

CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE BENCH

ORIGINAL APPLICATION NO.170/00467-470/2018

DATED THIS THE 21st DAY OF AUGUST, 2018

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

HON'BLE SHRI CV.SANKAR MEMBER (A)

1.Usha KR,
Aged about 44 years
D/o K.Ramachandra
Bahersrimaruthi,
Working as Assistant
Superintendent of Post Offices,
(HQ) O/o Superintendent of Post Offices,
Shimoga Postal Division,
Shimoga 577202.
Residing at:
Opposite to City Cooperative Bank,
Kote Road, Shimoga 577202.

....Applicants

2.HS.Nagashayana,
Aged about 46 years
S/o HC.Sheshadri,
Working as Assistant Manager,
CEPT, Mysore 570010,
Residing at: No.806, 26th Cross,
2nd Main, Vidyaranyaपुरa,
Mysore 570025.

3.Manjunatha Rao K,
Aged about 46 years
S/o Srinivasa Rao,
Postal Training Center,
Mysore 570010,

4.BM.Shankarappa,
Aged about 52 years
S/o Late Murulappa,
Working as Assistant
Superintendent of Post Offices,
Chitradurga Postal Division,
Chitradurga 577 501.
Residing at:

Suhas Nilaya,
Yenkagondanahalli Layout
Extension,
Arsikere 573 103.

....Applicants

(By Shri P.Kamalesan... Advocate)

Vs.

1. The Union of India,
Represented by the Secretary,
Department of Posts,
Dak Bhavan, New Delhi – 110001.

2. Chief Post Master General,
Karnataka Circle,
Bangalore 560 001

3. Govindaraju N
S/o Late M.Nagappa,
Aged about 48 years
Assistant Superintendent Posts,
O/o the Senior Superintendent Posts
Kolar Division, Kolar 563 101.

4. HM. Manjesh, S/o Late Madanayaka,
Aged about 38 years
Assistant Superintendent Posts,
Bengaluru city Railway Mail Service,
Bengaluru - 560 023.

...Respondents.

(By Shri Vishnu Bhat... Sr.Panel Counsel for R1 & R2)
(By Shri NG.Phadke... Counsel for R3 & R4)

ORDER (ORAL)

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

1. An application is filed for amending or modifying the interim order. Applicants totally are 4 in numbers. It is submitted by Shri NG.Phadke that they are holding up the promotion of more than a 100 persons. Shri P.Kamalesan counters it by saying that it is not the question of the right of these people to be promoted than the issue but

the right of Scheduled Caste and Scheduled Tribe to override all others by a special phenomena as Nagraj's case is being reviewed by the Hon'ble Apex Court. But then the Hon'ble Apex Court in several other cases also held that if the vested rights has arisen then it will not be appropriate for a governance system to withhold it or delay it unduly. Therefore, the interim order will be modified to the extent that 4 posts will be now kept vacant for the consideration of the applicants. The other posts may be filled up but subject to the result of the case now being heard in the Hon'ble Apex Court. All these newly promoted persons will be informed that on Hon'ble Supreme Court passing an order and if it goes against the cause advanced by them, they will be summarily reverted. On this condition only they will be promoted and there will not be any further challenge to it defeating the rights of others, if the Hon'ble Apex Court holds otherwise. With this the interim order is being modified.

2. But, then we now find that there is no scope for continuation of the OA. But then, there are some slight differences. Under the statutes of the Tribunal, there cannot be accumulation of jurisdictions. Each jurisdiction is separate and distinct. Therefore, we will reserve the liberty to the applicants to agitate, separate matters other than reservation in another OA. But then we dispose of this OA right now with the observation that the benefit or not will depend on the ruling to be entered into by the Hon'ble Apex Court in the case now being heard by the Constitution Bench. But we will reserve liberty to the applicants to move a fresh OA on other items as we have not

touched any other item other than reservation in this case. This OA is, therefore, disposed off with a rider that 4 posts may be kept vacant. They can now fill up more than a 100 posts allegedly lying vacant. No order as to costs.

(CV.SANKAR)
MEMBER (A)

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

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Annexures referred to by the applicant in OA No.467 to 470 / 2018

Annexure A1: Copy of Recruitment Rules for Gp.B

Annexure A2:Copy of Notification dated 7.10.2016

Annexure A3:Copy of Hon. High Court of Hyderabad order dated 5.12.2016

Annexure A4:Copy of letter dated 2.2.2017

Annexure A5:Copy of letter dated 10.4.2018

Annexures referred in the reply

Annexure R1: Copy of Notification dated 10.11.2015

Annexure R2:Copy of Notification dated 9.6.2016

Annexure R3:Copy of Notification dated 9.12.2016

Annexure R4:Copy of Notification dated 7.9.2017

Annexure R5:Copy of OM. Dated 19.1.2007

Annexure R6:Copy of order dated 9.8.2017

Annexure R7:Copy of letter dated 11.4.2018

Annexures referred in the rejoinder

Annexure R1: Copy of Hon. Apex Court order dated 10.2.1995

Annexure R2:Copy of Hon. Apex Court order dated 18.12.1998

Annexure R3:Copy of Hon. Apex Court order dated 16.11.2016

Annexure R4:Copy of Hon. Apex Court order dated 19.10.2006

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