

IN THE HIGH COURT OF KARNATAKA, AT DHARWAD

DATED THIS THE 19TH DAY OF NOVEMBER, 2025

PRESENT

THE HON'BLE MR. JUSTICE S G PANDIT

AND

THE HON'BLE MRS JUSTICE GEETHA K.B.

WRIT PETITION NO.101374 OF 2024(S CAT)

BETWEEN:

1. UNION OF INDIA,
REPRESENTED BY THE GENERAL MANAGER,
RAIL SOUDHA, SOUTH WESTERN RAILWAY,
GADAG ROAD, HUBBALLI, KARNATAKA-580020.
2. THE CHAIR PERSON/DIRECTOR GENERAL
RAILWAY RECRUITMENT CONTROL BOARD (RRCB)
RAIL BHAVAN, 1, RAISINA ROAD, NEW DELHI-110001.
3. GENERAL MANAGER,
SOUTH WESTERN RAILWAY,
ZONAL HEAD QUARTERS OFFICE,
HUBBALLI-580020, DIST. DHARWAD (KARNATAKA).
4. CHAIRMAN,
RAILWAY RECRUITMENT BOARD,
D-7, CANTONMENT RAILWAY QUARTERS,
SHIVAJI NAGAR, BENGALURU, KARNATAKA-560046.

...PETITIONERS

(BY SRI. MRUTYUNJAYA S. HALLIKERI, ADVOCATE)

AND:

SRI. SWAPNIL S/O SHESHRAO BHAGAT
AGE. 33 YEARS,
R/O. PLOT NO.78, ANGULIMAL NAGAR, NARI ROAD,
POST UPPLAWADI, NAGPUR-440026, STATE MAHARASHTRA.

...RESPONDENT

(BY SRI. A.R. PATIL, ADVOCATE)

THIS WRIT PETITION IS FILED UNDER ARTICLES 226 AND 227 OF THE CONSTITUTION OF INDIA, PRAYING TO ISSUE A WRIT IN THE NATURE OF CERTIORARI OR ANY OTHER APPROPRIATE WRIT, ORDER OR DIRECTION TO QUASH THE ORDER OF THE HON'BLE CAT, BANGALORE IN OA NO.170/00051/2021 DATED 16.10.2023 PRODUCED AS ANNEXURE-A AND REJECT OA NO.170/00051/2021, IN THE INTEREST OF JUSTICE AND EQUITY & ETC.

THIS WRIT PETITION HAVING BEEN HEARD AND RESERVED ON 05.11.2025 AND COMING ON FOR PRONOUNCEMENT OF ORDER THIS DAY, **S G PANDIT J.**, DELIVERED THE FOLLOWING:

CORAM: THE HON'BLE MR. JUSTICE S G PANDIT
AND
THE HON'BLE MRS JUSTICE GEETHA K.B.

CAV ORDER

(PER: THE HON'BLE MR. JUSTICE S G PANDIT)

The Union of India and Railway Authorities are before this Court under Article 226 of the Constitution of India questioning the order dated 16.10.2023 passed in OA No.170/00051/2021, by the Central Administrative Tribunal, Bengaluru Bench¹, whereby the respondent's application praying to issue an appointment order on any of the vacant posts of Carriage and Wagon (C & W) anywhere under the jurisdiction of RRB², that too by creating a supernumerary post by adjustment from anticipated future vacancy, was allowed.

¹ For short 'CAT'

² Railway Recruitment Board, Bengaluru

2. The parties would be referred to as they stood before the CAT for the sake of convenience. The petitioners herein were the respondents and the respondent herein was the applicant before the CAT.

3. Brief facts of the case are that, the RRB by Employment Notice dated 16.6.2012 invited applications for various posts including that of "Technician Grade-III/C & W". The applicant applied for the said post in pursuance of the above employment notice claiming reservation under Scheduled Caste³ category. It is stated that out of 104 posts notified, 16 posts were reserved for SC category. The RRB published final select list of C & W on 21.02.2013. It is stated that the name of the applicant was not found in the main list, however, his name was found in the waiting/additional list, which was published on the same day i.e. on 21.02.2013. It is noticed that the Master Circular No.32, Recruitment Rules and Recruitment of Non-gazetted Staff, Clause-22 states that, the currency of the Group 'D' panel in case of direct recruitment from the open

³ For short 'SC'

market is one year. It also states that in exceptional circumstances, it can be extended by one more year with the approval of the Chief Personnel Officer, and under no circumstances, it should be extended beyond the period stated therein.

