the prosecution that the money was demanded by Shri Harsha Rao and he was caught red handed by the CPI are not the subject matter

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of this inquiry. However the prosecution has not brought out any evidence to link that the demand or acceptance of any gratification by Shri Harsha Rao was in connivance with or at the instance of the CO.

14. The prosecution has claimed that as the revised explanation was recovered from the residence of the CO during a search on 30-12-1987, it clearly establishes that the revised explanation was submitted by Shri Potharaju at the instance of the CO and the same was handed over personally to the CO by Shri Potharaju. Firstly, in the complaint (Ex:S-5), it is not mentioned that the revised explanation was handed over to the CO personally by Shri Potharaju on 16-9-1987 has been mentioned for the first time in the Statement of Shri Potharaju (Ex:S-7) recorded on the date of the search of the residence of the CO on 23-12-87. Also the complainant (SW-1) has contradicted himself almost entirely in his deposition. He has denied that the CO ever asked him to submit a revised explanation or to meet Shri Harsha Rao. The PO has explained that this change of stand on the part of Shri Potharaju was only with a view to help the CO. In his examination in chief, Shri Potharaju, has confirmed the correctness of the contents of his complaint and the statement (Ex:S-5 and S-7). The CO has on the other hand tried to bring out that Shri Potharaju was not a reliable person. He was already punished thrice by him and there were also adverse reports against him made by the Divisional Security Commissioner, RPF/Hukli (Ex:-D-3). Also he was awarded a major penalty subsequently for the chargesheet dated 16-7-1987 which shows the seriousness of the charges against him.

15. Keeping all these facts in view, the onus was on the prosecution to adduce independent evidence to prove that the allegations contained in the complaint of Shri Potharaju were correct, but no such evidence has been furnished. The seizure memo prepared after the search of the residence of the CO on 23-12-87 does not specifically refer to the revised explanation which is stated to have been seized by the CPI from his residence. Moreover the purpose of the search was not made known to the independent witnesses (SW-2 and SW-3).

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Therefore it is not possible to believe that they would distinctly remember that this particular explanation was recovered during the search. This document bears the initials of SW-2 and SW3, but no date has been mentioned under the initials. SW-2 has stated that he has initialled all the papers and they were put in several bunches later on while SW-3 has stated that first the bundles were made and only thereafter he has initialled the papers. Moreover only Photocopy of the document seems to have been recovered from the residence of the CO. Then where the original of the revised explanation has gone and Shri Potharaju has stated in his deposition (SW-1) that he had handed over the revised explanation to Shri Suba Rao RSC. He has also confirmed that he had made a photocopy of the revised explanation. He further stated that he does not remember whether the original or the photocopy handed over to Shri Suba Rao.

16. Firstly the CO called revised explanation has not specifically been mentioned in the seizure memo. No dates have been mentioned under the initials of the independent witnesses on this document. Then the versions of SW-2 and SW-3 differ as to whether they had initialled the papers first and then they were bunched together or it was vice versa. Further only photocopies of the documents were seized. These facts raise doubts as to the correctness of the prosecution's contention that the revised explanation was actually seized from the residence of the CO. Moreover the prosecution has not clarified whether only a photocopy on the original revised explanation was recovered from the residence of the CO. The seizure memo only refers to the photocopies of the documents. Even if it is supposed that the photocopy of the revised explanation was recovered from the residence of the CO it does not prove that he carried original explanation home and left it there and the same was not brought on record. The CO has also raised doubts regarding the possibility of planting this document at his residence or adding it later to the documents seized from his house. Though the CO has not specifically proved that these documents were planted at his residence, but the way the seizure memo has been prepared, the doubts raised by the CO can not be ruled out totally. Moreover photocopies of the revised explanation can be given to various persons, but what is important is the original document.

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The prosecution has not been able to establish where the original document has actually come. There is also a possibility that this document may not at all have been submitted by Shri Potharaju and he may have concocted the allegations on the basis of photocopy made out of the original revised explanation. The CG has also pointed out that had Shri Potharaju been particular about the revised explanation to be brought on record, he would have certainly submitted the same through proper channel as he did in the case of the original explanation. Moreover the revised explanation is dt. September'87 while the CO had already ordered inquiry against Shri Potharaju on 30.8.87 itself. Thus the so called revised explanation dt. September'87 could not have been taken on record any way. Thus, the allegations levelled against the CO in the statement of imputations, are not established. Hence, the charge against the CO in para 2 above is not proved.

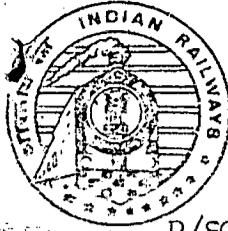
FINDINGS

17. The charge against the CO in the Articles of charge in para 2 above is not proved.

Date: 20.7.93

(VINOD KHURANA)
COMMISSIONER FOR DEPARTMENTAL INQUIRIES

//True Copy//



४१-
दक्षिण मध्य रेलवे
SOUTH CENTRAL RAILWAY

ANNEXURE-III 57

महा प्रबन्धक का कार्यालय, General Manager's Office,
कार्यालय साक्षाৎ Personnel Branch
सिकन्दराबाद (आ. प.) Secunderabad (A. P.)

P/SC/227/0/31

दिनांक Dated: 19-12-95, 1995

ORDER

Shri A K Jagannadham, Sr.DSO/SC (ex-DCS/UBL) was issued with a charge memorandum of even number dated 9-12-1991 for imposition of major penalty, on the following charges :

1. While working as DCS/UBL he had committed the following irregularities in the award of catering contract of PF Stall at Nira Station in July/August 1987:

- i) He had abused his official position while screening and finalising the contract in favour of Shri B.K. Venegurkar, who was otherwise not entitled to get the contract;
- ii) He had failed to personally verify the financial position and credentials of Shri Venegurkar and put up a wrong and misleading Screening report to DRI/UBL for approval; and
- iii) He had shown discrimination among the candidates and shown favour to Shri Venegurkar in disregard to Rule 28 of Indian Railways Act, 1890 and thus violated Rule 3 (1) of Railway Services (Conduct) Rules, 1966.

2. Shri P. Ramanna, Chief Engineer (Constrn.) Central/SC, who conducted inquiry in the case, held the charges as NOT PROVED, vide his report dated 18-10-1993.

3. I have carefully considered the enquiry proceedings, the enquiry report and Shri A.K.Jagannadham's representation dated 29-12-1993 on the report as also the other relevant records. I agree with the findings of the Inquiry Officer and hold that the charges are NOT PROVED.

4. Having regard to the above findings, I decide to drop the disciplinary proceedings and accordingly the proceedings initiated against Shri A.K.Jagannadham in the above case are hereby dropped.

Wing
(K. M. Rao)
General Manager
South Central Railway.

Shri A.K. Jagannadham
Sr.DSO/SC.

*Attested by
Bonalur
A.D.*

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL HYDERABAD BENCH AT HYDERABAD
O.A. NO. 1113/92.

Arun Kumar Jagannadham.

Date of Judgment: 12-3-1993.

Vs.

1.

Applicant.

1. Union of India,
rep. by the Secretary to the Railway Board,
New Delhi.
2. General Manager, S.C.Railway,
Railnilayam, Secunderabad.

Respondents.

Counsel for the Applicant: Shri N. Ramnohan Rao

Counsel for the Respondents: Shri N.R. Devraj, SC for Rlys.

CORAM:

HON'BLE SHRI JUSTICE V. NEELADRI RAO : VICE CHAIRMAN

HON'BLE SHRI R. BALASUBRAMANIAN : MEMBER (ADMIN)

Judgment as per Hon'ble Shri R. Balasubramanian : Member (Admin)

This application has been filed by Shri Arun Kumar Jagannadham against the Union of India, rep. by the Secretary to the Railway Board, New Delhi & another under section 19 of the Administrative Tribunals Act, 1985 seeking setting aside the memorandum of charges issued under cover of letters No. P/SC/227/0/27 dt. 31.10.88 and No. P/SC/227/0/31 dt. 9-12-91.

2. At the relevant time, the applicant was working as Senior Transportation Manager, Safety, S.C.Rly, Secunderabad in the Senior Time Scale of Group 'A'. 3 of his juniors were promoted to the Junior Administrative Grade on adhoc basis. The applicant represented against this arrangement overlooking his seniority. He was given to understand that this was due to pendency of disciplinary proceedings against him. Again, by orders dt. 17.10.91, 45 persons were promoted, this time on a regular basis. Of these, persons appearing at serials 44 and 45 are stated to be his juniors. The applicant is aggrieved that the respondents having framed the charge-memos against him had not made any satisfactory progress in the proceedings and instead had been keeping the proceedings pending denying in the process promotions due to him. Hence, aggrieved, the applicant has filed this O.A.

Attested by
Chandru



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3. The respondents have filed a counter opposing the application. It is stated that not 2 but 3 charge-sheets are pending against him. The third one is dated 29.1.1992. It is contended that as per extant rules when departmental proceedings are pending against an employee he is not entitled for promotion. It is their case that the consideration of the applicant for promotion has to await the outcome of the disciplinary proceedings.

4. We have examined the case and heard Shri N. Rammohan Rao for the applicants and Shri N. R. Devraj for the respondents. We have seen the letter No. P/SC/607/JAY T&C dt. 5.12.90 from the Chief Personnel Officer addressed to the applicant. At that point of time only the charge-sheet dt. 31.10.89 was pending against him. The respondents had intimated the applicant that his promotion to the Junior Administrative Grade on adhoc basis will be considered as per extant rules, depending on the outcome of the DMR case on its finalisation. The short point that is to be decided is whether the claims of the applicant for promotion have to wait till the disciplinary case is finalised. According to the rules, when the turn of an official for promotion comes, his case has to be considered by the D.P.C. alongwith other cases and if a charge-sheet is pending on that date, then the findings of the D.P.C. have to be kept in a sealed cover. In this case since the regular promotion orders have been issued on 17.10.91 there must have been a D.P.C. preceding that and since juniors to the applicant were promoted, the applicant's case ought to have been considered by the respondents. It is not clear from the counter as well as the arguments of the learned counsel for the respondents whether the D.P.C. considered his case and, if so, had placed the findings in a sealed cover. The D.O.P. instructions dt. 12.1.88 of which the respondents are aware require that six monthly review of sealed cover cases should be made (para 17.7.1. of the instructions). The procedure laid down in this memo dt. 12.1.88 and forming the basis for our decision in this case, is virtually repeated in the subsequent O.M. No. 22011/4/91-Estt(A) dt. 14.9.1992 of the Govt. of India, Ministry of Personnel, Public Grievances & Pensions (Dept. of Personnel & Training). In cases where the disciplinary case against the Govt. servant is not concluded even after the expiry of two years from the date of the

meeting of the D.P.C. (on the recommendations of which 2 of his juniors were promoted in November, 1991) which kept its findings in respect of the Govt. servant in a sealed cover, the appointing authority may review the case of the Govt. servant provided he is not under suspension, to consider the desirability of giving him ad-hoc promotion keeping in view certain aspects listed (para 5 of the instructions). For ready appreciation para 5 of the said letter is reproduced:

Procedure of ad-hoc Promotion.

