

CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE BENCH, BANGALORE

ORIGINAL APPLICATION NO.170/00194/2017

DATED THIS THE 24TH DAY OF OCTOBER, 2017

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

HON'BLE SHRI P.K. PRADHAN, MEMBER(A)

Sri R. Krishnan,
S/o late Sri S. Ramanathan,
Aged about 54 years,
Deputy Financial Advisor
& Chief Accounts Officer (Constructions),
South Western Railway,
No.18, Millers Road, Benson Town,
Bengaluru-560 046.

...Applicant

(By Advocate Shri P.A. Kulkarni)

V/s

1.Railway Board,
Rail Bhavan,
New Delhi-110 001
By its Secretary.

2.General Manager,
South Western Railway,
Hubli-580 020,
For and on behalf of Union of India
And also as an authority of SWR
Hubballi.

3.Financial Advisor
& Chief Accounts Officer,
South Western Railway,
Gadag Road,
Hubballi-580 020.

...Respondents

(By Shri J. Bhaskar, Reddy, Sr. Central Government Counsel)

O R D E R (ORAL)

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

Heard. We had the Assistance of Deputy CPO Shri S.

Srinivasa Raghavan. We had posed to him legal situation. Apparently in the year 2015 DOP&T brought in new guidelines. Therefore, we had asked him as to what is the fate of the persons whose juncture to the issue was prior to 2015. He was gracious to answer that then it would be the former set of rules which will prevail and after 2015 it will be the new set of rules, because rules have only prospective effect.

2. Shri P.A. Kulkarni, learned counsel for the applicant would say that the matter is covered by an earlier ruling of this Tribunal in OA.No.727/2016 dated 20.1.2017, which is already implemented by the Railways.

3. Shri Srinivasa Raghavan submits that in fact a Review DPC is canvassed, but then, since several people are also involved, they had called for remarks from the Railway Board and till this day they have not replied.

4. Government of India has taken a policy decision that there should not be adventurous litigation. When the matter is covered by rulings which has already been implemented, then there should not be any more litigation pending on this respect. Since DOP&T has already passed the guidelines, it will not be open to the Railway Board to question this guidelines as a matter of parse, the Railways also will have to abide by their supremacy. That being so, the stand taken by the Railway Board seems to be inadequate.

5. We had requested Shri Bhaskar Reddy, learned counsel for the respondents to look into the matter and appraise whether the factual situation in the earlier case as mentioned above and this case are same and similar. Other than that local Railway has referred the matter for

opinion of the Railway Board, he was unable to say anything more. Therefore, we queried Shri Bhaskar Reddy once again as to whether the facts in the earlier case and this case are similar. He would say that they may be roughly same, but then he is not very sure whether the initiation of the proceedings in this case was after 2015 and that might be the only distinction between them. But then initiation of proceedings have no relevance, as the only relevant issue is only nexus in time at which the right of the applicant has arisen. If the applicant's right had arisen prior to 2015, then the old situation will prevail. If not, the new situation will prevail. Therefore the initiation of the proceedings which is within the ambit of the respondents cannot have a bearing on the origination of the right of the applicant, as it is totally independent of the whims and fancies of the respondents. That being so, we will remit the matter back to the respondents directing them to look into the factual aspect of this matter and if the right of the applicant has arisen, even if the proceedings thereto have been initiated later on, but before 2015, then they must be given parimateria benefits as stated in the earlier OA.

6. Therefore the OA is disposed of as above. We grant them 2 months time to comply with this order. No order as to costs.

(P.K. PRADHAN)
MEMBER(A)

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

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Annexures referred to by the applicant in OA No.170/00194/2017

Annexure A1: True copy of Railway Board's letter dated 26.12.2008.

Annexure A2: True copy of Railway Board order dated 30.10.2013.

Annexure A3: True copy of Railway Board order dated 28.4.2016.

Annexure A4: True copy of Railway Board Notification dated 19.6.2009.

Annexure A5: True copy of representation dated 2.6.2016.

Annexure A6: True copy of representation dated 22.9.2016.

Annexure A7: True copy of DOPT OM dated 9.10.1989.

Annexure A8: True copy of DOPT OM dated 25.6.2015.

Annexure A9: True copy of Railway Board orders dated 15.12.2015

Annexure A10: True copy of DOPT OM dated 28.3.2017.

Annexure A11: True copy of CAT, Bangalore orders dated 20.1.2017 in
OA. 170/727 /2016.

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