

**(1989) 04 KAR CK 0020**  
**In the Karnataka High Court**  
**Case No : W.P. Nos. 6547-6549 of 1987**

Chikkarangaiah

APPELLANT

Vs

Karnataka State Road Transport Corporation

RESPONDENT

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**Date of Decision :** 03-04-1989

**Acts Referred:**

**Citation :** (1989) 2 KarLJ 240

**Hon'ble Judges :** H. G. Balakrishna, J

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### **Judgement**

Balakrishna, J.-The short point for consideration is whether there could be a reversion of the petitioners as done in these cases from the post of Accounts Supervisor and Assistant without a final review of the promotions.

2. On 25-1-1975, the Board of Karnataka State Road Transport Corporation passed a resolution for the abolition of divisional seniority and introduced Statewide seniority for all the categories of employees which was challenged before this Court and the Division Bench of this Court on 13-2-1985 rendered a decision that upto 31-12-1982 the divisional seniority should be followed since the Regulations of the K.S.R.T.C. came into force on 1-12-1983 and that the State wide seniority should be given effect to from 1-12-1983. Accordingly, the Corporation was directed to review the promotions and reversions made earlier. By a General Establishment Order No. 5894, the Corporation resolved to undo all the promotions and reversions and placed all the employees in the position in which they were prior to 21-5-1975. This was succeeded by a General Establishment Order issued by the respondent under Order No. 5900 dated 1-8-1985 to the effect that the posts held by the different employees in the Corporation will be continued till the review is made and the fixation of pay shall be on the basis of promotions made upto 31-12-1983 and the earlier promotions made between 21-5-1975 and 31-12-1983 would continue pending final review. The petitioners consented to go back to the parent unit. But, at the same time, insisted that the promotions shall be with reference to the actual dates of promotion upto 31-12-1983 for reasons which would legitimately result in

advantages to the petitioners.

3. Contrary to the General Establishment Order No. 5900, the petitioners were posted back to Bangalore Division. However, the petitioners were reverted to the posts held by them prior to 21-5-1975. Till the end of December, 1986, the salary was not reduced and, to that extent, the reversion order was not given effect to. But in the case of the 2nd petitioner, the same is sought to be reduced in the month of February, 1987 and so also in the case of the 1st petitioner the salary was sought to be reduced in April, 1987. In the case of the 3rd petitioner, the reduction of salary was given effect to only a few months prior to the filing of the writ petitions.

4. The fact remained that, as on the date of filing of the writ petitions and even now, the respondent has not finalised the review of promotions, but an adhoc seniority/review list was published on 7-5-1986. A large number of juniors to the petitioners even according to the list published are not reverted, but continued in the promoted cadre. This has resulted in discrimination. All those who were promoted along with the petitioners or later than the petitioners but who are not transferred outside Bangalore have been continued in the same promoted cadre till today. The petitioners were hopeful that appropriate and speedy action would be taken by the Management; but the hopes were belied and, therefore, the petitioners were driven to this Court.

5. It is submitted that the reversion of the petitioners is contrary to the directions of this Court in *Govindachary and others v State*. It is strongly contended that review of promotion does not involve or mean reversion before the review is carried out.

6. It has been fairly submitted by the learned Counsel for the respondent Corporation that it is not the intention of the Corporation not to make a review of the promotions and that the Corporation has the intention of making the review of promotions is revealed by the publication of an adhoc seniority/review list on 7-5-1986 inviting objections.

7. However, this by itself would not be a sufficient assurance to comply with the order passed by this Court in Writ Appeal Nos. 1806 to 1808/82 dated 13-2-1985. At this distance of time, if no action is taken by the Corporation to review the promotions despite a direction from this Court, it must be held that delay, despite Court directive, amounts to abuse of administrative discretion. It must be clearly understood that discretion is meant to be exercised fairly, reasonably and in time. Failure to exercise the discretion amounts to violation of principles of natural justice since the inordinate delay is not only frustrating, but also injurious to the legitimate interest of the petitioners and similarly placed employees of the Corporation.

8. For the reasons stated above, I allow these writ petitions and declare that the reversion of the petitioners as per Annexure-D to D-2 from the posts of Accounts Supervisors and Assistants is wholly illegal and the petitioners are entitled to be

treated as continued in the respective promoted cadres pending final review of the promotions to be carried out by the Corporation in accordance with the direction issued by this Court in Writ Appeal Nos. 1806 to 1808/82 dated 13-2-1985.

9. Though I was inclined to fix a time limit to the Corporation for implementation of the order of the Division Bench of this Court to review the promotion with a time limit, since I was assured by the learned Counsel appearing for the Corporation that speedy action would be taken to expedite such a review within a reasonable time from the date of the order of this Court, it will not be necessary to set a time limit. However, it is open to the petitioners to move this Court should there be an unreasonable delay in implementing the orders of the Court.

Petition allowed.