5. In spite of the six monthly review referred to in para 4 (17.7.1 of 12-1-88 memo) above, there may be some cases, where the disciplinary case/criminal prosecution against the Govt. Servant is not concluded even after the expiry of two years from the date of the meeting of the first DPC, which kept its findings in respect of the Govt. servant in a sealed cover. In such a situation the appointing authority may review the case of the Govt. servant, provided he is not under suspension, to consider the desirability of giving him ad-hoc promotion keeping in view the following aspects:-

- (a) whether the promotion of the officer will be against public interest;
- (b) Whether the charges are grave enough to warrant continued denial of promotion;
- (c) Whether there is any likelihood of the case coming to a conclusion in the near future;
- (d) Whether the delay in the finalisation of proceedings, departmental or in a court of law, is not directly or indirectly attributable to the Govt. servant concerned; and
- (e) Whether there is any likelihood of misuse of official position which the Govt. servant may occupy after ad-hoc promotion, which may adversely affect the conduct of the departmental case/criminal prosecution.

The appointing authority should also consult the Central Bureau of Investigation and take their views into account where the departmental proceedings or criminal prosecution arose out of the investigations conducted by the Bureau."

We have, in view of the position as above, no hesitation in giving a direction to the respondents as follows:-

- (a) In case the sealed cover procedure had been adopted, the respondents should straightaway take recourse to para 5 referred to at the appropriate time.

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(b) In case the sealed cover procedure has not been adopted, a review D.P.C. should be conducted within three months from the date of receipt of the order and review the case of fitness or otherwise of the applicant for regular promotion, as on the date that was considered by the previous D.P.C. The findings of such review D.P.C. should also be kept in a sealed cover and acted upon at the appropriate time i.e., after the expiry of two years from the date on which the original D.P.C. met as required in para 5 extracted above.

5. With the above directions, the O.A. is disposed of with no order as to costs.

CERTIFIED TO BE TRUE COPY

Deputy Registrar
Dated 6/4/93

Court Officer

Central Administrative Tribunal

Hyderabad Bench

Hyderabad.

To

1. The Secretary, Railway Board, Union of India, New Delhi.
2. The General Manager, S.C.Rly, Railnayam, Secunderabad.
3. One copy to Mr. N. Rammohan Rao, Advocate, CAT.Hyd.
4. One copy to Mr. N. R. Devraj, SC for Rlys, CAT.Hyd.
5. One copy to Deputy Registrar (J) CAT.Hyd.
6. One copy to Hon'ble Mr. Justice V. Neeladri Rao, Vice Chairman
CAT.Hyd.
7. Copy to All Reporters as per standard list of CAT.Hyd.
8. One spare copy.

pvm

OA-1113/92

12-3-93

6-4-93

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL: HYDERABAD BENCH
AT HYDERABAD

OA.1370/94

dt.10-9-97

Between

AK. Jagannadham

: Applicant

and

Union of India, rep. by
General Manager
SC Rly., Rail Nilayam
Secunderabad

: Respondents

Counsel for the applicant

: G. Ramachandra Rao
Advocate

Counsel for the respondent

: DF Paul
SC for Railways

Coram

HON. MR. R. RANGARAJAN, MEMBER (ADMIN.)

HON. MR. BS. JAI PARAMESHWAR, MEMBER (JUDL)

Jan

Attested by
Bhavilhury
Adv

Judgement

Oral order (per Hon. Mr. B.S. Jai Parameshwar, Member (Jud1))

Heard Mr. Ramachandra Rao for the applicant and Sri D.F. Paul for the respondent.

1. The applicant while working as Senior Transportation Officer (Safety) at Secunderabad, was served with a Charge memo No. P:SE:227/0/32 dated 29-1-92 (Annexure-I). The applicant in order to submit his explanation to the Charge memo sought permission of the Disciplinary authority to inspect the original documents mentioned in the Articles of Charges. The Disciplinary authority permitted the applicant to inspect the documents. The documents in the custody of ^{the} Disciplinary authority were certified copies of the documents obtained from the judicial proceedings. The applicant insisted upon inspection of the original. Then the Disciplinary authority sent a reply to the applicant by letter No. P/SC/227/0/32 dated 3-2-1993 (Annexure-V) stating that the said original documents were available in the Court of First Additional Munsiff Magistrate, Tenali, in connection with the Proceedings No. MC.15/89; that the Railway Administration is not a party to the said proceedings, that it is not possible for the Railway Administration to obtain the said documents from the said Court, that the applicant is a party to the Proceedings No. MC.15/89 and that he may file a petition before the said Court for inspection of the documents.

2. The applicant filed this OA praying for quashing the charge memo dated 29-1-1992 as he would be put to great hardship and irreparable loss.

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3. A counter has been filed stating that the applicant was appointed in Railway Traffic Service during the year 1982. That one Smt. Jyothsna, submitted a representation to the Vigilance Organisation of SC Railway stating that she was the wife of the applicant having married him on 20-2-1974 at Kavali, and that she had produced letters dated 26-4-78, 15-2-79, 10-7-79, 21-7-79, 16-6-81 written by the applicant and those letters establish the relationship between the applicant and Smt. Jyothsna. That the applicant had earlier executed an agreement dated 8-9-87 on a stamped paper undertaking to pay a sum of ₹.1000/- per month towards Smt. Jyothsna for maintenance. That on his failure, Smt. Jyothsna had initiated proceedings No. MC.15/89 before the Court of First Additional Magistrate, Pennali. That the said Court had ordered the applicant to pay a maintenance of ₹.500/- p.m. to Smt. Jyothsna. That during the subsistence of the marriage with Smt. Jyothsna, the applicant married again one Periyala Banu on 29-10-1977 as per the certificate of marriage issued by the Marriage officer, Visakhapatnam. The applicant had committed the bigamous misconduct and that therefore the charge sheet was issued.

4. The respondents state that since they ^{were} not party to the Proceedings No.15/89 they are not in a position to obtain the original of the documents mentioned in the charge sheet. Their contention cannot be accepted in view of the provisions of Rule-9(19) ¹⁵ of the Procedure for Imposing Penalties under the Railway Servants (Discipline & Appeal) Rules, 1968, and also in view of the provisions of the Departmental inquiries (Enforcement of ^{Attendance of} Additional Witnesses and Productions of Documents)

For

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Act, 1972. The Disciplinary authority can secure the original documents from the concerned Court. The Rule 5(1) of the Act, 1972 Rules reads as below :

"5.(1) Every inquiring authority authorised under Section 4 (hereafter referred to as the "authorised inquiring authority") shall have the same powers as are vested in a civil court under the Code of Civil Procedure, 1908 while trying a suit, in respect of the following matters, namely :

- a) The summoning and enforcing the attendance of any witness and examining him on oath;
- b) Requiring the discovery production of any document or other material which is producible as evidence;
- c) The requisitioning of any public record from any Court or office."

5. In view of the matter we feel there is no difficulty for the Disciplinary authority to secure the original of the letters indicated in the memorandum of charges. After securing the originals the applicant may be permitted to inspect the same to enable him to make his submission. Since a charge sheet is issued on 29-1-92 we feel it proper to direct the Disciplinary authority to conclude the inquiry expeditiously, preferably within four months and in any case not beyond six months from the date of receipt of this copy. The learned counsel for the respondents expressed a fear that the applicant may not co-operate in conduct of the inquiry as expeditious as above. The learned counsel for the applicant submitted earlier that the promotion of the applicant is retarded because of the pending of the charge sheet. In view of this, we do not feel that the applicant will not co-operate in the conduct of

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inquiry. However, we caution the applicant to give full co-operation in the conduct of the inquiry so as to complete the inquiry as early as possible.

6. In case the respondents fail to conclude the disciplinary proceedings within the time stipulated above or within the extended period, if any, then the charge sheet dated 29-1-92 shall stand quashed.

7. With the above order the OA is disposed of. No order as to costs.

RECORDED
SERIALIZED IF NECESSARY
INDEXED
FILED

RECORDED
COURT OFFICER
RECORDED
Central Administrative Tribunal
HYDERABAD, HYDERABAD

IN THE HIGH COURT OF JUDICATURE: ANDHRA PRADESH: AT HYDERABAD.

(SPECIAL ORIGINAL JURISDICTION)

FRIDAY THE TWENTY SIXTH DAY OF MARCH
ONE THOUSAND NINE HUNDRED AND NINETY FIVE.

PRESENT

THE HONOURABLE DR. JUSTICE: MOTILAL P. JAIJ.

AND

THE HONOURABLE DR. JUSTICE: J. CH. LAMESHAN

WRIT PETITION NO. 29127 OF 1998.

PETITIONER:-

1. Union of India, Rep. by its General-
Manager, South Central Railway.
Secunderabad.

PETITIONER.

AND

1. Sri A.K.Jagannadhan,
2. Central Administrative Tribunal,
Keca Bhavan, Opp. Public Garden,
Hyderabad Bench, Hyderabad.

RESPONDENTS.

Petition under Article 226 of the Constitution of India
praying that in the circumstances stated in the Exx Affidavit
filed her in the High Court will be pleased to issue order or
direction or writ, more particulars writ of certiorari quelling
for the records from the Respondents No. 2 pertaining to the
order dt. 17/3/98 in M.A.302/93 in C.A.No.1370/94 and quash
the same and consequently grant 6 Months time to complete the
inquiry against Respondent No. 1 as the Hon'ble Court may deem
fit and proper in the circumstances of the case.

For the Petitioner: Mr. K. Subramanya Reddy Senior for Counsel-
For.

For Respondent

For the Petitioner: Mr. K. Siva Reddy, Advocate.

The Court made at the stage of admission-
made the following:- Order:-

affested by
Chandrasekhar
Adw

Cont.....

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(THE HON'BLE DR. JUSTICE MOTILAL B. NAIK

AND

THE HON'BLE SRI JUSTICE J. CHELAMESWAR)

(WRIT PETITION No. 29127 OF 1998)

JUDGMENT : (PER DR. MOTILAL B. NAIK, J)

This Writ Petition is filed by the Union of India, represented by its General Manager, South Central Railway, Secunderabad, seeking a Writ of Certiorari by calling for the records from the second respondent - Central Administrative Tribunal, Hyderabad Bench pertaining to the order dated 17-8-1998 in M.A.No. 302 of 1998 in O.A.No. 1370 of 1994 and quash the same and a further consequential direction to grant six months time to the petitioner to complete the inquiry against the first respondent.

For proper appreciation of the case, few facts which are relevant, are set out as under :

While the first respondent was working as Senior Transport Officer (safety) in the office of the petitioner, a complaint was received alleging that the first respondent had married again while

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his first wife is alive. After preliminary enquiry, a charge memo dated 29-1-1992 was issued to the first respondent calling for his explanation, which was acknowledged by him on 30-1-1992.

After receipt of the charge memo, the first respondent sought for verification of the original documents on which basis the charge memo was issued to him, for furnishing his reply. However, the said documents were not furnished to the first respondent and the enquiry could not be completed. The petitioner finally appointed an Enquiry Officer and Presenting Officer on 4-3-1994 and a notice was issued to the first respondent on 17-3-1994 to participate in the inquiry. Immediately, after receipt of the notice, the first respondent challenged the enquiry proceedings before the Central Administrative Tribunal, Hyderabad Bench - second respondent herein, in O.A.No. 1370 of 1994 in the month of 1994 on various grounds. However, the second respondent-Tribunal disposed of the said O.A.No. 1370 of 1994 on merits by an order dated 10-9-1997 permitting the

- 3 -

petitioner to complete the enquiry within a period of six months from the date of receipt of a copy of that order by duly making available the original documents for the perusal of the first respondent, and if in any event the enquiry is not completed within the six months period, the charge-sheet shall stand quashed.

