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**CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH**

ORIGINAL APPLICATION NO. 180/00071 of 2016

Friday, this the 1st day of November, 2019

CORAM

**Hon'ble Mr. E.K.Bharat Bhushan, Administrative Member
Hon'ble Mr.Ashish Kalia, Judicial Member**

G.Raju,
Aged 60 years,
S/o Gangadharan Pillai,
(Retired Technician Gr.I,
Black Smith, Southern Railway,
Office of the Senior Section
Engineer Works/Kollam),
Residing at "Ganga Nivas",
Kureepuzha, Perinad P.O.,
Kollam Dist.

... Applicant

(By Advocate Mr. T.C.Govindaswamy)

Versus

1. The Union of India,
represented by the General Manager,
Southern Railway,
Headquarters Office,
Park Town P.O.,
Chennai – 600 003.
2. The Chief Personnel Officer,
Southern Railway,
Headquarters Office,
Park Town P.O.,
Chennai – 600 003.

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3. The Divisional Personnel Officer,
Southern Railway, Trivandrum Division,
Trivandrum – 695 014.
 4. M.Subramanian,
Senior Technician/Black smith/
Southern Railway,/Mavelikkara Railway Station
& P.O.,
Mavelikkara.
- Respondents**

(By Advocate, Mrs.K.Girija for Respondents-1to3)

This application having been heard on 30th October, 2019, the
Tribunal on 1st November, 2019 delivered the following :

ORDER

HON'BLE Mr.E.K.BHARAT BHUSHAN, ...ADMINISTRATIVE MEMBER

OA No71/2016 is filed by Shri G.Raju, retired Technician Gr.I
(Blacksmith), aggrieved by the promotion of his junior, Shri M.Subramanian,
as Senior Technician/Blacksmith, the 4th respondent, by overlooking the
applicant's priority. The reliefs sought in the OA are as follows:

- (i). Call for the records leading to the issue of A1 and quash the same to
the extent it relates to the 4th respondent.
- (ii) Declare that the applicant is entitled to be considered and promoted as
Senior Technician/Blacksmith against the vacancy that had arisen on
31.05.2014, consequent upon the superannuation of Sri.E.Mani, in
preference to the 4th respondent and direct the respondents accordingly;
- (iii) Direct the respondents to consider and promote the applicant as
Senior Technician (Blacksmith) at least with effect from the date of Annexure

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A1, with all consequential benefits including arrears of pay and allowances, revision of pension, other retirement benefits etc;

(iv) Award costs of and incidental to this application.

(v) Pass such other orders or directions as deemed just fit and necessary in the facts and circumstances of the case.

2. The applicant initially entered the service of the respondents as Technical Mate and was later absorbed as Technician Gr.III. He was promoted from time to time and became Technician Gr.I with effect from 11.01.2011. While the applicant was at Sl.No.5 in the seniority list of Technician Gr.I (Blacksmith) as on 01.11.2013, the Railway Board restructured the various cadres in the Indian Railways as per RBE No.102/2013 dated 08.10.2013, a copy of which is at Annexure A3. Consequent upon the restructuring, the number of posts in the cadre of Senior Technician was increased from 8% to 16% and the number of posts of Senior Technician was also enhanced from 2 to 5 in Trivandrum Division.

3. In implementation of the orders of the Railway Board, the respondents vide order dated 08.07.2014 (Annexure A4) promoted three persons, namely, Shri. V.V.Velayudhan, Shri.T.A.Velayudhan and Shri. E.Mani to the post of Senior Technicians/Blacksmith against UR vacancies. Shri.T.A.Velayudhan and Shri. E.Mani belonged to SC category and had already retired from service on 31.03.2014 and 31.05.2014 respectively. The applicant submits that on the date of issuance of Annexure A4 order

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there were two vacancies in the cadre of Senior Technician/Blacksmith.

4. The seniority list of Artizan Staff as on 01.11.2014 was issued vide Annexure A5, in which the applicant stands second in the seniority and he ought to have been promoted against one of the two vacancies arising out of retirement of Shri T.A.Velayudhan and Shri E.Mani. However, vide Annexure A1 order, the person above the applicant, Shri A.Sundar Raj and the person below the applicant Shri M.Subramanian, 4th respondent were promoted. Aggrieved by the promotion order, the applicant submitted a detailed representation vide Annexure A6, but did not get any response.

5. The applicant submits that the Railway Board Order bearing No.114/97 dated 21.08.1997 contains 'L roster' for the application of post based reservation in cadres consisting of less than 14 posts. As per the 'L roster', SC point comes after ST point is filled. Since one Shri K.M.Raveendran (ST) was promoted against an ST vacancy only, the next six vacancies should go for UR category and the 7th would go for SC category. After Shri K.M.Raveendran (ST) was promoted three vacancies had arisen on 01.11.2013 consequent upon restructuring and two more vacancies arose on retirement of two persons. Therefore, there would be five vacancies and the applicant being a member of UR category ought to have been promoted against the 5th vacancy. As grounds, the applicant reiterates the above contentions and submits that Annexure A1 order is arbitrary,

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discriminatory and violative of the Articles 14 and 16 of the Constitution.

