

**CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH**

**CP No- 498/2019 in
OA No-1158/2019**

New Delhi, this the 20th day of January, 2020



**Hon'ble Mr. Justice L. Narasimha Reddy, Chairman
Hon'ble Mr. A.K. Bishnoi, Member (A)**

Shri Sameer Dikshit, IRSSE
 Aged about 54 years
 S/o Shri K.S. Dikshit, presently working as
 Principal Chief Signal & Telecommunications Engineer
 Northeast Frontier Railway, Guwahat-781011, and
 Resident of House No. 906, Tower No. 24
 Commonwealth Games Village
 Behind Akshardham Temple
 Delhi-110092. ... Petitioner

(through Sh. K.S. Chauhan with Sh. Ajit Kumar Ekka and Sh. S.P. Singh)

Versus

1. Shri Vinod Kumar Yadav
 Chairman, Railway Board
 Ministry of Railways, Rail Bhawan
 New Delhi – 110001.
2. Shri Sushant Kumar Mishra
 Secretary, Railway Board
 Ministry of Railways, Govt. of India
 Rail Bhawan, New Delhi-110001.
3. Shri Pradeep Kumar
 Member (Signal & Telecom)
 Railway Board
 Ministry of Railways, Rail Bhawan
 New Delhi-110001.
4. Shri Manoj Pande
 Member (Staff) & Director General (Personnel)
 Railway Board

Ministry of Railways, Rail Bhawan
New Delhi-110001.

5. Dr. C. Chandramouli
Secretary
Department of Personnel and Training
Ministry of Personnel and Public Grievances
North Block, New Delhi-110001.

... Respondents

(through Sh. R.V. Sinha with Sh. Amit Sinha for R. Nos. 1 to 4)



ORDER(ORAL)

Hon'ble Mr. Justice L. Narasimha Reddy, Chairman

The applicant had to file as many as three OAs in the context of his posting as Divisional Railway Manager (DRM). Ultimate relief was granted in OA No. 1158/2019 through an order dated 26.08.2019. It was directed that the vigilance status of the applicant shall be examined within four weeks from the date of receipt of the order and if it is given, a special meeting of the selection committee for posting the applicant as DRM shall be convened, within four weeks thereafter. It was also directed that the consequential steps shall be taken, as was done in the case of Sh. D.C. Sharma.

2. This contempt case is filed alleging that the respondents did not implement the direction issued in the order dated 26.08.2019 in OA No. 1158/2019. It is represented that the Writ Petition filed against the order in the OA was dismissed and despite that, the respondents did not implement the order.



3. On behalf of the respondents, detailed counter affidavit is filed. It is stated that soon after the Hon'ble High Court of Delhi dismissed the Writ Petition filed against the order in the OA, a review selection committee was convened on 27.11.2019 and the Committee has also recommended the name of the applicant for posting as DRM. It is, however, stated that the Ministry has taken a decision to the effect that, since the vacant posts of DRM are not available now, the applicant shall be deemed to have been appointed as DRM and the fact that he did not physically work in that post, shall not be treated as an impediment for considering his case for promotion to higher post, including that of General Manager (Open Line).

4. We heard Sh. K.S. Chauhan, learned counsel for the petitioner and Sh. R.V. Sinha, learned counsel for the respondents.

5. The applicant made continuous efforts to get his name cleared for posting as DRM. Ultimately, direction was issued in the order dated 26.08.2019 in OA No. 1158/2019. The respondents have challenged the order passed in the OA before the Hon'ble High Court of Delhi and the Writ Petition is said to have been dismissed.

6. The respondents convened the meeting of the Selection Committee on 27.11.2019 and that in turn, cleared the case of the applicant. It is, however, stated that the vacancies of DRM were not available, and the panel for the year 2016-17, in which the name of the applicant figures, has already lapsed. In this peculiar situation, the Ministry has decided to treat the applicant as

having been actually promoted as DRM, and to treat him as otherwise eligible for promotion as General Manager (Open Line).

7. In Para 8 and 9 of the counter affidavit, it is stated as under:

“8) That, the Petitioner has already been recommended for empanelment and appointment to a post in the Higher Administrative Grade (HAG), the next higher post than that of the post of DRM and is likely to be appointed as HAG as soon as the Panel for the year 2019 is approved by the Appointments Committee of the Cabinet(ACC).

9) That, the Petitioner is already more than 54 years of age and considering this fact and the fact that he has now been recommended for posting as DRM, it has been decided by the competent authority in this Ministry that it would not be fair if non-working as DRM by the Petitioner should make him ineligible for his consideration for his empanelment and appointment to the posts of General Manager (Open Line). Accordingly, keeping in view the circumstances explained in the foregoing paragraphs, the competent authority in the Ministry of Railways has decided that the Petitioner shall be deemed to have worked as DRM from the Short List for the year 2016-2017 and that his having not functioned as DRM shall not be an impediment for his consideration to the higher posts including the post of General Manager (Open Line), if he is otherwise found eligible.”

8. Today itself, the respondents have issued an order reflecting the gist of the paragraphs 8 and 9 of the counter affidavit. Para 4 of the order dated 20.01.2020, reads as under:

“4. Pursuant to the aforesaid recommendations of the Selection Committee, Shri Sameer Dikshit was considered for posting as DRM in line with the orders passed by the Ld Tribunal for “taking other consequential steps as was done in DC Sharma’s case”. It was observed that the Short List prepared earlier for the year 2016-2017 had





already lapsed on 30.6.2017 and the short listed officers also stood posted against the vacant posts of DRM that arose in the year 2016-2017. At present, there are no vacant posts of DRM and vacancies in the same are likely to arise only in April 2020. Moreover, Shri Sameer Dikshit is already more than 54 years of age and considering this fact including that he has now been recommended for posting as DRM and is also likely to come up for promotion to HAG/IRSSE shortly for which he has already been empanelled and recommended, it has been decided by the competent authority in this Ministry that it would not be fair if non-working as DRM by Shri Sameer Dikshit should make him ineligible for his consideration for his empanelment and appointment to the posts of General Manager (Open Line). Accordingly, keeping in view the circumstances explained in the foregoing paragraphs, the competent authority in the Ministry of Railways has decided that Shri Sameer Dikshit shall be deemed to have worked as DRM from the Short List for the year 2016-2017 and that his having not functioned as DRM shall not be an impediment for his consideration to the higher posts including the post of General Manager (Open Line), if he is otherwise found eligible.”

9. With this, the order passed in the OA can be treated, as having been complied with. The doubt expressed by the applicant, that the respondents may not treat him as eligible for promotion to the post of General Manager (Open Line), since he did not physically work as DRM, stands removed and we take the same on record.

10. We, therefore, close this contempt case, with an observation that the petitioner shall be treated as eligible to be considered for promotion to the post of General Manager (Open Lines), along with other DRMs, in

accordance with the prescribed procedure. There shall be no order as to costs.

(A.K. Bishnoi)
Member (A)

(Justice L. Narasimha Reddy)
Chairman

/ns/

