

CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE BENCH

ORIGINAL APPLICATION NO. 170/00049-00080/2016

DATED THIS THE 07TH DAY OF SEPTEMBER, 2017

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

HON'BLE SHRI PRASANNA KUMAR PRADHAN, MEMBER (A)

1. T.Danappa,
S/o T.Veerabasappa,
working as Sr. SO(A) from 28.08.1996,
O/o the FA&CAO/CN/O/BNC,
South Western Railway,
(Appendix IIIA-1995 Batch), Retired,
Aged about 60 years,
Residing at No.560, Anugraha,
Visvesvaraya Layout Division-2,
Near Santhe Beedhi,
Hesaraghatta Main Road,
Chikkabanavara, Bangalore – 90.

2. Jayanthi Murthy,
D/o Late. V. Subramaniam,
Working as Sr. SO(A) from 18.09.1992,
O/o the FA&CAO/CN/O/BNC,
South Western Railway,
(Appendix IIIA-1989 Batch), Retired,
Aged about 60 years,
residing at K1, Kailash Apts,
8th Main, 11th Cross
Malleswaram - 560003.

3. Nagamani Surath,
D/o S.Bhaskar Rao,
Worked as Sr.SO(A)/TA/SBC from 20.10.2003,
in the O/o Sr.AFA/T/SBC,
South Western Railway,
(Appendix IIIA – 1993 Batch), Retired,
Aged about 61 years,

residing at D.No.31, 3rd Block,
Behind Venugopalaswamy Temple,
Dodda Bommasandra,
Vidyaranyapura Post,
Bangalore – 560097.

4. P.Satyanarayana,
S/o Late.P.Narayana Murthy,
Working as Sr.SO(A) from 30.06.1997,
in O/o the FA&CAO/CN/O/BNC,
South Western Railway,
(Appendix IIIA-1992 Batch),
Retired, aged about 64 years,
residing at Door No.21-3-12,
Opp. SRMT Main Road, Kakinada,
AP State, Pin-533001.

5. M.J.S.Abraham,
S/o T.T.Abraham,
Working as Sr.SO(A) from 30.10.2003,
O/o of the Sr.DFM/SBC,
South Western Railway,
(Appendix IIIA – 1994 Batch),
aged about 59 years,
residing at No.26, Bhauani Nagar,
Railway Layout, I Cross, I Main,
Ullal Main Road, Mallathalli,
Bangalore – 560056.

6. Elizabeth George,
D/o P.V.Churian,
Working as SO(A) from 20.10.1987,
in the O/o Sr.AFA/T/SBC,
South Western Railway,
(Appendix IIIA – 1985 Batch),
aged about 54 years,
residing at No.17, Near Sunrise School,
Hebbal Kempapura,
Bangalore – 560024.

7. Lily Vijay,

W/o Vijaya Kumar,
Working as Sr.SO(A) from 04.01.1991,
O/o of the Sr.DFM/O/SBC,
South Western Railway,
(Appendix IIIA – 1988 Batch),
aged about 59 years,
residing at 115, 1st Cross,
18th Main, 6th Block, Koramangala,
Bangalore – 95.

8. V. Krishna Kumar,
S/o K. Vasu,
Working as Sr.SO(A) from 27.11.1997,
O/o the Sr.DFM/O/SBC, South Western Railway,
(Appendix IIIA – 1992 Batch),
Aged about 59 years,
Residing at 46-A, Railway Quarters,
Benson Town (Post),
Bangalore Cantonment,
Bangalore – 560 046.

9. A.J. Joam,
S/o A.C. Joseph,
Working as Sr.SO(A) from 21.10.2003,
O/o the Sr.AFA/T/SBC, South Western Railway,
(Appendix IIIA – 1994 Batch),
Aged about 50 years,
Residing at 138, 2nd Main,
A.G's Colony, Bangalore – 560 024.

10. Laiju C. Mathew,
S/o C.E. Mathew,
Working as Sr.SO(A) from 31.05.2002,
O/o the Sr.DFM/O/SBC, South Western Railway,
(Appendix IIIA – 1999 Batch),
Aged about 44 years,
Residing at Railway Quarters No. 181/D,
New Railway Colony,
Opp to MEI, Yeshwanthpur,
Bangalore – 22.

11. Usha Murthy,
D/o K.S. Murthy,
Working as Sr.SO(A) from 31.10.2003,
O/o the Sr.DFM/O/SBC, South Western Railway,
(Appendix IIIA – 1994 Batch),
Aged about 49 years,
Residing at MF8, Flat 6, BDA Flats,
BTM Layout, Bannerghatta Road,
Bangalore – 560 076.

