

IN THE SUPREME COURT OF INDIA  
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NOS. 121-123 OF 2014

UNION OF INDIA AND ORS. . . . . APPELLANTS

VERSUS

U. JOHN VINCENT KUMAR ETC. . . . . RESPONDENTS

WITH

CIVIL APPEAL NO. 124 OF 2014

**O R D E R**

1. The appellants-Union of India through the Divisional Railway Manager, Chennai Division, Southern Railway, have filed the present appeals against the orders dated 08<sup>th</sup> September, 2009 and 15<sup>th</sup> July, 2010 passed by the High Court of Judicature at Madras, dismissing their writ petitions and upholding the common order dated 18<sup>th</sup> August, 2005, passed by the Madras Bench of the Central Administrative Tribunal<sup>1</sup> in four original applications.

2. The case setup by the respondents before the Tribunal was that they had joined the service of the Railways in the 1980s and were subsequently promoted as Station Master Grade-III, in the year 1991. Since there was an increase in the cadre strength of this post from 724 to 769, on creation of 45 additional posts, the respondents claimed that they ought to

1 For short 'Tribunal'

have been promoted to the post of Station Master Grade-II w.e.f. 01<sup>st</sup> October, 1999, instead of 01<sup>st</sup> April, 2003, keeping in view the percentage distribution in terms of the letter<sup>2</sup> dated 12<sup>th</sup> August, 1996, issued by the Railway Board.

3. The said stand taken by the respondents-employees was contested by the appellants and it was specifically stated before the Tribunal that from the year 1999 to 2002, 45 posts had been created on ten different occasions and redistribution of the 45 newly created posts could be given effect to only from 01<sup>st</sup> April, 2002. It is further stated that all the 45 posts were not in the cadre of Station Master Grade-II, but in different cadres as is apparent from a perusal of the computed statement extracted in paragraph 5 of the Tribunal's order dated 18<sup>th</sup> August, 2005. It was further submitted that 45 additional posts had accrued due to opening of new lines or to improve operational efficiency in various grades.

4. The appellants took a stand that as on 01<sup>st</sup> April, 2003, only 21 vacancies were available in the post of Station Master Grade-II category and as per the seniority position in the said three categories, respondent no.1 in C.A. No. 121/2014 (U. John Vincent Kumar) stood at 22<sup>nd</sup> position and the remaining respondents in the connected appeals stood below him at different positions. In other words, there were 21 employees

<sup>2</sup> Letter No. PC-111/90/CRC/1

in the Station Master Grade-II category who were above the respondents herein in the seniority list and were entitled to promotion to the post of Station Master Grade-II category, before them.

5. Ms. Aishwarya Bhati, learned Additional Solicitor General appearing for the appellants - Union of India states that all the aforesaid facts were brought to the notice of both, the Tribunal as also the High Court, but were completely overlooked.

6. We may note that the impugned order does mention that 45 posts were created in the category of Station Master Grade-II on ten occasions from the year 1999 to 2003, which is apparently, a factual error. Further, the impugned order does not take note of the submissions made by the appellants that the respondents were far below in the seniority list of Station Master Grade - II for being considered for appointment to the said posts. In fact, after creation of additional posts in the category of Station Master Grade-II, only four vacancies were available. A perusal of the order passed by the Tribunal reveals the actual vacancy position in the Station Master category during November, 2001, ranging from Station Master Grade-III to Station Master Grade-I, has been set out in a table. Insofar as vacancies in the category of Station Master Grade-II are concerned, there were only 21 vacancies in all,

including the four new vacancies created and referred to herein above.

7. That being the position, the observations made in the impugned judgment holding that the respondents are entitled to promotion w.e.f. 01<sup>st</sup> October, 1999, is not sustainable and, is accordingly, quashed and set aside.

8. At this stage, learned counsel for the respondents state that subsequently, the respondents were promoted to the post of Station Master Grade-II, on different dates.

9. As per the details given by learned counsel for the appellants, the respondents were promoted to the post of Station Master Grade - II and had superannuated on the following dates:

<b>Respondents in C.A. Nos. 121-123 of 2014</b>			
		<b>Date of Promotion</b>	<b>Date of Superannuation</b>
1	Mr. U. John Vincent Kumar	01 <sup>st</sup> November, 2003	31 <sup>st</sup> May, 2021
2	Mr. H. Ravindran	02 <sup>nd</sup> May, 2002	31 <sup>st</sup> May, 2021
3	Mr. M. Senthil Kumar	06 <sup>th</sup> June, 2002	Still in service
<b>Respondent in C.A. No. 124 of 2014</b>			
4	Mr. M. Rajendran	1 <sup>st</sup> November, 2003	31 <sup>st</sup> October, 2012

10. It is made clear that in the event any financial benefit have accrued in favour of the respondents, on the basis of the notional promotion granted to them, the same shall not be recovered or withdrawn.

11. The appeals are disposed of on the above terms, while leaving the parties to bear their own expenses.

.....J.  
(HIMA KOHLI)

.....J.  
(RAJESH BINDAL)

NEW DELHI;  
AUGUST 03, 2023.  
PS

ITEM NO.104

COURT NO.11

SECTION XII

S U P R E M E C O U R T O F I N D I A  
R E C O R D O F P R O C E E D I N G S

CIVIL APPEAL NO(S). 121-123/2014

UNION OF INDIA AND ORS.

APPELLANT(S)

VERSUS

U. JOHN VINCENT KUMAR ETC.

RESPONDENT(S)

WITH

C.A. No. 124/2014 (XII)

Date : 03-08-2023 These appeals were called on for hearing today.

CORAM : HON'BLE MS. JUSTICE HIMA KOHLI  
HON'BLE MR. JUSTICE RAJESH BINDAL

For Appellant(s) Ms. Aishwarya Bhati, A.S.G.  
Mr. Amrish Kumar, AOR  
Ms. Ameya vikram Thanvi, Adv.  
Mr. Mukesh Kumar, Adv.  
Mr. Shashwat Parihar, Adv.  
Ms. Shivika Mehra, Adv.  
Mr. Shiv Mangal Sharma, Adv.  
Mr. Rustam Singh Chauhan, Adv.

For Respondent(s) Mr. Romy Chacko, AOR  
Mr. Prashant Kumar, Adv.  
Mr. Sachin Singh Dalal, Adv.  
Mr. Robin V. S., Adv.

UPON hearing the counsel, the Court made the following  
O R D E R

The appeals are disposed of in terms of the signed order,  
which is placed on the file.

Pending applications, if any, stand disposed of.

(POOJA SHARMA)  
COURT MASTER (SH)

(NAND KISHOR)  
COURT MASTER (NSH)