

**IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
HYDERABAD BENCH: HYDERABAD**

**Original Application Nos. 21/01347/2013 &  
21/01039/2014**

**Date of Order: 03.06.2019**

**OA No. 21/01347/2013**

Between:

1. Dola Naga Raju, S/o. D. Thavitinaidu, 34 years, Executive Electrical Engineer, Railway Electrification Project, 402, 4<sup>th</sup> Floor, Rail Nirman Nilyam, Opp. Sanchalan Bhavan, SD Road, Secunderabad – 500 071, R/o. Flat No. 302, Tranquil Towers, Opp. Wesley Women’s Degree College, Himmat Nagar, Secunderabad – 500 025.
2. G. Naveen Kumar, S/o. G. Madhuker, 30 years, Divisional Electrical Engineer, Electric Loco Shed, South Central Railway, Kazipet, Warangal District – 506 003, R/o. Q. No. 576/2, Type-IV, Railway Officers’ Colony, Kazipet, Warangal District.

... Applicants

And

1. Union of India, Rep. by its Secretary, Ministry of Railways, Rail Bhavan, New Delhi – 110 001.
2. The Railway Board, Rep. by its Chairman, Ministry of Railways, Rail Bhavan, New Delhi – 110 001.
3. N. Venkateswara Rao, Sr. Divisional Electrical Engineer, Maintenance, O/o. Divisional Railway Manager, Nanded, Maharashtra – 431 606.
4. B.S. Siva Prasad, Divisional Electrical Engineer, Maintenance, O/o. Divisional Railway Manager, Vijayawada – 520 001.

5. V. Venkataramana,  
Divisional Electrical Engineer, Operation,  
O/o. Divisional Railway Manager,  
Vijayawada – 520 001.
6. Ch. Krishna Prasad,  
Divisional Electrical Engineer, Maintenance,  
O/o. Divisional Railway Manager,  
Secunderabad-520 003.
7. K. Nanuda, Executive Electrical Engineer,  
Construction, O/o. Divisional Railway Manager,  
Guntakal – 515 801.
8. Binay Kumar Kisku, Assistant,  
Divisional Electrical Engineer,  
Traction Distribution, Raipur,  
O/o. Divisional Railway Manager,  
Raipur – 492 008.

(RR 3 to 8 are impleaded in a representative capacity  
On behalf of 101 officers who have been placed over and above  
The applicants herein in the seniority list)

9. Indian Railway Promotee Officers Federation (IRPOF),  
Through its Secretary General, New Delhi.

(Impeaded as R-9 as per order dt. 3.3.2016 in MA 218/16)  
...Respondents

Counsel for the Applicants ... Mr.M. Srikanth, Advocate for  
Mr. M. Panduranga Rao, Advocate

Counsel for the Respondents ... Mr. N. Srinatha Rao, SC for Rlys  
Mrs. S. Siva Kumari,  
Advocate for RR 3 to 7  
Mr. E.Sukumaran, Advocate for R-9

#### **OA No. 21/01039/2014**

Between:

M. Muni Kumar, S/o. M. Rajendran,  
Aged 29 years, Divisional Signal and Telecommunication Engineer/  
TCAS/ Secunderabad, South Central Railway,  
R/o. Rly. Qtrs. No. 955/4, South Lallaguda,  
Near Railway Central Hospital, Secunderabad – 500 017.

... Applicant  
And

1. Union of India, Rep. by its Secretary, Ministry of Railways, Rail Bhavan, New Delhi – 110 001.
2. The Railway Board, Rep. by its Chairman, Ministry of Railways, Rail Bhavan, New Delhi – 110 001.
3. South Central Railway, Represented by its General Manager, Rail Nilayam, Secunderabad.
4. P. John (S.No.33), DSTE/C/SC/SCR, Office of the Deputy CSTE/CON/SC, Secunderabad.
5. S. Hari (S. No. 64), Asst. Professor (Signal), IRISET, Tarnaka, Secunderabad.
6. P. Deen Dayal, DSTE/M/BZA, Office of the Senior DSTE, DRM Office Building, Vijayawada – 520 001.
7. Indian Railway Promotee Officers Federation (IRPOF), Through its Secretary General, Shri Ramkumar Sharma, M/o. Railway, New Delhi.

(Impeaded as per order dt. 3.3.2016 in MA 219/16)

...Respondents

Counsel for the Applicants ... Mr.M. Srikanth, Advocate for  
Mr. M. Panduranga Rao, Advocate

Counsel for the Respondents ... Mr.M. Venkateswarlu, SC for Rlys  
Mr. E.Sukumaran, Advocate for R-7

***CORAM:***

***Hon'ble Mr. Justice L Narasimha Reddy, Chairman  
Hon'ble Mr. B.V. Sudhakar, Member (Admn.)***

***COMMON ORDER ([ORAL)]***  
***{As per Hon'ble Mr. Justice L Narasimha Reddy, Chairman}***

The applicants in these OAs were appointed in the Junior Time Scale cadre in the Indian Railway Service of Electrical Engineers (IRSEE) in the year 2007, on the basis of their performance in the examination conducted in the year 2006 for the purpose of direct recruitment. The recruitment rules provide for appointment to the said posts, to the extent of 66 2/3% by way of direct recruitment, and 33 1/3% through promotion from the feeder category. The applicants contend that the strength that was fixed for promotion during that year was 55.

2. The respondents issued the order dt. 03.10.2013 amending the seniority list for the said post. It was mentioned that 101 officers, who were appointed by promotion, would be placed immediately after the officers of batch of 2005 (earliest date of joining being 11.12.2006) and above the officers of batch of 2006 (earliest date of joining being 10.12.2007) for the purpose of Date of Increment on the Time Scale (DITS). Applicants contend that there were only 55 vacancies for promotion in their batch and there was no basis for placing as many as 101 promotee officers, above them. They contend that the exercise undertaken by the respondents is totally untenable in law.