12. P. Somashekara,
S/o Late Puttalingappa,
Working as Sr.SO(A) from 30.10.2003,
O/o the Sr.DFM/O/SBC, South Western Railway,
(Appendix IIIA – 1994 Batch),
Aged about 57 years,
Residing at No. 6, 16th Cross 1st Main,
Near LIC Colony, BK Nagar,
Yeswanthpur, Bangalore – 560 022.

13. M. Ravi,
S/o A. Muniswamy,
Working as Sr.SO(A) from 31.01.2005,
O/o the Sr.AFA/T/SBC, South Western Railway,
(Appendix IIIA – 1999 Batch),
Aged about 49 years,
Residing at No.492, 4th Main Road,
Milk Colony, Malleshwaram West,
Bangalore – 560 055.

14. Lalitha M.K.,
D/o Late Kuppuswamy M,
Working as Sr.SO(A) from 03.12.2004,
O/o the FA&CAO's/O/CN/BNC, South Western Railway,
(Appendix IIIA – 1995 Batch),
Aged about 49 years,
Residing at 1572, 9th Cross,
Kumaraswamy Layout,
Bangalore – 560 078.

15. D. Krishna Urs,

S/o S. Devaraje Urs,
Working as Sr.SO(A) from 31.10.1989,
O/o the Sr.DFM/O/SBC, South Western Railway,
(Appendix IIIA – 1986 Batch),
Aged about 59 years,
Residing at H.003,
HM Tambourine, Kanakapura Road,
Bangalore – 560 078.

16. Prabhu Das V.
S/o Late U. Kotiah,
Working as S.SO(A) from 01.01.1994,
O/o Sr.DFM/O/SBC, South Western Railway,
(Appendix IIIA – 1992), aged about 58 years,
Residing at 164/D, TYPE III,
Opposite Cantonment Railway Station,
Vasanth Nagar, Bangalore – 560 052.

17. K. Vijayakumar,
S/o K T Kamalakannan,
Working as Sr.SO(A) from 27.02.1992,
O/o the Sr.DFM/O/MYS, South Western Railway,
(Appendix IIIA – 1988 Batch),
Aged about 57 years,
Residing at Door No. 2776/1, N.S. Road,
Chamundipuram, Mysore – 570 004.

18. H.G. Ramesh,
S/o H.S. Gundappa,
Working as Sr.SO(A) from 26.09.1991,
O/o the Sr.DFM/O/MYS, South Western Railway,
(Appendix IIIA – 1988 Batch),
Aged about 53 years,
Residing at No.8, 13th Block,
BEML Nagar, Srirampura II Stage, Mysore – 570 023.

19. Kamalaksha,
S/o T.V. Pursushothama,
Working as Sr.SO(A) from 15.03.1991,
O/o the O/O DY. CE/CN/HAS, South Western Railway,
(Appendix IIIA – 1988 Batch),

Aged about 58 years,
Residing at Lakshminarayana Nilaya, Door No. 323,
4th Cross, Jayanagar 2nd Stage,
Hassan – 573 201.

20. C.M. Chengappa,
S/o Late C.S. Monnappa,
Working as Sr.ISA from 26.09.1991,
O/o the Sr.AFA/W&S/MYS, South Western Railway,
(Appendix IIIA – 1989 Batch),
Aged about 53 years,
Residing at No. 14, 7th Block,
Shakti Nagar, Mysore, Karnataka – 570 029.

21. C.D. Sreenath,
S/o K.P. Das,
Working as Sr.SO(A) from 04.11.2003,
O/o the Sr.AFA/W&S/MYS, South Western Railway,
(Appendix IIIA – 1994 Batch),
Aged about 49 years,
Residing at No. 2984, 23rd Cross,
24th Main, Vijayanagar 2nd Stage,
Mysore – 570 017.

22. P.S. Krishnamani,
D/o Seetharama Rao,
Working as Sr.SO(A) from 27.03.1997,
O/o the Sr.AFA/W&S/MYS, South Western Railway,
(Appendix IIIA – 1991 Batch), aged about 58 years,
Residing at No. 315, 1st Main, 2nd Cross,
New Kantharaj Urs Road,
Niveditha Nagar, Mysore.

23. R. Raghu,
S/o Late Rangaswamy,
Working as Sr.SO(A) from 03.12.2004,
In the o/o Sr.DFM/MYS, South Western Railway,
(Appendix IIIA – 1995 Batch),
Aged about 44 years,
Residing at No. 80,
Sree Siddhi Vivekananda Block,

Radhakrishna Nagar,
Mysore – 570 029.

