

CENTRAL ADMINISTRATIVE TRIBUNAL

BANGALORE BENCH AT BANGALORE

ORIGINAL APPLICATION NO.170/01030/2019

DATED THIS THE 22ND DAY OF JANUARY, 2020

**HON'BLE DR K B SURESH....MEMBER (J)
HON'BLE SHRI C V SANKARMEMBER (A)**

R.Kumara Velan,
S/o Sri. E.Rajendran,
Aged about 48 years,
Working as Chief Health Inspector,
Medical Department,
South Western Railway,
Hubli Division,
Hubli.

(By Advocate Shri.Izzhar Ahmed)

...Applicant

Vs.

1. Principal Chief Medical Director,
Head Quarter Office,
Medical Department,
Old GM's Office,
Ground Floor,
South Western Railway,
Club Road,
Hubli-580 023.

2. Executive Director Health (G)
Ministry of Railways,
Railway Board, 3rd Floor,
Pargati Maidan Metro
Station Building Complex,
New Delhi-110 001.

3. Assistant Director (RCD)
Food Safety and Standards Authority of India,
Ministry of Health and Family Welfare,
Regularity Compliance Division,
FDA Bhavan, Katla Road,
New Delhi-110 002.

4. Union of India,
Through General Manager,
South Western Railway,
Gadag Road,
Hubli-20.

5. Smt.Bijini T.T
Working as Chief Health Inspector/Colony,
Opposite Railway Museum
South Western Railway,
Mysore-20.

6.Smt.Gayatri,
Working as Chief Health Inspector
O.O: Divisional Environment and
House Keeping Manager,
Divisional Railway Hospital,
Divisional Railway Manager's Office,
South Western Railway,
Bangalore-23.

7. Shri.Subhas.S
Working as Chief Health Inspector
Railway Station,
South Western Railway,
Hubli-580 020.

8.Smt.K.Amudesan,
Working as Chief Health Inspector
O.O: Chief Medical Superintendent,
Divisional Railway Hospital,
South Western Railway,
Bangalore-23.

...Respondents

(By Shri.J Bhaskar Reddy, Counsel for Railways)

ORDER (ORAL)

HON'BLE DR K B SURESH, MEMBER (J)

Heard. The matter is seemed to be covered by subsequent events. It appears that Ministry of Railways held the discussions with the JD(RCD)/FSSAI and apparently on that behalf the railways vide letter No.2019/H-1/9/1/Misc dated 14.01.2020 had requested for information which we quote from the Annexure M-01:

*“Government of India
Ministry of Railways
3rd Floor, Railway Board
Pragati Maidan Metro Station Building Complex*

No.2019/H-1/9/1/Misc.

New Delhi, dated 14.01.2020

*Pr. Chief Medical Directors,
South Western Railway/Hubli*

Sub:- CAT case filled by R.Kukmara Velan and CAT case filled by Shivakumar V at Bangalore Bench/Bangalore-reg.

Ref:- 1. *Original Application/170/1030/2019 dated 26.09.2019 by R.Kumara Velan.*
2. *Original Application/170/1031/2019 dated 26.09.2019 by Shivakumar V.*

Reference above, as per telephonic conversation held with AD(RCD)/FSSAI. Kindly provide the details of the Health & Malaria Inspector mentioned below:-

S. No.	Name	Whether they worked as Food Inspector before 05.05.2011 as per PFA Act
1.	<i>R.Kumar.Velan</i>	
2.	<i>Shiva Kumar V</i>	

Matter Most Urgent.

Sd/-
Executive Director/Health (G) &
Ex-Officio Additional Food Safety Commissioner
Railway Board.

Government of India
Ministry of Railways
3rd Floor, Railway Board
Pragati Maidan Metro Station Building Complex

No.2019/H-1/9/1/Misc.

New Delhi, dated 14.01.2020

Pr. Chief Medical Directors,
South Western Railway/Hubli

*Sub:- Memo filed in OA No. 170/1030/2019 for initiating suo-motu
contempt proceedings against Railway Board and FSSAI.*

*Please find the enclosed copy of the letter of FSSAI on the subject
mentioned above regarding earlier notification of Food Safety Officers/SWR
vide notification No.1(42) 2011/Railways/FSSAI(Part-1) dated 28.11.2019 have
been denotified vide notification No.1(42)2011/Railways/FSSAI(part-1) dated
07/01/2020.*

S. No.	Name of the Food Safety Officers	Railways
1.	Smt.Bijini T.T	South Western Railway
2.	Smt.Gayatri	South Western Railway
3.	Shri.Subhash S	South Western Railway

Matter Most Urgent.