The writ petitioner did not complete the enquiry against the first respondent as directed, by the second respondent-Tribunal by its order dated 10-9-1997, within the stipulated period of six months and again approached the second respondent-Tribunal by filing Miscellaneous Application No. 302 of 1998 under Rule 8 of Central Administrative Tribunal Rules, 1987 (procedure rules) seeking two reliefs, viz., 1) to permit the respondent (petitioner herein) to proceed with the enquiry based on the Court certified copies/photo copies of the documents; and (2) to grant further six months time to complete the inquiry from the date of receipt of the order in that M.A.

AB

The said application was, however, opposed by the first respondent herein by filing an elaborate counter denying the allegations in the affidavit filed in support of the said M.A., inter-alia, contending that the order of the Tribunal in O.A.No. 1370 of 1994 dated 10-9-1997 was received by the petitioner on 28-9-1997 and the maximum period of six months granted by the second respondent-Tribunal for completing the enquiry expired by 28-3-1998 by which time the order passed by the Tribunal had already worked out and became final and no further time could be granted on an order which had become final. It was also stated in the counter by the first respondent that the charge-sheet itself is filed basing on a false complaint and the enquiry which was initiated against the first respondent way back in the year 1992 has not been completed even after six years and is being prolonged on. In a view to harm the interests of the petitioner so as to deny him his legitimate promotion.

The second respondent-Tribunal, on a consideration of the rival submissions, though the first relief sought for by the petitioner in the said M.A.No. 302 of 1998 was not pressed, rejected the second prayer/relief of granting further six months time to complete the inquiry against the first respondent, ~~xx xx xx~~ ~~xx xx xx~~ ~~xx xx xx~~ holding that the order passed by the second respondent-Tribunal in O.A.No. 1370 of 1994 on 10-9-1997 had already worked out and had become final and if extension of time as prayed for is granted, it would amount to modifying the earlier granted by it on 10-9-1997. This order of the second respondent-Tribunal dated 17-8-1998 passed in M.A.No. 302 of 1998 is challenged before us under Article 226 of the Constitution of India.

On behalf of the writ petitioner, Sri Subrahmanyam Reddy, learned senior counsel representing Sri K. Siva Reddy, advocate, submitted that the impugned order of the second respondent-Tribunal dated 17-8-1998 in M.A.No. 302 of 1998 rejecting the request of the petitioner to grant six months time to complete the

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enquiry against the first respondent is untenable and erroneous inasmuch as the observation of the second respondent-Tribunal that in the absence of a review petition filed against the original order dated 10-9-1997 any extension of time to complete the enquiry against the first respondent would amount to modifying the original order, is not based on sound legal principles.

Learned senior counsel submitted that the original order passed by the second respondent-Tribunal in O.A.No. 1370 of 1994 dated 10-9-1997 itself had given time to the writ petition^{er} to conclude the disciplinary proceedings within the time stipulated therein or within the extended period ~~of two months~~, lest the charge-sheet dated 29-1-1992 shall stand quashed. When the original order itself contemplates extended period, the petitioner had moved the second respondent-Tribunal by filing M.A.No. 302 of 1998 and sought six more months time for completing the inquiry against the first respondent, as on account of certain administrative difficulties, the inquiry would not be completed within the stipulated time. Counsel contended,

the second respondent-Tribunal without properly appreciating the reasons assigned by the petitioner, has erroneously dismissed the said M.A.No. 302 of 1998 which according to the learned senior counsel is unsustainable. Learned senior counsel, therefore, prays to quash the impugned order dated 17-8-1998 in M.A.No. 302 of 1998 and also seeks six more months time for completing the enquiry against the first respondent.

On the contrary, Sri G. Ramachandra Rao, learned counsel appearing on behalf of the first respondent submitted that basing on a false complaint alleging that the first respondent had contracted second marriage, disciplinary proceedings were initiated against him, charge memo was issued to him way back in the year 1992 and thereafter, the enquiry could not be proceeded with as the petitioner could not furnish the documents to the first respondent. Finally, an enquiry officer was appointed in the year 1994 and a charge-memo was issued to the first respondent to participate in the enquiry, pursuant to which the first respondent filed

O.A.No. 1370 of 1994 seeking to quash the enquiry proceedings. Though no stay/granted by the second respondent-Tribunal, the petitioner could not complete the enquiry. Counsel further submitted that even after the disposal of O.A.No. 1370 of 1994 by the second respondent-Tribunal, granting in all, six months time to complete the enquiry, the petitioner could not complete the enquiry and has again filed M.A.No. 302 of 1998 seeking extension of time for six more months to complete the enquiry, only with a view to create mental agony to the first respondent and to deny him his legitimate promotion which he is entitled to.

Learned counsel further submitted that the second respondent-Tribunal has/held that the original order passed by it on 10-9-1997 has already worked out and if extension of time as sought for by the petitioner is granted, it would amount to modifying the original order dated 10-9-1997. Counsel therefore, submitted that the well-considered impugned order dated 17-8-1998 is just and proper in the circumstances and no interference by this Court is warranted inasmuch as no justifying reasons are shown by the petitioner to avert the same.

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During the course of hearing the writ petition at the admission stage, on a prima-facie hearing of the learned counsel appearing on behalf of the respective parties, in the light of the allegation made by the first respondent's counsel that the first respondent is being denied his legitimate promotion and several of his juniors were promoted ignoring his case in the guise of pendency of inquiry against him, we directed the counsel for the petitioner, by an order dated 16-12-1998, to file an affidavit of the competent authority indicating the number of juniors to the first respondent who were promoted from the year 1992 onwards, pursuant to which a statement of facts has been filed before us in the nature of an affidavit which is sworn in by one N.V. Ramana Reddy, Deputy Chief Personnel Officer in the office of the petitioner.

On a perusal of the affidavit filed by Sri N.V. Ramana Reddy, Deputy Chief Personnel Officer in the office of the petitioner, at para-4 it is evident that as many as 205 officers who are junior

to the first respondent on All India Railways were promoted to Junior Administrative Grade on regular basis, out of which 59 officers have been further placed in Selection Grade of the said Junior Administrative Grade. Among the above said promoted officers, 27 officers (which include six officers placed in Selection Grade of Junior Administrative Grade) belong to South Central Railway. It is also

evident from the said affidavit that the first respondent belonged to 1981 batch and was considered for regular promotion along with his juniors in his turn in the year 1991 for regular promotion to Junior Administrative Grade which is a selection post.

However, his case was kept in a sealed cover in view of pendency of 'major penalty disciplinary proceedings' against him. The DPC met on 3-9-1991 and the panel was approved on 3-10-1991 duly keeping the first respondent's promotion in a sealed cover. It is also evident from the affidavit that the first respondent was exonerated from the earlier enquiry proceedings initiated under charge sheet dated 31-10-1989 vide order dated 19-1-1996, but his case for promotion

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could not be considered owing to pendency of inquiry proceedings against him which pertain to bigamy. It is admitted by the petitioner in the affidavit that the case of the first respondent was examined by the Railway Board which advised to promote him to Junior Administrative Grade on adhoc basis on the Railway, by its letter dated 15-11-1994. Accordingly, the first respondent was promoted on adhoc basis by an order dated 23-11-1994, as Junior Administrative Grade Officer and he is entitled for charge allowance in addition to his substantive pay in Senior Scale while working on adhoc basis in Junior Administrative Grade. However, due to error, he was put on a scale of pay admissible to Jr. Administrative Grade only.

The short question that arises for consideration before us is whether the Central Administrative Tribunal - second respondent is justified in passing the impugned order dated 17-8-1998 in M.A.No. 302 of 1998 in O.A.No. 1370 of 1994 rejecting the request made by the petitioner seeking extension of time by six months to complete the inquiry against the first respondent ?

The first respondent has filed a detailed counter-affidavit in this writ petition. At para-3 of his counter-affidavit, the first respondent has stated that though a charge-memo was issued to him on 29-1-1992, ^{basis} he sought the documents on which [/] the charge was framed against him, from the petitioner, for verification as no preliminary enquiry was held by the department before issuing the said charge-sheet. The first respondent further submitted in his counter that in respect of the subject matter of the charge-memo, there was investigation by the Vigilance department of the petitioner in the year 1985 and again in the year 1990 wherein his statement was recorded and no prima-facie case was made out against him for initiating disciplinary action.

The fact of investigation by the Vigilance department of the petitioner in respect of the charge-memo in the year 1985 and again in 1990 and also recording the statement of the first respondent, has not been denied by the petitioner by filing any reply to the counter filed by the first respondent.

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In the wake of divergent submissions, we have carefully examined the original order dated 10-9-1997 passed by the second respondent-Tribunal in O.A.No. 1370 of 1994. Para-5 of the said order contains the operative portion which reads as under :

— "In view of the above, we feel there is no difficulty for the Disciplinary authority to secure the original of the letters indicated in the memorandum of charges. After securing the originals, the applicant may be permitted to inspect the same to enable him to make his submission. Since a charge sheet is issued on 29-1-92 we feel it proper to direct the Disciplinary authority to conclude the inquiry expeditiously, preferably with four months and in any case not beyond six months from the date of receipt of the copy of this order. The learned counsel for the respondents expressed a fear that the applicant may not cooperate in conduct of the inquiry as expeditiously as above. The learned counsel for the applicant submitted earlier that the promotion of the applicant is retarded because of the pending of the charge sheet. In view of this, we do not feel that the applicant will not co-operate in the conduct of the inquiry."

Para-6 of the said order further reads as under :

"In case the respondents fail to conclude the disciplinary proceedings within the time stipulated above or within the extended period, if any, then the charge sheet dated 29-1-1992 shall stand quashed."

On a careful reading of the above observations of the second respondent-Tribunal, it is abundantly clear that the Tribunal directed the disciplinary authority to conclude the inquiry expeditiously, preferably within four months and in any case not beyond six months from the date of receipt of a copy of that order. This leaves no scope for us to say that the six months period granted by the Tribunal to the petitioner for completing the inquiry against the first respondent includes the two months extended period. Therefore, the contention of the learned senior counsel appearing on behalf of the petitioner that the original order dated 10-9-1997 contemplates extension of time and the Tribunal ought to have granted a further period of six months time by allowing M.A.No. 302 of 1998 cannot be accepted. As indicated earlier, at para-5 of the original order dated 10-9-1997, the Tribunal in no uncertain terms indicated that the inquiry against the first respondent be completed not beyond six months from the date of receipt of a copy of that order. We are, therefore, inclined to hold that there is no ambiguity in the said order and the

six months period includes the extended period of two months and there cannot be any further extension.