24. D. Venugopal,
S/o. A.D. Damodaram,
Worked as Sr.SO(A) from 28.04.1988,
O/o the FA&CAO/UBL,
South Western Railway,
Retired as AFA on 31.07.2015,
(Appendix IIIA – 1984 Batch),
Aged about 60 years,
Residing at Flat #2, II Floor,
'D' Block, Ramdatt Apartments,
Keshwapur, Hubli – 580 023.

25. V.R. Pandurangi,
S/o R.H. Pandurangi,
Worked as Sr.SO(A) from 28.04.1988,
O/o the FA&CAO/UBL, South Western Railway,
Retired on 31.10.2013, (Appendix IIIA – 1984 Batch),
Aged about 62 years,
Residing at Plot No. 30-A-1, Laxmi Nivas,
Raghavendra Colony, Bengeri Extension,
Shanti Nagar, Sulla Road, Hubli,
Karnataka – 580 023.

26. V. Jagannath,
S/o Venkataram,
Worked as Sr.SO (A) from 19.12.1988,
O/o the Sr.DFM/O/UBL, South Western Railway,
Retired, (Appendix IIIA – 1984 Batch),
Aged about 59 years,
Residing at No. 101, Parameshwari Apartments,
Raghavendra Colony, Bengeri,
Hubli, Karnataka – 580 023.

27. V.P. Divate,
S/o PM Divate,
Worked as Sr.SO(A) from 10.04.1989 to 30.09.2013,
O/o the Sr.AFA/W&S/UBL, South Western Railway,
Retired, (Appendix IIIA – 1985 Batch),
Aged about 63 years,
Residing at 'Indra Dhanu',
H.No. 16, Linraj Nagar (North),
Near Samudaya Bhavan, Hubli – 31.

28. D. Samuel,

S/o D.P. Joseph,
Working as Sr.SO(A) from 30.07.1993,
O/o the Sr.DFM/O/UBL, South Western Railway,
(Appendix IIIA – 1987 Batch),
Aged about 54 years,
Residing at Plot No. 62, Karunya Colony,
Mother Teresa Road, Hubli – 20.

29. M.S. Veerabhadrappe,
S/o M.V. Shivashimpar,
Working as Sr.SO(A) from 28.10.1994,
O/o the Dy.FA&CAO/Constn/UBL, South Western Railway,
(Appendix IIIA – 1989 Batch),
Aged about 58 years,
Residing at H. No. 185, 5th Main,
Morarji Nagar Gokul Road,
Hubli – 580 030.

30. A.N. Parameswarappa,
S/o A.M. Narappa,
Worked as Sr.ISA from 01.12.2008 to 31.10.2013,
O/o the Sr.AFA/S/O/UBL, South Western Railway,
Retired (Appendix IIIA – 2008 Batch),
Aged about 62 years,
Residing at No. 20, Basava Nagar,
Heggeri Extension, Hubli – 580 024.

31. Michael Rebello,
S/o Late T.X. Rebello,
Working as Sr.SO (A) from 31.12.1999,
O/o Sr.DFM/O/UBL, South Western Railway,
(Appendix IIIA – 1995 Batch),
Aged about 46 years,
Residing at No. 37, Jauz Layout,
Bengeri Extension, Hubli – 580 023.

32. Bandi Murali Krishna,
S/o late Shri Veera Raghavulu,
Working as Sr. ISA from 18.02.1999,
O/o Sr. AFA/S/UBL, South Western Railway,
(Appendix IIIA – 1995 Batch),
Aged about 51 years,
Residing at 116, I Phase,
Akshay Colony, Hubli – 580 030.

... Applicants

(By Advocate Ms. S. Kala)

Vs.

1. The Union of India
Rep. by The Chairman
Railway Board,
Rail Bhavan, New Delhi – 110 001.

2. The General Manager,
South Western Railway,
Old GM Office Building, Club Road,
Keshwapur, Hubli – 580 023.

3. The Financial Adviser and
Chief Accounts Officer
South Western Railway,
Old GM Office Building, Club Road,
Keshwapur, Hubli – 580 023.

...Respondents

(By Shri J. Bhaskar Reddy, Railway Standing Counsel)

ORDER (ORAL)

DR. K.B. SURESH, MEMBER (J):

Heard. This appears to be a matter covered by so many judgments of this Tribunal, the Hon'ble High Courts and even the Hon'ble Apex Court. We have disposed off the OA No. 170/00866-00873/2015 vide order dated 08.06.2016 in which we had acknowledged that the Hon'ble High Court in Writ Petition No. 2531-75/2016 having been upheld in similar cases the matter had gone up to the Hon'ble Apex Court and the Hon'ble Apex Court having dismissed the SLP, the matter had become final.