4. Out of 16 candidates selected under SC category, only 13 persons were reported to duty and three candidates failed to report to duty. Therefore, it is the case of the applicant that the said three posts, which fell vacant for non-reporting to duty by selected candidates, ought to have been filled up by operating the waiting/additional list. It is the case of the respondents that subsequent to expiry of the currency of panel, the posts were filled up by appointment on compassionate ground. The applicant approached the CAT by filing OA NO.170/00051/2021 on 7.9.2020, after seven years from the date of publication of final select list and appointment i.e., on 21.02.2013. The CAT under impugned order, allowed the said application and directed the respondents to consider the name of the

applicant for appointment against one of the three vacancies, which were available in the year 2013 due to non-joining of candidates and by creating a supernumerary post by adjustment from anticipated future vacancy. The CAT while allowing the application, observed that the respondents had not specified as to what was the time frame available to them to call for additional names from the standby list of SC candidates, after three persons in the SC panel had not responded to the offer of appointment.

5. Heard the learned counsel Sri. Mrutyunjaya S Hallikeri for the respondents/Union of India and learned counsel Sri. A.R. Patil for the applicant. Perused the entire writ petition papers.

6. Learned counsel Sri. Mrutyunjaya S Hallikeri for the Union of India would submit that in pursuance of Recruitment Notice dated 16.6.2012, final select list of C & W was published on 21.02.2013. He submits that on the said date, waiting/additional list was also published and the validity of the said select list was one year, which came

to be expired on 28.4.2014. He further submits that out of 16 candidates selected under SC category, three candidates failed to report to duty in pursuance of offer of appointment and the said vacancies were utilized subsequently for appointing the candidates on compassionate ground. Thus, he submits that there was no vacancy to consider the case of the applicant and moreover, he submits that the OA filed by the applicant was barred by time as prescribed under Section 21 of the Administrative Tribunals Act, 1985⁴. Further, the learned counsel would contend that the CAT committed a grave error in directing to consider the case of the applicant for appointment as C & W over the vacancy of the year 2013 without noticing that there was no vacancy and without taking note that the applicant had approached the CAT after more than 7 years from the date of publication of final select list.

7. Learned counsel Sri. Mrutyunjaya Hallikeri would further contend that when the Clause 22 under Master Circular No.32 itself states that the validity of the said

⁴ For short 'Act, 1985'

selected panel is one year and when the validity of panel has expired, the CAT contrary to the said Master Circular No.32, could not have directed for consideration of the case of the applicant for appointment. He further submits that the post or vacancy was not available as on the date, the applicant approached the CAT. It is submitted that the Tribunal committed an error in directing for consideration of the case of the applicant for appointment by creating supernumerary post. Therefore, when the applicant had no right for appointment and when he had slept over his right years together, learned counsel would pray for allowing the writ petition.

8. *Per contra*, learned counsel Sri. A.R. Patil for the applicant would submit that the RRB was bound to appoint the candidates, who were in the waiting list/additional list, when the candidates from the main list failed to report to duty. He submits that in the instant case, 3 persons out of 16 candidates belonging to SC category failed to report to duty and when they failed to report to duty, the candidates,

who were in the waiting list/additional list, acquired right for consideration of their case for appointment. Thus, learned counsel would submit that when the RRB failed to consider the case of the applicant for appointment, the CAT was justified in directing for consideration of his case for appointment.

9. In support of the contentions, learned counsel for the applicant places reliance on a decision of the Hon'ble Apex Court in the case of **State of Karnataka & Others Vs. Smt. Bharathi S⁵** and **Tej Prakash Pathak & Others Vs. Rajasthan High Court & Others⁶**. Thus, he prays for dismissal of the writ petition.

10. Having heard the learned counsel for the parties and on perusal of the entire writ petition papers, the following points would arise for our consideration in this writ petition:

- a) Whether the CAT is justified in directing to consider the case of the applicant for

⁵ 2023 LiveLaw (SC) 472

⁶ Civil Appeal No.2635/2013

appointment as C & W after 7 years from the date of publication of final select list?

b) Whether the impugned order of the CAT warrants interference at the hands of this Court?

11. Our answer to the above points would be in the "negative" and "affirmative" respectively for the following reasons:

12. Admitted facts are that the respondent/Railway Recruitment Board invited application from the eligible candidates to fill-up the various posts including that of "Technician Grade-III/C & W" vide Notification dated 16.06.2012. Out of 104 C & W posts, 16 posts were reserved for SC category. The applicant applied for the post of C & W claiming reservation under SC category. Admittedly, the applicant was not selected under the main select list, however, his name was included in the waiting/additional list. It is also the fact that, out of 16 SC category candidates selected, three selected candidates failed to report to duty in terms of offer of appointment.

Admittedly, the final select list and waiting/additional list were published on 21.02.2013. In terms of applicable Rules, the validity of the said panel or select list was one year.