Sri Subrahmanyam Reddy, learned senior counsel appearing on behalf of the petitioner nextly submitted that if this Court desires, a direction could be issued to the petitioner to open the sealed cover of the first respondent and complete the inquiry proceedings pending against him. We are afraid, we are unable to record our concurrence to this submission also, inasmuch as we are only concerned with the question whether the impugned order dated 17-8-1998 passed by the second respondent-Tribunal is proper or not ? When the second respondent-Tribunal itself has categorically stated in its original order dated 10-9-1997 that if the respondents (petitioner herein) fail to conclude the disciplinary proceedings within the stipulated time indicated therein (originally four months) or within the extended period i.e., another two months, then the charge sheet dated 29-1-1992 shall stand quashed and that the Tribunal having found the enquiry has not been completed against the first

respondent by the petitioner within the stipulated period, in our view, is justified in holding that if an extension is granted to the petitioner for completing the enquiry against the first respondent by six more months, it would amount to modifying the earlier original order dated 10-9-1997. Therefore, viewed from any angle, no extension was contemplated by the second respondent-Tribunal in its original order dated 10-9-1997 beyond the period of six months.

Learned senior counsel appearing on behalf of the writ petitioner made yet another effort by drawing our attention to Rule 26 of the A.P. Administrative Tribunal (Procedure) Rules 1989 and contended that the second respondent-Tribunal could issue orders or give such directions as may be necessary to give effect to its orders or to prevent abuse of its process.

Learned senior counsel further contended that the Tribunal, by virtue of the above Rule 26, could extend the time of six months as prayed for by the petitioner to complete the inquiry against the first respondent to secure the ends of justice.

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For proper appreciation of the implication of Rule 26, it is relevant to extract the said rule, which reads as under :

26. ORDERS AND DIRECTIONS IN CERTAIN CASES :

"The Tribunal may make such orders or give such directions as may be necessary or expedient to give effect to its orders or to prevent abuse of its process or to secure the ends of justice."

On a plain reading of the above Rule, we are convinced that the Tribunal is entitled to issue such orders or directions to give effect to its orders or to prevent abuse of its process to secure the ends of justice. In this case, if this test is applied, who could be held to be the abuser of the process of law ? The answer is understandable.

The Writ Petitioners, which is a State within the meaning of Article 12 of the Constitution of India, initiated disciplinary proceedings against the first respondent on the basis of a complaint that the first respondent had contracted second marriage while his first wife is alive. However, the said enquiry has not been completed by the petitioner on one pretext or the other. In the guise of pendency of inquiry proceedings

against the first respondent, he was denied his legitimate promotion and more than 200 officers who were juniors to him were promoted. Even though the petitioner cleared the first respondent from certain allegations levelled against him in the year 1989, yet the first respondent was not promoted to the next higher category on the ground that inquiry is pending against him. The first respondent questioned the notice issued by the writ petitioner before the second respondent-Tribunal in O.A.No. 1370 of 1994 and the Tribunal did not grant any stay stalling the enquiry proceedings. The Tribunal, however, disposed of the said O.A. by an order dated 10-9-1997 finally giving the writ petitioner six months time to complete the enquiry from the date of receipt of a copy of that order and yet, the writ petitioner did not complete the enquiry and moved the second respondent-Tribunal again by way of W.A.No. 302 of 1998 seeking extension of time to complete the inquiry against the first respondent. The Tribunal, by the impugned order dated 1-10-1998 has dismissed the said application by giving

- 19 -

cogent reasons, against which the petitioner has

filed this Writ Petition. We are, therefore, convinced

that the attempts made by the petitioner, which is the

State within the meaning of Article 12 of the

Constitution of India, are nothing but an attempt

to deny the legitimate promotion to the first respondent

and also subjecting him to mental agony. The

Writ Petitioner, /a State within the meaning of Article

12 of the Constitution of India, all its actions

are expected to be fair. However, the events unfolded

from the narration of facts by the first respondent,

undoubtedly lead to an irresistible conclusion

that the writ petitioner is not fair enough while

dealing with the first respondent and has also tried

to abuse the process of law. The second respondent-

has

Tribunal, in our considered view, rightly rejected the

request of the petitioner seeking extension of time,

through the impugned order dated 17-8-1998 in M.A.No.

302 of 1998. We see no justifying reasons to

interfere with the well considered findings of

the second respondent-Tribunal in the impugned order.

For all the above reasons, we dismiss this writ petition, however, without costs.

Sd/- A.RANGA SURI.

ASST. REGISTRAR.

SECTION OFFICER.

To

- 1) The Registrar, Central Administrative Tribunal,
HACA Bhavan, Opp. Public Garden, Hyderabad.
- 2) + 2 C.O.Copies.

T.DY: S.A.M.

C.DY: 

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Dt/ 26/3/1991.

PROB

W.P. No. 29127 of 1990.

Dismissing the W.P.
at the stage of admission.
Without Costs..

② KVR

a selfless manner.

RRB denies paper leak

EXPRESS NEWS SERVICE

Hyderabad, Dec 24: The Railway Recruitment Board (RRB) has denied reports in a section of the press that question papers of the RRB written examination held on Dec 3 for diesel assistants had been leaked.

The RRB chairman, in a statement here today, said that all that happened was that the officials of the board detained one Suresh Kumar on receipt of information that he was indulging in malpractice on Dec 3. He was handed over to Kacheguda police station. The case was under investigation by the police and the vigilance branch of the railways, he said.

INDIAN EXPRESS

dt. 25.12.00

Attested by
Chandrayan
Adv

—74—

ANNEXURE-VIII

90

STANDARD FORM No.4
Standard Form of Order for Revocation of Suspension Order
[Rule 5(5) (c) of Railway Servants(Discipline & Appeal) Rules,1968]

SOUTH CENTRAL RAILWAY

General Manager's Office
Personnel Department
Secunderabad – 500 071.

No.P/SC/227/O/44

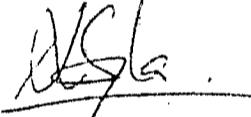
Date: 25.04.2003.

ORDER

WHEREAS an order No.P/SC/227/O/44 dated 10.01.2001 placing Sri A.K.Jaganndham, Dy.COM(Safety)/HQ under deemed suspension with effect from 18.12.2000 was made by the undersigned.

NOW, THEREFORE, the undersigned in exercise of the powers conferred by clause (c) to sub-rule (5) of Rule 5 of the Railway Servants (Discipline & Appeal) Rules, 1968, hereby revokes the said order of deemed suspension with effect from the date of this order is served on Sri A.K.Jaganndham.

The period of suspension of Sri A.K.Jaganndham, will be regulated after due process of the criminal case pending against him.


(S.M.SINGLA)
GENERAL MANAGER
SOUTH CENTRAL RAILWAY

Sri A.K.Jaganndham,
Dy.COM(Safety)/HQ (under suspension)

*Attested by
A. M. Chaturvedi
Advocate*

TO -75-

SHRI A. K. JAGANNADHA
GOVERNMENT OF INDIA
MINISTRY OF RAILWAYS
(RAILWAYS BOARD)

Sr DOM /

THE GENERAL MANAGERS
 EASTERN RAILWAY/KOLKATA
 SOUTHERN RAILWAY/CHENNAI
 NORTH EASTERN RAILWAY/GORAKHPUR
 CENTRAL RAILWAY/MUMBAI
 NORTHEAST FRONTIER RAILWAY/GUWAHATI
 SOUTH EASTERN RAILWAY/KOKATA
 SOUTH CENTRAL RAILWAY/SECUNDERABAD
 NORTHERN RAILWAY/NEW DELHI

WIRELESS POST
ISSUED ON 31.01.2002

THE DIRECTOR GENERAL
 RSC/ADODARA
 THE OSDs
 EAST COAST RAILWAY/BHUBANESWAR
 NORTH CENTRAL RAILWAY/ALLAHABAD
 EAST CENTRAL RAILWAY/HAJIPUR
 SOUTH EAST CENTRAL RAILWAY/BILASPUR

NO E(O)III-2003/PM/20 () MINISTRY OF RAILWAYS HAVE DECIDED THAT THE FOLLOWING SELECTION GRADE OFFICERS SHOULD BE APPOINTED AS OFFICIALE IN SA GRADE AND POSTED ON THE RAILWAY AS INDICATED AGAINST EACH:-

SL. NO.	NAME (S/SHRISMTI)	RAILWAY UNIT PRESENTLY WORKING KON	RAILWAY UNIT TO BE POSTED ON PROMOTION
1.	ASHOK CHANDRA LATHE	NER	NER
2.	RAJENDRA KUMAR MEENA	JAIPUR	ER
3.	ANURAG	NR	NCB
4.	SUNIL MATHUR	NR	NR
5.	B.P.SWAIN	SER	SER
6.	S.ANANTHA RAMAN	SR	SR
7.	P.S.MISHRA	SER	ECR
8.	PURUSHOTTAM GUHA	RAILWAY BOARD	NR
9.	SARLA BALAGOPAL	NR	SR
10.	M N RAY	SCR	SECR
11.	P K SINHA	ER	ER
12.	AJIT KUMAR JAIN	CR	RSC AS PROFESSOR (T)
13.	YASH VARDHAN	CR	NR
14.	G C RAY	ECOR	ECOR
15.	RAJENDRA KUMAR SONI	CR	CR
16.	RAKESH TRIPATHI	NER	NER
17.	G LAXMINARAYAN	SCR	CR
18.	B K JOSHI	SER	SER

Attested by
 Chaudhury
 Adm

- 76 -

91

RA 1004

150731

ZCZC GKPWLX0031 SVH GKP WLX
BBVIXA=--CCGXXA-- JPXXXX --ERWL XX --GKP WLX

A111/115

XNR TIME 1945 NDRB 298

TO THE GENERAL MANAGERS

C.RLY MU MBAL

E.RLY KOLKATA

N.E.RAILWAY GORAKHPUR

W.RLY MOGOTIAH

OFFICER ON SPECIAL DUTY NGTWRLY JAIPUR

NO 3(0)III-192/PM/216) MINISTRY OF RAILWAYS HAVE DECIDED THAT :-
I. SHRI K K SINGH SA GRADE IRIS/NORTHEASTERN RAILWAY. SHOULDBE TRANSFERRED TO NORTH WESTERN RAILWAY AGAINST AN SAGPOS
BEING TRANSFERRED FROM WESTERN RAILWAY, SANCTION FOR
WHICH IS BEING ISSUED SEPARATELY.II. SHRI B N WAGHMARE, SELECTION GRADE IRIS CENTRAL RAILWAY
SHOULD BE APPOINTED TO OFFICIALE IN SA GRADE ON CENTRAL
RAILWAY ITSELF BY MAKING SUITABLE LOCAL ADJUSTMENTS.III. SHRI K.C.MEGHWANSHI, SA GRADE IRIS NORTH WESTERN RAILWAY
ON RETURN FROM LEAVE, SHOULD BE TRANSFERRED TO WESTERN
RAILWAY.IV. SHRI N P SINGH SELECTION GRADE IRIS/NORTHERN RAILWAY
SHOULD BE TRANSFERRED TO NORTH EASTERN RAILWAY AND
APPOINTED TO OFFICIE IN SA GRADE BY MAKING SUITABLE LOCAL
ADJUSTMENTS.V. SHRI SATSHOZANDRA. SELECTION GRADE IRTY NORTHERN RAILWAY
MA SHOULD BE TRANSFERRED TO NF RAILWAY AND APPOINTED
OFNLBUTE IN SA GRADE BY MAKING SUITABLE LOCAL AJDUSTMEN
ANDVI. SHRI SUSHIL KUMAR, SELECTION GRADE IRIS EASTERN RAILWAY
SHOULD BE APPOINTED TO OFFICIALE IN SA GRADE ON EASTERN
RAILWAY ITSELF BY MAKING SUITABLE LOCAL ADJUSTMENTS(.)
TRANSFERS INVOLVED HAVE THE APROVAL OF THE PRESIDENT(.)
THE ABOVE PROMOTION ORDERS WILL BE SUBJECT TO THE UTICOMA
OANO. 1306/99 FILED BY SHRI S K NAYAK BEFORE HONBLE CENTR
ADMINISTRATIVE TRIBUNAL/KOLKATA BEC(.)