2. It is submitted at the bar by the learned counsel that there was a review against this order of the Hon'ble Apex Court which was also dismissed in Review Petition (C) Nos. 1325-1330/2015 in SLP (C) No. 30919-30924/2014. That being so, the matter may not arise for further consideration at all.

3. At this point of time apparently vide Annexure-VII O.O NO. G. 179 /HQA / Admn /14 /2015 dated 06.11.2015 for similarly situated persons apparently that had been implemented by the Railways.

4. Shri J. Bhaskar Reddy, learned counsel for the respondents, raises a doubt whether the situation is similar in the earlier case and this case. He would say that earlier case related to persons who had passed the departmental examination. Ms. S. Kala, the learned counsel for the applicant, confirms that this is also a case in which the applicants have passed the departmental examination and therefore have become eligible and therefore there is no distinction between the earlier set of applicants and this set of applicants as all are equally situated and hence under the protection of Constitutional process.

5. The learned counsel for the respondents further submits that in another matter the matter had been taken up to the Hon'ble Apex Court but then no orders are seen passed in the SLP. We must note with some regret the continued litigational tactics of some government department after the Hon'ble Apex Court had finally settled the matter, under one guise or other through filing of one more SLP against the order of another Hon'ble High Court though it is on same issue. There is no way for the Hon'ble Apex Court to consider whether it has been hit by another order of the Hon'ble Apex Court itself unless the government and its department are honest enough to admit that on a similar matter the Hon'ble Apex Court had determined an SLP but as of now there is no way for the Hon'ble Apex Court to distinguish this. This defeats the

purpose of justice delivery system. **Therefore we consider it appropriate that Cabinet Secretary should issue a direction to all government departments that in future whenever an order from one Hon'ble High Court had gone to the Hon'ble Apex Court and attained finality if it is to be challenged on any other similar issues then the Hon'ble Apex Court shall be informed of the earlier decision as not doing it would be subjugating the Hon'ble Apex Court to unnecessary prejudice.** Therefore the Cabinet Secretary is hereby directed to issue an order to all the departments to ensure this. The Registry shall also forward a copy of this order to Registrar General of all the Hon'ble High Courts of India and the Secretary General of the Hon'ble Apex Court so that they are also aware of the issue.

6. While holding that if the Hon'ble Apex Court passes an order against the earlier order of the Hon'ble Apex Court then that will rule the field but till then the earlier Hon'ble Apex Court judgment will reign supreme and therefore these OA's are allowed. The benefits which had been granted to others shall be pari materia extended to the applicants also within three months next.

7. The OA is allowed to this extent. No order as to costs.

(PRASANNA KUMAR PRADHAN)
SURESH)

(DR. K.B.

MEMBER (A)

MEMBER (J)

/ksk/

Annexures referred to by the applicants in OA No. 170/00049-00080/2016

Annexure-I: Copy of RBE No. 101/2009 dated 10.06.2009 regarding recommendations of Sixth Central Pay Commission – MACPS for Railway Employees issued by Railway Board.

Annexure-II: Copy of recommendations of Sixth Central Pay Commission – MACPS issued by Deputy Director, Pay Commission –V, Railway Board.

Annexure-III: Copy of representation of applicant No.1 dated 21.04.2014 addressed to the Financial Advisor & Chief Accounts Officer, South Western Railway, Hubli.

Annexure-IV: Copy of order in OA No. 1075/2010 passed by the Central Administrative Tribunal, Madras Bench; Copy of order in Writ Petition Nos. 1078, 10046-10049, 18262/2012 dated 03.04.2014 passed by the Hon'ble High Court of Madras; Copy of order in SLP (Civil) (CC) Nos. 17241-17246/2014 dated 07.01.2014 passed by the Hon'ble Supreme Court; Copy of order in Review Petition (C) Nos. 1325-1330/2015 dated 11.08.2015 passed by the Hon'ble Supreme Court.

Annexure-V: Copy of Railway Board's letter No. PC-V/2009/ACP/13/ICF dated 04.12.2014.

Annexure-VI: Copy of order passed by the Central Administrative Tribunal, Principal Bench in OA No. 2476/2015 dated 14.07.2015.

Annexure-VII: Copy of O.O.NO.G.179/HQA/Admn/14/2015 dated 06.11.2015 regarding extension of benefit of MACPS-Implementation of Hon'ble Court orders.

Annexure-VIII: Copy of report of the Seventh Central Pay Commission, November, 2015.

Annexures referred in the reply statement

Annexure-R1: Comparative statement regarding promotion earned by the applicants.