3. On behalf of the Railways, a detailed counter affidavit is filed. It is stated that the impugned order was issued in the course of implementation of para 334 of IREM Vol.I (for short “Manual”). According to them, a promotee officer is entitled to be extended the benefit of certain orders

depending upon the length of his service in the feeder category. An objection is also raised stating that the applicants did not implead in this OA, the 101 officers, who were placed above them.

4. We heard Mr. M. Srikanth, learned advocate for Mr. M. Panduranga Rao, learned counsel for the applicants; Mr. N. Srinatha Rao and Mr. M. Venkateswarlu, learned Standing Counsel for the Railways; and Mr. E. Sukumaran, learned counsel for the respondents.

5. The recruitment rules of IRSEE are clear in their purport. For the post in question, appointment, to the extent of 66 2/3%, is by way of direct recruitment and 33 1/3%, is through promotion. The applicants are the direct recruits of the 2006 batch. According to them, the promotees of their batch are 55 in number. They got this information by submitting an application under Right to Information Act.

6. The impugned order was issued 6 years after the appointment of the applicants, and it reads as under:

“No.E(O)I/2012/SR-6/12

*Dated:03.10.2013.*

*The General Managers,  
All Indian Railways,  
Production Units,  
Director, IRISEN, Nasik.*

*Sub: Fixation of inter-se-seniority position of Promotee Gr. 'B' officers of Electrical Engineering Department at Gr. A Junior Scale level on their substantive appointment from Gr. B to Gr. 'A' w.e.f. 10.07.2012 appearing in the panels for the year 2010-11 & 2011-12.*

*Ref: Railway Board's notification No.E(GP)2011/3/2 dated 24.7.2013*

*In supersession of Board's letter of even number dated 15.04.2013 assigning inter-se seniority and date for increment on the time scale (DITS) to 100 officers substantively appointed to the Junior Scale of Group 'A' of IRSEE w.e.f. 10.07.2012, the inter-se-seniority and DITS of 101 officers appointed substantively to Gr. A Junior Scale vide Board's letter under reference will be as per Annexure-A (attached). This is in terms of the principles for determining relative seniority of Group 'B' officers on permanent promotion to Group 'A' Junior Scale service on the Indian Railways laid down vide **para 334** of the Indian Railway Establishment Manual, Volume-I.*

**2. All the 101 officers will be placed in the seniority list **below the junior most direct recruit (DR) IRSEE officer of Engineering Service Exam. (ESE) 2005-batch (earliest date of joining 11.12.2006) and above the senior most Direct Recruit IRSEE officers of Engineering Services Examination of 2006 batch (earliest date of joining 10.12.2007) whose inter-se seniority will be circulated later. The promotions if any ordered based on this list shall be subject to OA No. 1109/2013 before Hon'ble CAT/LKO.****

Sd/-  
(*Sushil Kumar Singh*)  
Under Secretary (D &A)  
Railway Board”

7. The order extracted above is purely about assigning the places in the inter-se seniority and has nothing to do with the appointment as such. The very fact that it came to be issued 6 to 7 years after the appointment discloses that the exclusive purpose is only the determination of seniority and fixation of DITS. The entire exercise is referable to para 334. Relevant portion thereof reads as under:

*“334. In the case of Group 'B' officers permanently promoted to Junior Scale of Group 'A' services:*

- (1) *Officers of a particular department promoted from the earlier panel shall rank senior to officers promoted from the later panel.*
- (2) *If two or more than two officers are promoted on the same date, the following method shall be followed to determine their inter-se seniority within the Railway:-*

(i) *The relative seniority of officers of each Railway shall be in the order of their position in the panel for that Railway.*

(ii) *The DITS of the above officers, shall be determined by giving weightage based on:*

- (a) *the year of service connote by the initial pay on permanent promotion to Group 'A' service; or*
- (b) *half the total number of years of continuous service in Group 'B', both officiating or permanent; whichever is more, subject to a maximum of 5 years; provided that the weightage so assigned does not exceed the total non-fortuitous service rendered by the office in Group 'B'.*

(Remaining portion of para 334 is omitted, as not relevant for the purpose of this OA).

8. From a reading of the portion of the para extracted above, it is evident that on promotion to Group A service on permanent basis, an officer shall be entitled to be given weightage. This is with reference to 'the year of service connote on permanent promotion to Group 'A'', or 'half the total years of continuous service in Group 'B'', whether officiating or permanent; subject to a maximum of 5 years and subject to certain other conditions.

9. A batch of 101 Group B officers were promoted through a notification dated 24.07.2013 to Group A. 50 of them were against the panel year 2010 - 2011 and 51, against the panel year 2011-2012. Though the appointment of those officers was much subsequent to the appointment of the applicants herein, they had to be given the assigned rank in the seniority, for the purpose of DITS on the basis of para 334 of the Manual. The applicants may certainly have grievance in this behalf. However, they have neither challenged the promotion of 101 officers nor para 334 of the

Manual. The order impugned in these OAs is just a sequel to the notification dt. 24.07.2013 through which promotions were effected. The applicants cannot challenge the consequential order as long as the base is intact. Added to that, the applicants did not implead the affected parties.

10. View from any angle, we do not find any merit in the OAs. The OAs are accordingly dismissed. There shall be no order as to costs.

**(B.V. SUDHAKAR )**  
**MEMBER (ADMN.)**

**(JUSTICE L. NARASIMHA REDDY)**  
**CHAIRMAN**

(Dictated in open court)  
Dated, the 3<sup>rd</sup> day of June, 2019

*evr*