DATE ON WHICH

THE ABOVE OFFICES RELINQUISH/ASSUME CHARGE MAY BE

ADVISED(.)

RAILWAYS

NDRB SENT 1305 30/8

==RBWLXB0002

== DLITMN0014

RECEIVED ON 3008/14.12. HRS TRANSMITTED ON 3007/15:14 HRS

— 77 —

02

TRANSFERS INVOLVED HAVE THE APPROVAL OF THE PRESIDENT(.)
THE APPOINTMENT OF THE ABOVE OFFICERS IN SA GRADE SHALL BE
SUBJECT TO BEING OUTCOME OF O A NO 1306/99 FILED BY SHRI SK NAYA
IRTS BEFORE HONBLE CENTRAL ADMINISTRATIVE TRIBUNAL KOKAT
BENCH(.)
DATE ON WHICH THE ABOVE OFFICERS RELINQUISH/ASSUME CHARGE
MAY BE ADVISED

RAILWAYS

Sd/-
(A.K.BAGCHI)
JOINT DIRECTOR(G
RAILWAY BOARD)

TRANSFERS ENVOLED HAVE THE APROVAL OF THE PRESIDENT (.)
THE APPOINTMENT OF THE ABOVE OFFICERS IN SA GRADE SHAL
SUBJECT TO BEING OUTCOME OF O A NO 1306/99 FILED BY SHRI SKN
IKS BEFORE HONBLE CENTRAL ADMINISTRATIVE TRIBUNAL KOL
BENCH (.)
DATE ON WHICH THE ABOVE OFFICERS RELINQUISH/ASSUME CH
MAY BE ADVISED

RAILWAYS

Sd/-
(A.K.BAGCHI
JOINT DIRECTOR
RAILWAY BOARD

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL: HYDERABAD BENCH
AT HYDERABAD.

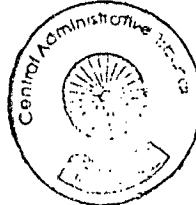
99

Original Application No. 338/2003

Date of ORDER: 6th APRIL 2004

B E T W E E N :

1. ARUN KUMAR JAGANNADHAM
DY.CHEIF OPERATIONS MANAGER
S.C.RLY,SECUNDERABAD.
(UNDER SUSPENSION)



...Applicant

A N D

1. THE SECRETARY
RAILWAY BOARD
RAIL BHAVAN, NEW DELHI

2. THE GENERAL MANAGER
SC.RAILWAY, RAILNILAYAM,
SECUNDERABAD.

....Respondent(s)

Counsel for the Applicant:Sri P.S.RAMACHANDRA MURTHY,
Advocate

Counsel for the Respondent(s):MR. N.R.DEVARAJ
SC FOR RLYS.

C O R A M

THE HON'BLE JUSTICE SRI K.R.PRASADA RAO, VICE-CHAIRMAN
THE HON'BLE DR. CHHATTRA SAI SINGH, MEMBER(ADMN)

* * * *

JUDGEMENT

ORDER (PER HON'BLE JUSTICE SRI K. R. PRASADA RAO,
VICE-CHAIRMAN)

The applicant approached this Tribunal in the present O.A. seeking for a direction to the respondents to promote him to the Junior Administrative Grade with effect from 3.10.1991 on par with his junior, granting him all consequential benefits and also order for conferring upon him the next selection grade from 1.1.1996 at par with his juniors.

Attested by
Amar Alvey
Amar Alvey
Adv.

2. The facts which are not in dispute are briefly as follows:-

The applicant belongs to 1981 Examination batch of Indian Railway Traffic Service. All his batch mates including his juniors in the senior scale, excluding the applicant, were promoted to the Junior Administrative Grade with effect from 3.10.1991, by order dated 17.10.1991 and the applicant was denied promotion, on the allegation that disciplinary proceedings were pending against him. The applicant thereupon approached this Tribunal in O.A.No.1113/92 praying that the respondents may be directed to consider his case for promotion to the Junior Administrative Grade on par with his juniors. The said O.A. came to be disposed of by this Tribunal directing the respondents to adopt sealed cover procedure, if any disciplinary proceedings were pending against the applicant as on the date on which DPC the had met. In case the sealed cover procedure has not been adopted, a review DPC should be conducted within three months from the date of receipt of the order and review the case of fitness or otherwise of the applicant for regular promotion, as on the date that was considered by the previous DPC. The findings of such review DPC should also be kept in a sealed cover and acted upon at the appropriate time i.e., after the expiry of two years from the date on which the original DPC met as required in Para-5 of the instructions in this regard. Subsequently, the respondents promoted the applicant on adhoc basis to the Junior Administrative Grade with effect from

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22.6.1997. The applicant thereafter submitted his representations dated 11.7.1997 and 21.3.1998 requesting the authorities to promote him with effect from 3.10.1991 to the said post on par with his juniors. Since he did not get any response to his representations, he approached this Tribunal by filing O.A.No.1412/2001. The said O.A. came to be disposed of by this Tribunal observing that, "Admittedly, the charge memos issued to the applicant on 31.10.1988, 9.12.1991 have been dropped" and the O.A. came to be disposed of giving certain directions to the respondents. Thereafter, the applicant was continued in the Junior Administrative Grade upto 31.7.2001. The applicant is presently under deemed suspension from 10.1.2001 on account of the Criminal Case in the Crime No.350/2000 dated 21.12.2000. Since the applicant has not been given regular promotion to the Junior Administrative Grade on par with his immediate junior, he again approached this Tribunal in the present O.A. seeking for the above reliefs.

3. The respondents have filed reply statement wherein they admitted that the disciplinary proceedings pending against the applicant as on the date on which the DPC had met i.e., as on 3.10.1991 to consider his case for promotion to the Junior Administrative Grade, ~~was~~ was dropped subsequently. It is further pointed out by them that subsequently since the applicant has been issued another charge memo dated 29.1.2002 he could not be promoted on regular basis by the Railway Board. It is also submitted by the respondents that the applicant

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filed O.A.No.1370/94 challenging the charge memo dated 29.1.92 issued to him. The said O.A. came to be disposed of by this Tribunal directing to conclude the DAR enquiry expeditiously preferably within four months and in any case within six months duly producing the original documents from the Court. As the time set for conclusion of the DAR proceedings had elapsed, a Miscellaneous Application No.302/98 in O.A.No.1370/94 was filed by the Railway Administration. However, the said M.A. came to be dismissed by this Tribunal. Subsequently, the Railway administration preferred W.P.No.29127/98 against the orders passed by this Tribunal in M.A.No.302/98 in O.A.No.1370/94 which was also dismissed by the High Court of Andhra Pradesh at the admission stage itself. Hence, even the said charge memo dated 29.1.1992 stands quashed by the orders of this Tribunal in O.A.No.1370/94 with the dismissal of the Writ Petition No.29127/98 by the High Court of Andhra Pradesh. In the meanwhile, the charge memo dated 31.10.1988 has been finalised and the applicant has been exonerated by ~~this Tribunal~~ vide letter dated 9.2.1996 and the charge memo dated 9.12.91 for imposition of major penalty has been withdrawn vide letter dated 5/9.1.96. The fact of clearance regarding all the disciplinary cases against the applicant has been informed to the Board for their further necessary action vide letter dated 2.9.1999. In the meanwhile, during 1994, the applicant has been promoted to the Junior Administrative Grade on ad hoc basis locally vide Office Order No.472/94 with the condition that it will not confer on him any right for

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regular promotion and the administration reserves the right to cancel his ad hoc promotion at any time and revert him to the post from which he was promoted. In 1997, the Railway Board in their letter dated 1.9.97 have advised that a total of 55 Senior Scale IRTS Officers including the applicant who is at Sl.No.1 of the order have been promoted to officiate in the Junior Administrative Grade with effect from 23.6.97 or from the date of taking over charge whichever is later. However, as the DAR proceedings are pending against the applicant as on that date, the Railway Board vide their message dated 5.9.97 have advised that the orders issued vide Sl.No.1 of their message dated 1.7.97 appointing the applicant to officiate in the Junior Administrative Grade should be treated as cancelled. Further, during December, 2000, in connection with Crime No.350/2000 under Section 420 IPC, Kachiguda Police Station has registered a criminal case against the applicant. Action has been taken invoking Rule 5(2)(a) of Railway Servants (Discipline & Appeal) Rules, 1968 placing him under deemed suspension vide letter dated 10.1.2001. In the circumstances, though the Railway Board have again issued orders promoting certain other IRTS Officers to officiate in the JA Grade on regular basis after a due selection by the DPC during 2001 vide their order dated 15.5.2001, the name of the applicant did not figure in the list again.

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4. We have heard the arguments advanced by the learned counsel for the applicant and the learned standing counsel for the respondents Shri N.R. Devaraj.

5. The learned counsel for the applicant submitted that the authorities were not justified in not conducting the review DPC in respect of the applicant for consideratin of his promotion to the Junior Administrative Grade with effect from 3.10.1991, the date on which his juniors were promoted to the said grade, when all the disciplinary proceedings pending against the applicant as on the said date were subsequently closed and the applicant has been completely exonerated in respect of the charges alleged against him. He further submitted that the authorities were not justified in not considering the case of the applicant merely because in December 2000, a criminal case was registered against him in Crime No. 350/2000 under Section 420 IPC from the Kacheguda Police Station and the applicant has been kept under deemed suspension under Rule 5(2)(a) of the Railway Servants (Discipline & Appeal) Rules, 1968. In support of this contention, he relied upon a decision of the Supreme Court reported in 2001 (5) SLR (SC) 274 in the case of "Delhi Jal Board Vs. Mohinder Singh" wherein it was held that,

"The mere fact that by the time the disciplinary proceedings in the first inquiry ended in his favour and by the time the seal was opened to give effect

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to it, another departmental enquiry started, would not, come in the way of giving him the benefit of the assessment by the first departmental promotion committee in his favour in the anterior selection."