*Sd/-
Executive Director/Health (G) &
Ex-Officio Additional Food Safety Commissioner
Railway Board. ”*

2. In response to it the Executive Director, Ex-Officio of Additional Food Safety Commissioner, Railway Board had denotified the Notification No.1(42)2011/Railways/FSSAI(Part-I) dated 7.1.2020 challenged in the OA.
3. At this point of time, the discussion notes the Railway Board advises to FSSAI has been produced from across the Bar by Shri.J.Bhaskar Reddy, learned counsel for Railways which we quote:

“The post of Health and Malaria Inspector in Railways has been assigned duties of supervision of sanitation activities, anti-malaria operations and other sanitation related activities apart from taking sample of water being supplied at railways stations and in the railway colonies to ensure that only good quality water is supplied. They were also detailed to look after Food Safety activities as provided in Food and Adulteration Act, 1953.

After abrogation of Food and Adulteration Act, 1953, a new Act “Food Safety and Standard Act” has been enacted by Parliament. For enforcement of Food Safety and Standard Act, Food safety and Standard Authority of India (FSSAI) has been constituted. However, Instead of having their own work force for field related duties, FSSAI designates Health and Malaria Inspectors of the State Government/Railways to act as Food Safety Officer (FSO). For the purpose of nomination of a Health & Malaria Inspector to perform duties as FSO in addition to their own duties, the incumbent should have the following laid down education qualification as decided by the FSSAI:-

“Degree in Food Technology or Dairy Technology or Biotechnology or Oil Technology or Agriculture Science or Veterinary Sciences or Bio-Chemistry or Microbiology or Master Degree in Chemistry or degree in medicines from recognized University, or (ii) any other equivalent/recognized qualification notified by Central Government.”

Only those H&MIs who fulfil the above qualification are appointed as FSO by FSSAI.

However, it is clarified that the post of FSO if neither the promotional post in the hierarchy of Railway Health and Malaria Inspector nor it gives any weightage to incumbents for further promotion in hierarchy. Such nominated Health and Malaria Inspectors work as Food Safety Officers (FSOs) apart from their nominated duties in railways. Therefore, the claim of the applicant that his seniority has been ignored in appointment of the Food Safety Officers (FSOs) in the Division, is not correct. Since, the applicant was not fulfilling the laid been notified as FSO in the Gazette by FSSAI. However, not being nominated as Food Safety Officers (FSOs) is in no way any demerit in the career progression of the applicant who forms part of Health and Malaria Inspectors of Railways.

DA: As above.”

4. They have also produced the file No.1(42)2019/Railway/FSSAI(Part-I) dated 18.09.2019 which would say that a Degree in Food Technology or Dairy Technology or Biotechnology or Oil Technology or Agriculture Science or

Veterinary Sciences or Bio-Chemistry or Microbiology or Master Degree in Chemistry or degree in medicines from recognised University, or any other equivalent/recognized qualification notified by Central Government.

5. Therefore, at this point of time Shri.Izzhar Ahmed refers to RBE No.86/90 at Annexure A-22 which we quote:

“RBE No.86/90

Subject: Recruitment of Health Inspectors qualified to act as Food Inspectors under the prevention of Food Adulteration Act, 1954.

No.E(NG)II89/RR-1/7, dated 24.5.1990

The subject of recruiting Health Inspectors with prescribed qualification to act as Food Inspectors under the Prevention of Food Adulteration Act, 1954, figured in the discussions in the conference of Chief Medical Officers held some time back. Keeping in view inter-alia the deliberations in the aforesaid conference, the proposal for recruitment of Health Inspectors with the requisite qualification has been under consideration of the Board for quite some time.

