

CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE BENCH

Second Floor,
Commercial Complex,
Indiranagar,
Bangalore-560038.

Dated: **13 OCT 1993**

APPLICATION NO(S) **630 of 1993.**

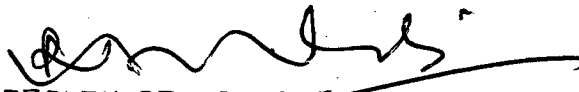
APPLICANTS: **D.B.Mariswamy** v/s. RESPONDENTS: **Chairman, Railway Board,**
M/o. Railways, New Delhi and Others.

TO.

1. **Sri.K.V.Shamanna,**
Advocate, No.1465,
14th Main Road,
West of Chord Road,
Mahalakshmipuram,
Bangalore-86.
2. **The Chief Personnel Officer,**
Southern Railways,
Headquarters Personnel Branch,
Madras-600 003.
3. **Sri.A.N.Venugopala Goeda,**
Advocate, No.8/2, Upstairs,
Opp: Bangalore Hospital,
R.V.Road, Bangalore-4.

Subject:- Forwarding of copies of the Order passed by
the Central Administrative Tribunal, Bangalore.

Please find enclosed herewith a copy of the
ORDER/STAY/INTERIM ORDER, passed by this Tribunal in the
above said application(s) on 04-10-93.


DEPUTY REGISTRAR
JUDICIAL BRANCHES.

gm*

Served
gm

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BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE BENCH : BANGALORE

DATED THIS THE FOURTH DAY OF OCTOBER 1993

Present:

Hon'ble Mr. Justice P.K. Shyamsundar ... Vice-Chairman

Hon'ble Mr. V. Ramakrishnan ... Member [A]

APPLICATION NO.630/93

D.B. Mariswamy,
S/o late Shri Byraiah,
Aged about 56 years,
Assistant Engineer/Construction,
Southern Railway,
Mysore, residing at No.VRC/1,
Vontikoppal Railway Colony,
Yadavgiri, Mysore-20.

... Applicant

[Shri K.V. Shamanna ... Advocate]

v.

1. Union of India represented
by the Chairman,
Railway Board,
New Delhi.
2. The General Manager,
Southern Railway,
Park Town,
Madras-600003.
3. The Chief Personnel Officer,
Southern Railway,
Park Town, Madras-600 003.
4. The Chief Engineer,
Southern Railway,
Park Town, Madras-600 003.

... Respondents

[Shri A.N. Venugopal ... Advocate]

This application having come up for hearing before this
Tribunal today, Hon'ble Vice-Chairman, made the following:

ORDER

1. We have heard Shri K.V. Shamanna for the applicant and the
learned Standing Counsel for the respondents Shri A.N.Venugopal.
We admit this application and proceed to dispose off it on its
merit now that we have heard both sides and perused the records.

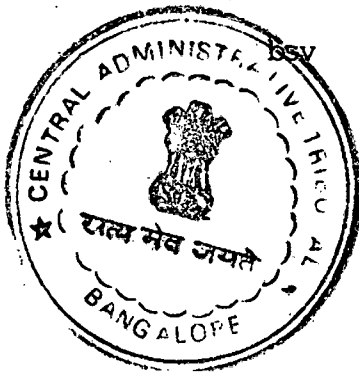


2. The grievance of the applicant is that he should have been promoted to the higher post of Group B just as in the case of one Krishnamurthy who had the benefit of that promotion. We are now told that the case of the applicant for promotion was not considered when the DPC met in the month of March, 1992 because by then a decision had been taken by the administration to institute departmental enquiry on very serious charges that would ultimately lead to the dismissal from service. It is in this background that we are told that the DPC passed up the case of the applicant and went on to ascertain the claims of the others. Today we have perused the records produced by the General Manager, Vigilance Branch, Madras, and we find that as early as on 29.1.92 the D.A. had taken a decision to issue charge-sheet for major penalty. We find that the directive covered the applicant and one Shri V. Krishnamurthy, who it appears has been subsequently charge-sheeted and that is according to the information supplied to us by Shri Venugopal, counsel for the Railways. Under the circumstances, having regard to the decision of the Supreme Court in the case of UNION OF INDIA V. KEWAL KUMAR [1993]24 ATC 770 the decision of the DPC passing on of the applicant's claim for promotion cannot be challenged. Of course, there is this anomaly, of the other gentlemen Shri V. Krishnamurthy having been rewarded with promotion when he was also under a cloud but that is a different aspect. We are now told that V. Krishnamurthy is also under investigation for a major indictment by the Department. Subject to the outcome of the enquiry, the fate of Shri V. Krishnamurthy will have to be decided. We are told that V. Krishnamurthy's promotion came into offing much earlier to the applicant and that is how Shri V. Krishnamurthy at the moment enjoys a superior position. In that view of the matter, the applicant's grievance


that Shri V. Krishnamurthy having been a partner in crime having had the benefit of promotion does not merit scrutiny. Therefore, we find no substance in this application. The applicant's counsel tells us that there has been a total status quo so far as the applicant is concerned in that he has neither been promoted nor prosecuted by the Department. We direct the Department to proceed and conclude the enquiry as soon as possible subject, however, to the applicant cooperating with the Department. Shri Shamanna says that the sealed cover proceedings is not in vogue in Railways Shri Venugopal submits that the same is ^{is} being followed strictly in the Railways also. If that is so we say nothing more on that aspect of the matter.

Sd-
MEMBER [A]

Sd-
VICE-CHAIRMAN



TRUE COPY


SECTION OFFICER
CENTRAL ADMINISTRATIVE TRIBUNAL
ADDITIONAL BENCH
BANGALORE
13/11/83