6. In the instant case also, since it is found that the applicant has been exonerated in respect of the departmental proceedings which were pending against him as on the date on which the DPC met i.e., on 3.10.1991 for consideration of his case for promotion to the Junior Administrative Grade and the recommendations made by the DPC from time to time were kept in a sealed cover, the applicant became entitled for consideration for promotion to the Junior Administrative Grade with effect from 3.10.1991 and for subsequent promotion for selection grade from 1996 on par with his juniors, if on opening of the sealed cover, it is disclosed that the applicant is found fit for the said promotion notwithstanding the fact that another ^{subsequently} ~~case~~ in Crime No. 350/2000 under Section 420 IPC has been registered against the applicant and the applicant has been kept under deemed suspension invoking Rule 5(2)(a) of the Railway Servants (Discipline & Appeal) Rules, 1968. It is submitted by the learned counsel for the applicant that the suspension order has been subsequently revoked and the applicant is presently working in the North Frontier Railway, Lumdi as Senior Divisional Operations Manager. We, therefore, find that

the authorities were not justified in not considering his case for promotion to the above said post even after the applicant was exonerated in respect of the charge memo^s which were pending against him as on 3.10.1991.

7. In the result, this O.A. is allowed. The respondents are directed to open the sealed cover in which the recommendations of the DPC have been kept for selection to the post of Junior Administrative Grade and above-grade and if the applicant is found fit, he shall be promoted to the Junior Administrative Grade with effect from 3.10.1991 on par with his juniors granting him all consequential benefits and also order for conferring him the next selection grade from the date on which his juniors were promoted, as per rules, with all consequential benefits. There shall be compliance with this order within a period of two months from the date of receipt of a copy of this order. In the circumstances, we direct the parties to bear their respective costs.

प्रमणित प्रति
CERTIFIED TRUE COPY

केस रोल्या
CASE NUMBER..... १०१-३२८०३
निर्णय का तारीख
DATE OF JUDGEMENT..... ६/४/०४
प्रति तैयार होना गया दिन
COPY MADE READY ON..... १५/५/०८

अनुमति अधिकारी / न्यायतय अधिकारी
Section Officer / Court Officer
न्याय एवान्ड्राबाद अधिकारी
Central Administrative Tribunal
न्याय एवान्ड्राबाद बैठक/Hyderabad Bench

GOVERNMENT OF INDIA
MINISTRY OF RAILWAYS
(RAILWAY BOARD)

RBE No. 14/93

No. E(D&A) 92RG6-149(B) New Delhi, dated 27.1.1993

The General Manager (P),
All Indian Railways, etc.

Subject : Promotion from Group 'B' to Group 'A' and within Group 'A' of Railway Officers against whom disciplinary/Court proceedings are pending- Procedure and guidelines to be followed.

In supersession of all instructions contained in Board's letters referred to in the margin on the above subject, the procedure and guidelines laid down below shall be followed in the matter of promotion from Group 'B' to Group 'A' and within Group 'A' of Railway Officers against whom disciplinary/Court proceedings are pending.

2. At the time of consideration of the cases of Government servants for empanelment, details of Government servants in the consideration zone for promotion falling under the following categories should be specifically brought to the notice of the Departmental Promotion Committee :-

- (i) Government servants under suspension;
- (ii) Government servants in respect of whom a chargesheet has been issued and the disciplinary proceedings are pending;
- (iii) Government servants in respect of whom prosecution for a criminal charge is pending.

2.1 The Departmental Promotion Committee shall assess the suitability of the Government servants coming within the purview of the circumstances mentioned above alongwith other eligible candidates without taking into consideration the disciplinary case/criminal prosecution pending. The assessment of the DPC, including 'Unfit for Promotion' and the grading awarded by it will be kept in a sealed cover. The cover will be superscribed "Findings regarding suitability for promotion to the grade/post of..... in respect of Shri _____ (name of the Government servant). Not to be opened till the termination of the disciplinary case/criminal prosecution against Shri _____. The proceedings of the DPC need only contain the note 'The findings are contained in the attached sealed cover'. The authority

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Attested by
B. D. Dharwadker
JAW

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competent to fill the vacancy should be separately advised to fill the vacancy in the higher grade only in an officiating capacity when the findings of the LPC in respect of the suitability of a Government servant for his promotion are kept in a sealed cover.

Procedure by subsequent DPCs.

2.2 The same procedure outlined in para 2.1 above will be followed by the subsequent Departmental Promotion Committees convened till the disciplinary case/criminal prosecution against the Government servant concerned is concluded.

Action after completion of disciplinary case/ criminal prosecution

3. On the conclusion of the disciplinary case/criminal prosecution which results in dropping of allegation against the Government servant, the sealed cover or covers shall be opened. In case the Government servant is completely exonerated, the due date of his promotion will be determined with reference to the position assigned to him in the findings kept in the sealed cover/covers and with reference to the date of promotion of his next junior on the basis of such position. The Government servant may be promoted, if necessary, by reverting the junior-most officiating person. He may be promoted notionally with reference to the date of promotion of his junior. However, whether the Rail-way servant who has been promoted, as mentioned above, will be entitled to any arrears of pay for the period of notional promotion preceding the date of actual promotion, and if so to what extent, will be decided by the appointing authority by taking into consideration all the facts and circumstances of the disciplinary proceeding/criminal prosecution. Where the authority denies arrears of salary or part of it, it will record the reasons for doing so. It is not possible to anticipate and enumerate exhaustively all the circumstances under which such denial of arrears of salary or part of it may become necessary. However, there may be cases where the proceedings whether disciplinary or criminal, are, for example delayed at the instance of the employee or the clearance in the disciplinary proceedings or acquittal in the criminal proceedings is with benefit of doubt or on account of non-availability of evidence due to the acts attributable to the employee etc. These are only some of the circumstances where such denial can be justified.

3.1 If any ~~any~~ penalty is imposed on the Government servant as a result of the disciplinary proceedings or if he is found guilty in the criminal prosecution against him, the findings of the sealed cover/covers shall not be acted upon. His case for promotion may be considered by the next DPC in the normal course and having regard to the penalty imposed on him.

3.2 However, in the case of ad hoc promotions from Group 'B' to Group 'A' and promotions within Group 'A' (upto and including promotions to Sr. Grade) those imposed with the minor penalties of censure, stoppage of passes/RIOs, recovery from pay and withholding of increments may also be

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promoted prospectively in their turn with reference to their position in the earlier panel(s) of the DPC. In the case of those imposed with the penalty of withholding of increment, however, they cannot be promoted before expiry of the penalty. The pay on promotion in all these cases should be fixed under the normal rules with reference to the date of actual promotion.

3.3 It is also clarified that in a case where disciplinary proceedings have been held under the relevant disciplinary rules, 'warning' should not be issued as a result of such proceedings. If it is found, as a result of the proceedings, that some blame attaches to the Government servant, at least the penalty of censure should be imposed.

Six monthly review of "Sealed Cover" cases.

4. It is necessary to ensure that the disciplinary case/criminal prosecution instituted against any Government servant is not unduly prolonged and all efforts to finalise expeditiously the proceedings should be taken so that the need for keeping the case of a Government servant in a sealed cover is limited to the barest minimum. It has, therefore, been decided that the appointing authorities concerned should review comprehensively the cases of Government servants, whose suitability for promotion to a higher grade has been kept in a sealed cover on the expiry of 6 months from the date of convening the first Departmental Promotion Committee which had adjudged his suitability and kept its findings in the sealed cover. Such a review should be done subsequently also every six months. The review should, inter alia, cover the progress made in the disciplinary proceedings/criminal prosecution and the further measures to be taken to expedite their completion.

Procedure for ad hoc promotion

5. Inspite of the six monthly review referred to in para 4 above, there may be some cases, where the disciplinary case/criminal prosecution against the Government servant are not concluded even after the expiry of two years from the date of the meeting of the first DPC, which kept its findings in respect of the Government servant in a sealed cover. In such a situation the appointing authority may review the case of the Government servant, provided he is not under suspension, to consider the desirability of giving him ad-hoc promotion keeping in view the following aspects:-

- a) whether the promotion of the officer will be against public interest;
- b) whether the charges are grave enough to warrant continued denial of promotion;

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- c) whether there is no likelihood of the case coming to a conclusion in the near future;
- d) whether the delay in the finalisation of proceedings, departmental or in a court of law is not directly or indirectly attributable to the Government servant concerned.
- e) whether there is any likelihood of misuse of official position which the Government servant may occupy after ad-hoc promotion, which may adversely affect the conduct of the departmental case/ criminal prosecution.

4. The appointing authority should also consult the Central Bureau of Investigation and take their views into account where the departmental proceedings or criminal prosecution arose out of the investigations conducted by the Bureau.

5.1 In case the appointing authority comes to a conclusion that it would not be against the public interest to allow ad-hoc promotion to the Government servant, his case should be placed before the next DPC held in the normal course after the expiry of the two year period to decide whether the officer is suitable for promotion on ad-hoc basis. Where the Government servant is considered for ad-hoc promotion, the Departmental Promotion Committee should make its assessment on the basis of the totality of the individual's record of service without taking into account the pending disciplinary case/criminal prosecution against him.

5.2 After a decision is taken to promote a Government servant on an ad-hoc basis, an order of promotion may be issued making it clear in the order itself that :-

- (i) the promotion is being made on purely ad-hoc basis and the ad-hoc promotion will not confer any right for regular promotion; and
- (ii) the promotion shall be "until further orders". It should also be indicated in the orders that the Government reserve the right to cancel the ad-hoc promotion and revert at any time the Government servant to the post from which he was promoted.

5.3 If the Government servant concerned is acquitted in the criminal prosecution on the merits of the case or is fully exonerated in the departmental proceedings, the ad-hoc promotion already made may be confirmed and the promotion treated as regular from the date of the ad-hoc promotion with all attendant benefits. In case, the Government servant could have normally got his regular promotion from a date prior to the date of his ad-hoc promotion with reference to his placement in the DPC proceedings kept in the sealed cover(s) and/or the actual date of promotion of the person ranked immediately junior to him by the same DPC, he would also be allowed his due seniority and benefit of notional promotion as envisaged in para 3 above.

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However, in cases of promotion/Group 'B' to Group 'A' and within Group 'A' (upto & including promotions to SA Grade), if the Railway Officer is given adhoc promotion as envisaged in para 5.2 above, and is finally imposed any of the minor penalties of Censure, Stoppage of Passes/PTOs, Recovery from pay and withholding of increment, such Railway Officer should be deemed as regularly promoted from the date of adhoc promotion duly retaining the position assigned to him in earlier panel(s).

5.4 If the Government either proposes to take up the matter to a higher court or to proceed against him departmentally or if the Government servant is imposed a penalty other than those mentioned in the preceding paragraph in the departmental proceedings, the adhoc promotion granted to him should be brought to an end.

Sealed
Cover
applicable
to
Officers
coming
under
cloud
before
promotion

Sealed
Cover
Procedure
for con-
firmation

6. A Government Servant, who is recommended for promotion by the Departmental Promotion Committee but in whose case any of the circumstances mentioned in para 2 above arise after the recommendations of the DPC are received but before he is actually promoted, will be considered as if his case had been placed in a Sealed Cover by the Departmental Promotion Committee. He shall not be promoted until the conclusion of disciplinary case/criminal proceeding and the provisions contained in this letter will be applicable in his case also.

7. The procedure outlined in the preceding paras should also be followed in considering the claim for confirmation of an officer under suspension, etc. A permanent vacancy should be reserved for such an officer when his case is placed in a Sealed Cover by the Departmental Promotion Committee.

8. Please acknowledge receipt.

(Hindi version will follow.)

17-1-66
(Elias Mullu)
Joint Director Estt. (D&A),
Railway Board.

