

CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE BENCH

ORIGINAL APPLICATION No. 170/00383/2016

DATED THIS THE 14TH DAY OF JUNE, 2017

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

M.V. Subhash,
S/o M.N. Venkatesh,
Aged about 64 years,
Was working as C.A. to
Chief Medical Superintendent,
Railway Hospital, Mysore.
R/at No.2/3/2, 1st Stage, 1st Floor,
Behind Chamundivana, V.V. Nagar,
Mysore – 570 008.Applicant

(By Advocate Shri M.R. Achar)

Vs.

1. The General Manager,
South Western Railway,
Hubli Zone, Hubli – 580022.
2. Senior Divisional Personal Officer,
South Western Railway,
Mysore Division, Mysore – 570001.Respondents

(By Shri N. Amaresh, Railway Standing Counsel)

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

Heard. The applicant had undergone a competitive examination in 1996 and failed for want of one mark. Thereafter he approached the Tribunal and got an order for reconsideration. When it was not effective, he filed OA No.

765/2002 which was disposed of on 01.05.2003. The matrix of the order is herewith stipulated to find out the continuance of chronology of events:

"SHRI S.K. HAJRA, MEMBER (A) :

The applicant filed this OA seeking the following relief:

- i. *ISSUE A WRIT OF MANDAMUS OR DIRECTION DIRECTING THE Respondents to consider the claim of the Applicant in the light of the Circular No. 230/86 Annexure-A2 and further to promote the applicant retrospectively from the date on which his juniors have been promoted;*
- ii. *ISSUE AN ORDER OR DIRECTION DIRECTING THE Respondents to release all the consequential benefits along with the payment of arrears along with the bank rate of interest for the delayed payment to meet the ends of justice.*
- iii. *GRANT SUCH OTHER reliefs as this Hon'ble Tribunal deems fit to grant as the situation of the case demands in the interest of justice.*

The learned counsel for the applicant argued as follows:

The applicant who is working as a Stenographer in Divisional Office, Transportation Branch, Southern Railway, Mysore is eligible for promotion to the post of Senior Stenographer. The post of Senior Stenographer is non selection post. That being so the applicant could have been promoted from the date of occurrence of vacancy in 1995.

The learned counsel for the respondents argued as follows:

The applicant was called for a speed test on 25.07.1995 at which he had appeared. As per Annexure-R2 the post of Senior Stenographer is a non selection post but the passing of prescribed speed test is mandatory. There are 2 vacancies at present one of which is of general category post and the other is reserved for reserved category. The respondents are ready to conduct the test early.

We perused the order of the Tribunal in O.A. No. 354/96 dated 29.10.1997 filed by the applicant. In terms of the aforesaid order the respondents are directed to conduct the test for promotion to the post of Senior Stenographer within a period of 2 months from the date of receipt of copy of this order. It is open to

the applicant to appear at the test. If he qualifies in the test he will be considered for promotion in accordance with the law.

With these observations the O.A. is disposed of. No costs."

2. Thereafter on 12.06.2003 the applicant was promoted. Now in 2015 the applicant claims that his promotion given in 2003 must be antedated from 1996 when he had failed for want of one mark. We had asked the applicant whether he had produced the earlier order which directed that there will be a re-examination in 1996 so that we could have examined the reason why the Tribunal held the reason behind a re-examination but the learned counsel for the applicant says that he has only a blurred copy with him which is not readable. Whatever that may be for whatever reason the Tribunal had allowed it the fact remains that there is no way to bridge the gap between 2003 and 2015 as, if the cause of action is not agitated within the 2 years period, the Tribunal loses its jurisdiction. Therefore on the ground of delay alone the Original Application will not lie. OA is dismissed. No order as to costs.

(P. K. PRADHAN)
MEMBER (A)

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

/ksk/