13. Clause-22 of the Master Circular No.32, Recruitment Rules and Recruitment of Non-gazetted Staff (Annexure-A19), reads as under:

“The currency of the Group ‘D’ panel in case of direct recruitment from the open market is one year. In exceptional circumstances, it can be extended by one more year with the personal approval of the Chief Personnel Officer. Under no circumstances it should be extended beyond this period.”

The above clause makes it abundantly clear that the currency of Group-D panel in case of direct recruitment is one year and in exceptional cases, it can be extended by one more year with the personal approval of the Chief Personnel Officer. It also specifically makes it clear that under no circumstance, it should be extended beyond the period stated therein.

14. The applicant approached the CAT by filing the Original Application on 7.9.2020, after nearly 7 years from the date of publication of final/additional select list and

more than five years after expiry of the validity of the said final select list.

15. Section 21 of the Act, 1985 prescribes Limitation, which reads as under:

"21. Limitation.— (1) A Tribunal shall not admit an application,—

- (a) in a case where a final order such as is mentioned in clause (a) of sub-section (2) of section 20 has been made in connection with the grievance unless the application is made, within one year from the date on which such final order has been made;
- (b) in a case where an appeal or representation such as is mentioned in clause (b) of sub-section (2) of section 20 has been made and a period of six months had expired thereafter without such final order having been made, within one year from the date of expiry of the said period of six months.

(2) Notwithstanding anything contained in sub-section (1), where—

- (a) the grievance in respect of which an application is made had arisen by reason of any order made at any time during the period of three years immediately preceding the date on which the jurisdiction, powers and authority of the Tribunal becomes exercisable under this Act in respect of the matter to which such order relates; and
- (b) no proceedings for the redressal of such grievance had been commenced before the said date before any High Court,

the application shall be entertained by the Tribunal if it is made within the period referred to in clause (a), or, as the case may be, clause (b), of sub-section (1) or within a period of six months from the said date, whichever period expires later.

(3) Notwithstanding anything contained in sub-section (1) or sub-section (2), an application may be admitted after the period of one year specified in clause (a) or clause (b) of sub-section (1) or, as the case may be, the period of six months specified in sub-section (2), if the applicant satisfies the Tribunal that he had sufficient cause for not making the application within such period."

16. The above provision makes it clear that the Tribunal shall not admit an application, unless the application is made within one year from the date on which the final order has been made. Sub-section (3) of Section 21 of the Act, 1985 permits the Tribunal to entertain the application filed beyond the period of one year, if the applicant satisfies the Tribunal that he had sufficient cause for not making the application within such period. In the case on hand, the Tribunal committed an error in entertaining the application, which was filed beyond the period of limitation prescribed under Section 21 of the Act, 1985; that too after more than five years, without

application for condonation of delay showing sufficient cause.

17. Furthermore, the Tribunal failed to notice the Clause-22 of the Master Circular No.32 and by the time, the CAT issued direction to consider the case of the applicant for appointment, the select list had lost its validity. Moreover, the vacancies, which occurred due to non-reporting to duty by three candidates, were filled up by compassionate appointment subsequently. When the applicant failed to exercise his right in time, that too in the matter of recruitment and appointment, the CAT was not justified in directing to consider the case of the applicant for appointment as C & W. The right to seek appointment by the candidates in the waiting list could be exercised only during the existence or subsistence of waiting list. Subsequent to expiry of the validity of the select list, the candidates in the waiting list cannot enforce the same.

18. The decisions relied upon by the learned counsel for the applicant would have no application to the facts of

the present case. In **Smt. Bharati S** (supra), in fact the Apex Court has observed that *duty to fill up the vacancies from the Additional List (Waiting List) can arise only on the basis of a mandatory rule and in the absence of such a mandate, the decision to fill all the vacancies from the Additional List, is left to the wisdom of the State*. However, it further observed that *the State cannot act arbitrarily and its action will be subject to judicial review*.

19. In **Tej Prakash Pathak & Others** (supra), the Hon'ble Apex Court has held that *the eligibility criteria prescribed under the Notification cannot be changed midway through the recruitment process, unless the extant Rules so permit, or the advertisement*. The above decisions would not come to the aid of the applicant in the facts and circumstances of the present case.

20. For the reasons recorded supra, we proceed to pass the following:

ORDER

a) The Writ Petition stands **allowed**.

b) The impugned order dated 16.10.2023 passed in OA No.170/00051/2021 by the CAT (Annexure-A) is hereby quashed.

Pending applications, if any, are disposed of as not surviving for consideration.

**Sd/-
(S G PANDIT)
JUDGE**

**Sd/-
(GEETHA K.B.)
JUDGE**

JTR