Copy to: 1. JS, JS(C), JS(G), JS(E), JDE(GP), JDE(Rep), US(D&A) & DLE(R)-II, Railway Board.
2. Vig-I, E(O)I, II, III, EPB-I, II, V, Sec (E), E(GP) & E(MC)I Branches, Railway Board.

* servant is not acquitted on merits on the criminal prosecution but purely on technical ground and Government

HIGH COURT OF A.P.

HYDERABAD: DISTRICT.

W.P.NO. 29127 OF 1998

Received on
16/2/99.

MATERIAL PAPERS

From:
A K Jagar.nadham
Dy COM / Chg / HQs
South Western Railway
HUBLI

To,
The General Manager
South Western Railway
Hubli

[Through proper channel]

Sir,

Sub: Payment of arrears of promotion and
Promotion to next higher grade – regarding.

I request you to kindly examine the following facts and consider my promotion to higher grade and payment of arrears.

- 1) I belong to 1981 examination batch of IRTS.
- 2) My batch was promoted to JA grade on 03-10-1991, Selection Grade in 1996 and SA grade in 2003.
- 3) I was given to understand that due to pendency of three major penalty charge sheets, JA grade was denied to me by Railway Board on 03-10-1991.
- 4) In OA No.1113/92, the Hyderabad Bench of CAT ordered that the Railway Board should keep my name in the sealed cover and promote me to JA grade on adhoc basis.
- 5) Railway Board promoted me to JA grade on adhoc basis on 23-11-1994 (O.O. No.472/94 of SC Railway No.P.Gaz/675/TC/94 dated 23-11-1994). Accordingly, my salary and allowances were fixed in JA Grade as I completed 8 years of service in Group 'A'.
- 6) Railway Board vide their message No.E(O)111/97/PM/53 dated 01-07-1997 promoted me to JA grade and the same was circulated under GM's letter No.G.44/A dated 06-07-1997 and CPO's O/O No.272/97. No.P-675/Gaz/TC/97 dated 02-07-1997 (copies enclosed).
- 7) I represented vide my letters dated 11-07-1997 and 21-03-1998 to promote me to JA grade w.e.f. 03-10-1991 and to Selection grade (copies enclosed).

These representations to Railway Board were not put up to the Competent Authority, who considers my promotions. Railway Board vide their letter No.E(D&A)92RGC-149(B) dated 21-01-1993 spelt out all the aspects of sealed cover procedure and the same was quoted in OA No.1113/92 of Hyderabad Bench of CAT. The SC Railway and Railway Board have not followed the orders of CAT, as I should have been promoted to JA grade w.e.f. 03-10-1991 on conclusion of major penalty charge sheets in my favour.

Attested by
Chaudhury
JDN

8) In my petition No.29127, the Hon'ble High Court of Andhra Pradesh passed strictures against Railways for denying my legitimate promotion.

9) The Hyderabad Bench of CAT vide OA No.1412 of 2001 dated 16-04-2002 ordered that Railway Board should consider my decade by denial of promotion.

10) SC Railway vide Office Order No.323/2001 dated 31-07-2001 reverted me from adhoc JA Grade to Senior Scale and has withdrawn the same vide office Order No.421/2001 dated 19-09-2002 in pursuance of CAT Order in OA 1412 of 2001 dated 16-04-2002.

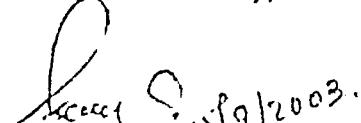
In this context, it is mentioned that only Railway Board are Competent either to promote me or to revert me. Though Railway Board promoted me to Adhoc JA Grade on 23-11-1994 and to JA grade w.e.f. 23-06-1997, SC Railway has reverted me to Senior Scale. Consequently, my pay and allowances were reduced to next lower grade, i.e., in Senior Scale.

Based on the above facts, I request the following:-

- (a) I should be promoted to JA Grade w.e.f. 03-10-1991 and to Selection Grade from the date my junior is promoted.
- (b) I should also be promoted to SA Grade from the date my junior is promoted.
- (c) I should be paid arrears of salary and allowances in JA grade w.e.f. 03-10-1991 and in Selection Grade from 1996.
- (d) SC Railway had withdrawn O.O No.323/2001 dated 31-07-2001 in pursuance of OA No.1412/2001 of CAT. But the reduction in salary and allowances continued in Senior Scale. This anomaly may be set right immediately and arrears should be paid to me immediately.
- (e) Kindly advise why the provisions of Railway Board letter No.E(D&A)92-RG6-1-9 (B) dated 21-31-1993 are not followed in letter and spirit; in my case, as my rightful promotions are denied. I was reverted even without serving a show cause notice and thus I have been punished without any charge sheet and reverted without any cause.

Once again, I request you Sir to go through all the relevant papers and to consider my above prayer.

Yours sincerely,


15/9/2003
(A K Jagannadham)

10 NOV 2004

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL,
PRINCIPAL BENCH, NEW DELHI
Guwahati Bench

O.A. No. 139/2004

A.K.JAGANNADHAM

VS

UNION OF INDIA & OTHERS

APPLICANT

RESPONDENTS

SHORT REPLY ON BEHALF OF THE RESPONDENTS :-

Most respectfully showeth as under :-

1. That the Short Reply being filed by the Respondents herein is without prejudice to their rights for filing a detailed Counter Reply on merits, if so directed by this Honourable Tribunal or if considered necessary by the respondents in the interest of justice, at a later stage.
2. That in this O.A., the applicant is challenging Railway Board's order No. E(O)III-2003/PM/20 dated 31.01.2002 (Annexure VIII A of the OA). The present O.A. has been filed on 10.06.2004, i.e., after a period of more than two years. The applicant hasn't even filed any Misc. Application for condonation of delay, nor he has been able to explain any reasons for this delay in filing the present O.A.. Therefore, the present O.A. is barred by the law of limitation and deserves to be dismissed on this ground alone.
3. In paras 1(iii) and 6 of the OA, the applicant has stated that his representation dated 15.09.2003 has not been replied to and hence, he has filed the O.A.. A perusal of the representation dated 15.09.2003, annexed as Annexure-XII to the OA, will show that the same is addressed to the General Manager, South Western Railway, Hubli, and in this representation, he has requested for his promotions to J.A.Grade, Selection Grade and S.A.Grade. The applicant should know that promotions to Administrative Grades are ordered by the Railway Board and General Managers do not have any powers in this regard. He should have addressed his representation to Secretary, Railway Board. Therefore, it cannot be said that the applicant has exhausted the departmental remedies available to him. Therefore, the O.A. is premature at this stage and deserves to be dismissed on this ground also.

4. That in the O.A., the Applicant has given a detailed account of the various cases filed by and against him and has tried to establish that despite being devoted and sincere in his service, he was denied and deprived of promotions to J.A. Grade, Selection Grade and S.A. Grade on flimsy and fabricated charges constituted against him at the threshold of promotions. He has prayed for promotion to J.A. Grade from 03.10.91, placement in Selection Grade from 01.01.96 and S.A. Grade from 01.05.03. The factual position in this regard is that in pursuance of Hon'ble CAT/Hyderabad Bench's order dated 06.04.04 in O.A. No. 338/2003, the applicant has already been promoted to J.A. Grade from 03.10.91 (Annexure I-1) and has been placed in Selection Grade from 01.07.95. It may be noted that while the applicant has prayed for Selection Grade from 01.01.96, he has been given this Grade from an earlier date, i.e., 01.07.95. That itself shows that the Respondents do not hold any grudge against the applicant and his allegations of harassment are totally baseless.

5. That so far as promotion to Senior Administrative Grade is concerned, it is submitted that in terms of Rule 203 of the Indian Railway Establishment Code, Vol.1, which are statutory rules framed under Article 309 of the Constitution of India, posts in the Administrative Grades are Selection posts.

6. That in terms of Rule 209 (D) of the Indian Railway Establishment Code (IREC), Vol.1, appointments to posts in Senior Administrative Grade (SAG) shall be made by 'selection on merit'. This selection is made by a very high level Selection Committee comprising of the Chairman, Railway Board, who is ex-officio Principal Secretary to the Government of India, and other Members of Railway Board, who are of the rank of Secretary to the Government of India. The recommendations of the Selection Committee are considered and approved by the highest authority in the Ministry of Railways. The procedure of holding such selection is contained in Ministry of Railways' letter No. 89/289-B/Secy/Admn. dated 26.09.89 (Annexure R-II), subsequently amended vide letter dated 03.06.02 (Annexure R-III). It will be seen therefrom that the benchmark for promotion to S.A. Grade is 'Very Good' and, therefore, those whose performance fall below the benchmark are not eligible for empanelment to S.A. Grade. It has been mentioned in the letter dated 26.09.1989 that "advancement in an officer's career should not be regarded as a matter of course, but should be earned by dint of hard work, good conduct and result-oriented performance and potential for shouldering higher

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responsibilities, as reflected in the ACRs and it should be based on a strict and rigorous selection process." It has been further laid down that Annual Confidential Reports (ACRs) are the basic inputs for considering the claims for promotions of the eligible officers. Moreover, the DPC is not to be guided merely by the entries in the ACRs, but will make its own assessment on the basis of the entries in the ACRs. It is further added that in a selection post, a more meritorious junior can always steal a march over a less meritorious senior.

7. That the claims of the Applicant for promotion to SA Grade were duly considered in the SAG/IRTS Panel approved on 17.10.2000, but the validity of the panel lapsed before his turn for promotion could come. His claims were again considered in the subsequent SAG/IRTS panels approved on 12.01.2002 and 26.12.2002, but he was not found suitable for empanelment on the basis of his performance and other relevant factors. He will, however, continue to be considered in the future SAG/IRTS panels. It may be submitted that the rights of the Applicant are limited to being considered for promotion and not for promotion itself. Thus, having been considered for promotion to SA Grade and having not been found fit by the DPC, the Applicant has no legitimate cause of grievance and hence the O.A. deserves to be dismissed being devoid of merits.

PRAYER

In the light of pleadings made above, the Hon'ble Tribunal may be graciously pleased to dismiss the Original Application both on technical grounds and merit.

Pradeep Kumar Singh
RESPONDENTS
Dy. Chief Personnel Officer (c)
N.F. Railway, Mafgaon
Guwahati-11

VERIFICATION

I, P.K. Singh, son of ~~late~~ Bhupinder Singh, aged about 36 years, working as Dy. CPO/G, N.F.Railway, do hereby verify that the contents of the short reply are true and correct to my knowledge and I have not suppressed any material fact.

So verified at Guwahati on the 10th day of August, 2004.

Pradeep Kumar Singh
RESPONDENTS
Dy. Chief Personnel Officer (c)
N.F. Railway, Mafgaon
Guwahati-11

GOVERNMENT OF INDIA
MINISTRY OF RAILWAYS
(RAILWAY BOARD)

THE GENERAL MANAGER
 NORTHEAST FRONTIER RAILWAY/ GUWAHATI

WIRELESS/POST COPY
 ISSUED ON: 12.07.2004

NO. E(O)III-2004/PM/25 (.) IN PURSUANCE OF HON'BLE CENTRAL ADMINISTRATIVE TRIBUNAL / HYDERABAD'S JUDGEMENT DATED 06.04.2004 IN O. A. NO. 338/2003, MINISTRY OF RAILWAYS HAVE DECIDED THAT SHRI A. K JAGANNADHAM, SENIOR SCALE/ IRCS/ NORTHEAST FRONTIER RAILWAY, SHOULD BE APPOINTED TO OFFICATE IN JA GRADE WITH EFFECT FROM 03/10/91 WITH REFERENCE TO HIS JUNIOR SHRI R.S.MEENA (DITS: 02.01.83) AND SHOULD BE PLACED IN SELECTION GRADE WITH EFFECT FROM 01/07/95 (.)

