

CENTRAL ADMINISTRATIVE TRIBUNAL  
BANGALORE BENCH

ORIGINAL APPLICATION NO.170/00250 /2017

DATED THIS THE 10TH DAY OF OCTOBER, 2018

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

HON'BLE SHRI CV. SANKAR, MEMBER (A)

K.L.Micheal,  
S/o late.K.P.Loganathan,  
Aged about 64 years,  
Retired as CTI,  
No.34, Rangappa Garden,  
1st Cross, Ejipura Main Road,  
Vivekanagar Post,  
Bangalore -560 047

....Applicant

(By Advocate Shri SN.Sameer)

vs.

1.Union of India,  
Represented by Chairman,  
Southern Railway,  
Head Quarter office,  
Southern Railway,  
Park Town Post,  
Chennai # 600 003.

2.The Senior Divisional Commercial Manager,  
Commercial Branch,  
Southern Railway,  
Park Town Post,  
Chennai # 600 003.

3.The Senior Divisional Personnel Officer,  
Southern Railway,  
Park Town Post,  
Chennai # 600 003.

4.Director E(W & D&A)  
Railway Board,  
Government of India,  
Ministry of Railways

....Respondents

(By ShriN.Amaresh Railway Standing Counsel)

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

1. Heard. Apparently, the Railways in spite of the new tracks being laid are very slow. The changes in society has not reached up to the level of Railways even now. Charge against the applicant is that of bigamy. Apparently, he had married one Suguna and later on this Suguna eloped with somebody else and is not to be found for more than 7 years. So he presumed her to be dead and then he married one V.Dhana Mary in 1992. At the time of his retirement when he had asked for change of nominee this was brought to the notice of the Railway authorities who had issued show cause notice to him and he had given a reply. The stand now taken by the Railway seems to be that the applicant has not proven the fact that Suguna had eloped with somebody else and had not been seen for the last 7 years.

2. Even other wise also these are personal matters in which interference of the governing system should be to the minimum. In the olden Colonial days bigamy, adultery and all these issues were found to be against the integrity of a person. It is no longer so. After the Hon'ble Apex Court having laid down law relating to this, these are matters which are not of any concern right now.

3. Even other wise, if a person is not seen for more than 7 years, a presumption of death is available to the applicant. If the respondents had a doubt about it, the respondents ought to have asked him to clarify this point. As they have not done so then there is no responsibility on the part of the applicant to corroborate this any further because this acts as onus of proof. Onus like a pendulum will shift. When he had given a reply that Suguna had eloped with somebody else and had not been seen for more than 7 years, presumed to be dead. For onus to come back to him, it would have been challenged by the Railways by a specific in put which they have not done. Therefore, this ground is not available to the Railways. Therefore, enquiry on this point is against the law of the land and is hereby quashed. The consequences will be that the reduction in pension will not lie under law and the pension is now restored. It will be made available within one month next without interest. Thereafter, at the rate of 15 % interest .

3. OA is allowed. No order as to costs.

(CV. SANKAR)  
MEMBER (A)

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

Annexures referred to by the Applicant in OA.No.250/2017

Annexure A-1: Copy of letter dated 17.6.2013

Annexure A-2: Copy of explanation dated 24.6.2013

Annexure A-3: Copy of charge sheet

Annexure A-4: Copy of representation dated 8.7.2013.

Annexure A-5: Copy of representation dated 23.7.2013

Annexure A-6: Copy of representation dated 30.9.2013

Annexure A-7: Copy of SDPO letter dated 8.11.2013

Annexure A-8: Copy of order dated 24.2.2015 in OA.631/2014

Annexure A-9: Copy of witness Sampath dated 25.2.2014

Annexure A-10: Copy of report of IO

Annexure A-11: Copy of letter dated 6.8.2014

Annexure A-12: Copy of submission dated 20.8.2014

Annexure A-13: Copy of Advice of UPSC dated 4.2.2016

Annexure A-14: Copy of impugned order dated 30.5.2016

Annexures referred in rejoinder

Annexure A-15: Copy of PF nomination dated 29.7.1987

Annexure A-16: Copy of PF nomination dated 29.7.1987

Annexure A-17: Copy of PF nomination dated 29.7.1987

Annexure A-18: Copy of family composition of applicant

Annexure A-19: Copy of RTI application and information

Annexure A-20: Copy of RTI application and information

Annexure A-21: Copy of patients follow up card

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