6. The respondents have filed their reply statement wherein facts have been admitted but the contentions raised by the applicant have been denied. They submit that Shri M.Subramanian, 4th Respondent was promoted to the post reserved against 'SC' quota as he was the senior most employee in the SC category. They submit that as per the Annexure A5 seniority list, there were five posts of Technician Grade-I (Blacksmith) and the applicant is in second position. Consequent upon the retirement of Shri T.A.Velayudhan (SC), Shri M.Subramanian, 4th Respondent who belongs to SC category was promoted against the 7th replacement point, which belongs to 'SC' in 'L roster' and upon retirement of Shri E.Mani the next eligible employee against 'L roster' which belongs to UR quota, Shri A.Sundar Raj was promoted. The respondents submit that they had replied to the representation submitted by the applicant (Annexure A6) vide letter dated 02.01.2017, a copy of which is at Annexure R1.

8. The respondents further submit that the 'L roster' having a sanction of 5, the 7th replacement point is reserved for SC category. Shri K.M.Raveendran was promoted against ST category in the 3rd replacement point of 'L roster' and 4th, 5th and 6th replacement points of 'L roster' goes to UR category. Against these three UR category, Shri V.V.Velayudhan, Shri T.A.Velayudhan and Shri E.Mani were promoted, when Shri T.A.Velayudhan

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retired the 7th replacement point in the 'L roster' which belongs to SC category was considered and the next senior employee in the SC category Shri M.Subramanian, 4th Respondents was promoted although he was junior to the applicant.

9. Heard Shri T.C.Govindswamy on behalf of the applicant and Smt.K.Girija on behalf for the respondents. All pleadings and documents were examined. The contention of the applicant is that the next six vacancies, after promotion against ST point, should go for UR category and an ST having been promoted against ST point on 22.08.2013 and taking into consideration the restructuring effected, plus the retirement of Shri T.A.Velayudhan and Shri E.Mani, 5 vacancies were available and against the the 5th vacancy which arose out of retirement of Shri E.Mani, the applicant, a candidate from general merit was entitled to be considered and promoted. It is further maintained that as per 'L roster' of post based reservation, SC point comes at 7th place after ST point is filled. The main focus of the argument of the applicant is that after ST point was filled on 22.08.2013, three vacancies had arisen on 01.11.2013 due to restructuring and when added to two more vacancies that arose on 31.03.2014 and 31.05.2014, consequent on retirement of Shri T.A.Velayudhan and Shri E.Mani, the applicant ought to have been promoted against a vacancy left by retirement of Shri E.Mani (5th vacancy). The argument is adequately answered by the respondents in their contention that in the 'L roster'

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having a sanction of 5, the 7th replacement point is for SC quota. Shri K.M.Raveendran was promoted against ST quota in the 3rd replacement point and 4th, 5th and 6th replacement points in the 'L roster' go to 'UR'. Against the three UR vacancies, three employees were promoted namely Shri V.V.Velayudhan, Shri T.A.Velayudhan (SC) and Shri E.Mani (SC). When Shri T.A.Velayudhan retired, the 7th replacement point in 'L roster' which belongs to SC quota ought to go to next senior employee of SC community, Shri M.Subramanian, the 4th Respondent. Thus he was promoted although he was junior to the applicant.

10. In view of the above we conclude that the OA has no merit and ought to be dismissed. OA fails. No costs.

(ASHISH KALIA)
JUDICIAL MEMBER

(E.K.BHARAT BHUSHAN)
ADMINISTRATIVE MEMBER

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List of Annexures in O.A. No.180/00071/2016

1. Annexure A1 - True copy of the Office Order bearing No.10/2015/WP dated 05.02.2015, issued by the 3rd respondent.
 2. Annexure A2 - True copy of the seniority list as on 01.11.2013 published by the 3rd respondent under No.V/P 612/I/Vol. VIII dated 06.01.2014
 3. Annexure A3 - True copy of an order bearing RBE No.102/2013 dated 08.10.2013.
 4. Annexure A4 - True copy of an Office Order bearing No.119/2014/WP dated 08.07.2014.
 5. Annexure A5 - True copy of seniority list bearing No.V/P 612/1/Vol.VIII dated 24.11.2014.
 6. Annexure A6 - True copy of representation dated 04.06.2015/05.08.2015, submitted by the applicant.
 7. Annexure A7 - True copy of Railway Board Order bearing RBE No.114/97 dated 21.08.97 containing "L roster"
 8. Annexure R1 - True copy of letter No.V/P.535/I/Artizan/Vol.V dated 02.01.2017.
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