RAILWAYS (.)

(P P SHARMA)
 DIRECTOR (ESTT.)
 RAILWAY BOARD

Copy to:-

1. PSs to MR, MSR (N), MSR(V), Sr. PPS to CRB, OSD to MT, PS to Secretary, AM (T), Adv. (C), EDCC, DIP, DS(C)/CRB, EDE (GC), Dir.(E), US (E), Vig(C), US(C), Railway Board.
2. The Principal Director of Audit, NF Railway.
3. The FA & CAO, NF Railway.
4. The Secretary General, FROA, Room No. 256-A, Rail Bhawan, New Delhi.
5. The General Secretary, IRPOF, Room No. 268, Rail Bhawan, New Delhi.
6. The General Secretary, AIRF, Room No. 248, Rail Bhawan, New Delhi.
7. The General Secretary, NFIR, Room No. 256-C, Rail Bhawan, New Delhi.
8. The Secretary General, AIRPFA, Room No. 256-D, Rail Bhawan, New Delhi.
9. The Secretary, RBSS Group 'A' Officers Association, R.No.506, Rail Bhawan.
10. The DAI (Railways), R.No.224, Rail Bhawan, New Delhi.

भारत सरकार Government of India
रेल मंत्रालय Ministry of Railways
रेलवे बोर्ड (Railway Board)

D.O.89/289-B/Secy/Adminn.

रेल भवन, नयी दिल्ली - ११०००१, तिथि: २६.०९.१९८९

Rail Bhawan, New Delhi-110 001, dated: September 26, 1989

A.N.SHUKLA
SECRETARY

R-II

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My dear

**Sub: Procedure for promotion to Administrative
Grades in Railway Services.**

Ministry of Railways have reviewed the present policy of promotions to various Administrative Grades in Railway Services with a view to streamlining the procedure and to ensure greater selectivity and thus strengthen the middle and Senior Management Cadres. While merit has to be recognised and rewarded, advancement in an officer's career should not be regarded as a matter of course, but should be earned by dint of hard work, good conduct and result-oriented performance and potential for shouldering higher responsibilities, as reflected in the Annual Confidential Reports (ACRs), and it should be based on a strict and rigorous selection process.

2. For promotions from Senior Scale to J.A. Grade, the Selection Committee shall consider all eligible Officers and assess their fitness for promotion on merit and the selected officers shall be placed on the panel in the order of seniority.

2.1 In promotions to posts which carry an ultimate salary of Rs. 5700/- p.m. in the Revised Scale, SC/ST Officers, who are senior enough in the zone of consideration for promotion so as to be within the number of vacancies for which the select list has to be drawn up, would be included in that list provided they are not considered unfit for promotion.

3. For promotions from J.A. Grade to S.A. Grade and from S.A. Grade to Additional Secretary's Grade (Rs.7300-7600/-), the following principles will be followed:-

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i) Field of Eligibility

For the purpose of determining the number of officers who will be considered from out of those eligible in the feeder grade, the field of choice will be restricted as under with reference to the number of vacancies proposed to be filled in the year:

No. of vacancies	No of officers to be considered.
1	5
2	8
3	10
4	Three times the number of vacancies.

ii) Assessment of Confidential Rolls.

Confidential Rolls are the basic inputs on the basis of which assessment is to be made by the Selection Committee. While evaluating the CRs, the following would be kept in view:-

- a) The Selection Committee will assess the suitability of the Officers for promotion on the basis of their service records and with particular reference to the five preceding years.
- b) Where one or more CRs have not been written for a sufficient reason for a particular period the CRs of the years preceding the period in question, would be considered. If this is not possible, all the available CRs should be taken into account.
- c) Where an Officer is working against a higher grade and has earned CRs in that grade, his CRs in that grade would be considered by the Selection Committee only as an assessment of his work, conduct and performance and no extra weightage should be given merely on the ground that he has been officiating in the higher grade.
- d) The Selection Committee would not be guided merely by the overall assessment, if any, that may be recorded in the CRs, but will make its own assessment on the basis of the entries in the CRs.
- e) Before making the overall grading after considering the CRs for the relevant years, the Selection Committee would take into account whether the Officer has been awarded any major or minor penalty or whether any displeasure of any Superior Officer or Authority has been conveyed to him as reflected in the CRs.

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f) Due regard to the remarks recorded against the column on 'Integrity' would be given.

iii) Selection Procedure:

For the purpose of promotion from J.A. Grade to S.A. and S. A. Grade to Additional Secretary's Grade (Rs. 7300-7600), the benchmark shall be 'Very Good'. For this purpose, the Selection Committee will grade the Officers who are considered suitable for promotion as 'Very Good' or 'Outstanding'. Officers graded 'Outstanding' will rank Senior to all those who are graded 'Very Good' and placed in the Select Panel accordingly. Officers with the same grading will maintain their existing Inter-se Seniority.

4. This letter supersedes instructions contained in Confidential D.O. Letters No.86/269-B/Secy/Admn dated 06.03.1986 and 15.03.1987.

Yours sincerely,

Sd/-

(A.N.Shukla)

(14)

भारत सरकार Government of India
रेल मंत्रालय Ministry of Railways
रेलवे बोर्ड Railway Board

No.2002/SCC/3/1

Rail Bhavan, New Delhi
Dated : 03.06.2002

General Managers, All Indian Railways including Production Units.
Director Generals, RDSO & RSC.
OSDs/New Zones.
CAOs, DCW & COFMOW.
The Directors, IRSET/Hyderabad, IRJCEN/Pune, IREEN, Nasik, IRJMEC/Jamalpur

Subject: Procedure for promotion to administrative grades in Railway services

Ministry of Railways have reviewed the present procedure to be observed by Departmental Promotion Committees in case of promotions to various administrative grades for various services and have decided as under:-

1. Full Board shall function as Departmental Promotion Committee (DPC) for finalizing the select lists to all administrative grades on the Railways except for RAG, for which provisions of Resolution published vide E(O)III-93/PM/50 dated 28.3.2000 shall apply. Proceedings of the DPC shall be legally valid and can be acted upon notwithstanding the absence of any of its members other than the Chairman and each time DPC meets, it can decide its own method and procedure for objective assessment of the suitability of the candidates. These broad guidelines are issued in order to ensure greater selectivity and for having uniform procedure.
2. Hereafter, all promotions to administrative grades shall be by "selection" only and the element of selectivity (higher or lower) shall be determined with reference to the relevant benchmark prescribed for promotion.
3. The zone of consideration for the purpose of determining the number of officers to be considered out of eligible officers in the feeder grade(s) shall be twice the number of vacancies plus four. However, in case of only one vacancy, the number of officers to be considered shall be five. With regard to the number of officers to be included in the select list, the DPC may assess the suitability of eligible officers in the descending order for promotion upto a number adequate for filling up the number of vacancies. In respect of remaining officers, the DPC may put up a note in the minutes that the assessment of the remaining officers in the zone of consideration is not considered necessary as sufficient number of officers with prescribed benchmark have become available. However, for organized services etc., the present practice is to consider preparation of select list batch-wise and this shall continue.

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While merit has to be recognized and rewarded, advancement in an officer's career should not be regarded as a matter of course, but should be earned by dint of hard work, good conduct and result-oriented performance and potential for shouldering higher responsibilities, as reflected in the Annual Confidential Reports, and it should be based on a strict and rigorous selection process.

5. In promotions upto posts which carry an ultimate salary of Rs.5700/- p.m. (P.R.) SC/ST officers, who are senior enough in the zone of consideration for promotion so as to be within the number of vacancies for which the select list has to be drawn up, would be included in that list provided they are not considered unfit for promotion.

6. Confidential Reports are the basic inputs on the basis of which assessment is to be made by the DPC. The DPC will assess the suitability of the officers for promotion on the basis of their service records and with particular reference to the five preceding years.

7. Where one or more CRs have not been written for a sufficient reason for a particular period, the CRs of the years preceding the period in question, would be considered. If this is not possible, all the available CRs should be taken into account.

8. Where an officer is working against a higher grade and has earned CRs in that grade, his CRs in that grade would be considered by the DPC only as an assessment of his work, conduct and performance and no extra weightage should be given merely on the ground that he has been officiating in the higher grade.

9. The DPC would not be guided merely by the grading, if any, recorded in the ACRs but should make its own assessment on the basis of the entries in the ACRs, including the various parameters and attributes. The Committee shall also take into account whether the officer has been awarded any major or minor penalty or whether any displeasure of any superior officer or authority has been conveyed to him, as reflected in the ACRs. The DPC should also have regard to the remarks on the columns of integrity.

10. The grading in the ACR represent the assessment of the superior officers during a particular year's performance in general. The overall grading to be assigned by the DPC shall encompass several years' performance and not merely relate with the entries/assessment recorded in the ACRs. It shall be borne in mind that the grading by DPC and in the ACR represent assessment of the officer by two distinct authorities for two different purposes.

11. DPC shall, considering the various factors, assign an overall grading for each of the officer. The grading shall be one among, 'Outstanding', 'Very Good+', 'Very Good', 'Good' and 'Unfit'.

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The benchmark for promotion to various grades shall be as under:-

(a)	From Senior Scale to JAG/SG	:	Good
(b)	SAG	:	Very Good.
(c)	HAG	:	Very Good+

Stringent criteria of selection shall apply for promotion to HAG.

13. While any performance below the benchmark shall not be termed as adverse in respect of an officer, it is only performance above average and is really noteworthy, entitle an officer recognition and suitable rewards in the matter of promotions. For any public servant and more so in higher positions of responsibility, it is expected that he will discharge his duties and responsibilities with best of his capabilities at all times and is not only that in order to achieve some gains in the matter of promotion etc., he would regulate the quality of his performance to that level.

14. DPC shall, for promotion to administrative grades, grade officers as "fit" or "unfit" only with reference to the benchmark mentioned above. Only those who are graded as "fit" shall be included in the select panel prepared by the DPC in order of their *inter-se* seniority in the feeder grade. There shall be no supersession in the matter of "selection" (merit) promotion among those who are found "fit" by the DPC in terms of the prescribed benchmark.

15. The recommendations of the DPC are advisory in nature and should be duly approved by the appointing authority and where the posts fall within the purview of Appointments Committee of the Cabinet (ACC), approval of ACC shall also be obtained.

16. This supersedes Board's letter Nos. 89/289-B/Secy./Admn. Dt. 26.9.89, 90/289-B/Secy./Admn. Dt. 6.4.90 and 91/289-B/Secy./Admn. Dated 19.2.91.

17. Please acknowledge receipt.

Arjun
 (S. Regunathan)
 Joint Secretary (C)
 Railway Board.

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