2. After careful consideration of the matter, Board have decided as under:

- (i) In all future recruitment to the post of Health Inspectors in scale Rs.330-560/1,200-2,040, the minimum qualification shall be B.Sc (Chemistry) plus Diploma of Health Inspector.*
- (ii) For such recruits the period of induction training shall be six months.*
- (iii) Suitable training may be imparted to them in one of the recognized Institutes (recognized under the provisions of the Prevention of Food Adulteration Act) so that they become qualified to undertake Food Inspection work as per the statutory requirements in the relevant provisions of the said Act.*
- (iv) This training may be arranged by the respective Railway Administrations during the period of induction training. For this purpose the railways should plan in advance, in consultation with the Chief Medical officers of Central, Eastern, Northern the Southern Railways. The Chief Medical Officers to be consulted for the purpose will be decided by the individual zonal railway administrations. This planning should commence even at the time of placing indent on Railway Recruitment Boards, for*

recruitment of Health Inspectors with the qualifications specified above, in future.

- (v) *If for any unavoidable reasons the training to comply with the statutory requirements under the provisions of the Prevention of Food Adulteration Act, is not completed within the period of induction training the Zonal railway concerned may depute such recruits to one of the recognized Institutes with the concurrence of the local finance and approval of the Chief Medical Officer and the Chief Personnel officer.*
- (vi) *These recruits will be eligible for special pay are admissible under the extant orders, as soon as they successfully complete the training in the recognized Institution and thus become qualified to undertake Food Inspector Work.*
- (vii) *Further details in this regard may be laid down by the individual zonal railways.*

3. This issues with the concurrence of the Finance Directorate of the Ministry of Railways.”

6. The learned counsel would say this is the law which is followed by the Railways even today.

7. At this point of time Shri.J.Bhaskar Reddy, learned counsel for the respondents points out that FSSAI had pointed out the different qualifications. He also relies on letter No.F.9-3/2016(CPP-II) dated 19.07.2016, which we quote:

*“University Grants Commission
(Ministry of Human Resource Development, Govt. of India)
Behendar Shah Zafer Marg, New Delhi-110 002.*

No.F.9-3/2016(CPP-II)

dated 19.07.2016

PUBLIC NOTICE ON EQUIVALENCY OF DEGREES

The University Grants Commission specified degrees as defined under Section 22 of the UCG Act, 1956. Such degrees can be awarded only by a University established or incorporated by or under a Central Act, a provincial Act or a

State Act or by an Institution Deemed to be University established under section 3 of the UGC Act, 1956.

Equivalence of degrees, diplomas, certificates etc., are not determined by the UGC. In the case of higher education, equivalence is decided by the University concerned and in cases of employment promotion etc., equivalence is decided by the employing organization.

The UGC Act and Rules and Regulations made thereunder are available on UGC website www.ugc.ac.in

Sd/-

*(Jaspal S.Sandhu
Secretary”*

8. Therefore, according to it, it is the employer who has to decide the equivalence. The case of the applicant is that they have been working in that post before 2011 itself and that the Board has now acceded that they have been so working. Therefore, the question is, if they had been working in that post even in B.Sc Chemistry and not in Masters in Chemistry whether the experience they have gained over years would cross the bridge between the Bachelors and Masters in Chemistry that we will leave it to the Railway Board to decide. We will therefore remit the matter back to the Railway Board to take a decision after examining RBE 86/90. OA is, therefore, disposed as above. Appropriate decision may be taken within the next three months. We reserve the liberty to the applicant also, if the decision is against him. OA is disposed of. No order as to costs.

**(C V SANKAR)
MEMBER (A)**

**(DR K B SURESH)
MEMBER (J)**

/rsh/

Annexures referred to by the applicant in OA No.170/01030/2019

Annexure A1:	Copy of the letter dated 18.03.2002
Annexure A2:	Copy of the Seniority list dated 24.11.2003
Annexure A3:	Copy of the letter dated 29.10.2012
Annexure A4:	Copy of the letter dated 16.11.2012
Annexure A5:	Copy of the letter dated 20.06.2013
Annexure A6:	Copy of the letter dated 24.08.2016
Annexure A7:	Copy of the seniority list dated 01.02.2018
Annexure A8:	Copy of the letter dated 28.09.2018
Annexure A9:	Copy of the letter dated 03.10.2018
Annexure A10:	Copy of the letter dated 31.12.2018
Annexure A11:	Copy of the letter dated 07.03.2019
Annexure A12:	Copy of the letter dated 01.08.2019
Annexure A13:	Copy of the letter dated 22.08.2019
Annexure A14:	Copy of the letter dated 05.09.2019
Annexure A15:	Copy of the impugned order dated 22.08.2019
Annexure A16:	Copy of the letter dated 04.09.2019
Annexure A17:	Copy of the letter dated 06.09.2019
Annexure A18:	Copy of the Railway board's order dated 03.04.2001
Annexure A19:	Copy of the Railway board's order dated 11.10.2001
Annexure A20:	Copy of the Railway board's order dated 30.05.2008
Annexure A21:	Copy of the Rule 163 of IREM I, 2009
Annexure A22:	Copy of the Railway board's order dated 24.05.1990
Annexure A23:	Copy of the relevant rules of FSS Act-2006
Annexure A24:	Copy of the relevant Rules of FSS Rule 2011
Annexure A25:	Copy of notification dated 18.04.2017
Annexure A26:	Copy of the notification dated 18.07.2014
Annexure A27:	Copy of the notification dated 13.01.2017
Annexure A28:	Copy of the notification dated 29.09.2017
Annexure A29:	Copy of the Railway board's order dated 22.08.2014
Annexure A30:	Copy of the Avenue of Promotion Char November 2014
Annexure A31:	Copy of the notification dated 08.11.2018
Annexure A32:	Copy of the notification dated 24.12.2018
Annexure A33:	Copy of the notification dated 04.02.2019
Annexure A34:	Copy of the notification dated 08.03.2019.
Annexure A35:	Copy of the Notification dated 28.11.2019
Annexure A36:	Copy of the Railway Board's Order dated 10.12.2019
Annexure A37:	Copy of the Railway Board's Order dated 24.03.2015
Annexure A38	Copy of the reply under RTI dated 21.02.2019, 05.02.2019, 16.01.2019, 19.03.2019, 01.03.2019, 20.02.2019
Annexure A39	Copy of the Employment Notice dated 12.09.2013

Annexures referred to by the respondents in OA

Annexure R1:	Copy of the letter dated 29.10.2012
Annexure R2:	Copy of the Chief Medical Director letter dated 05.04.2013
Annexure R3:	Copy of the Notification No.1(42)2011/Railway/FSSAI date4d 19.06.2013

- Annexure R4: Copy of the Notification dated 24.08.2015
Annexure R5: Copy of the Railway Board letter dated 24.03.2015
Annexure R6: Copy of the letter dated 06.04.2015
Annexure R7: Copy of the letter dated 18.05.2018
Annexure R8: Copy of the Letter of applicant dated 04.09.2018
Annexure R9: Copy of the Letter dated 18.03.2019
Annexure R10: Copy of the letter dated 01.08.2019
Annexure R11: Copy of the Railway Board letter dated 13.08.2019
Annexure R12: Copy of the letter dated 22.08.2019
Annexure R13: Copy of the letter dated 29.09.2017
Annexure R14: Copy of the FSSAI Gazette Notification 2.1.3
Annexure R15: Copy of the letter dated 18.03.2019
Annexure R16: Copy of the letter of applicant dated 07.06.2018
Annexure R17: Copy of the letter of Mohmmed Rafi dated 01.09.2016

Annexures in Memo for production of documents referred to by the Applicant

- Annexure M-01 Copy of the notification dated 28.11.2019
Annexure M-02 Copy of the letter dated 10.12.2019
Annexure M-03 Copy of the representation dated 16.12.2019

Annexures in MA 15/2020 referred to by the Applicant

- Annexure M-01 Copy of the Interim Order dated 24.09.2019
Annexure M-02 Copy of the compliance order of IO
Annexure M-03 Copy of the Railway Boards letter dated 06.01.2020
Annexure M-04 Copy of the Notification dated 28.11.2019
Annexure M-05 Copy of the Railway Board's letter dated 10.12.2019
Annexure M-06 Copy of the representation dated 16.12.2019
Annexure M-07 Copy of the representation dated 22.12.2019
Annexure M-08 Copy of the penalty order dated 10.12.2018

Annexures in referred to by the Applicant in Memo

- Annexure M-01 Copy of the letter dated 14.01.2020
Annexure M-02 Copy of the letter dated 14.01.2020