

CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE BENCH

ORIGINAL APPLICATION NO.170/00575/2018

DATED THIS THE 21st DAY OF AUGUST, 2018

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

HON'BLE SHRI CV.SANKAR MEMBER (A)

S.Shailesh Kumar,
S/o Late JS.Keerthy,
Aged about 51 years
Working as Postmaster,
Grade III, Hampankatta PO.,
Mangaluru 575 001.
R/at: 2041/1_A,
Vijayanagara Road,
Karmar, Padil PO,
Mangaluru 575 007

....Applicant

(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 Divison, Kolar 563 101.

4.HM.Manjasha,
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. It is submitted by Shri NG.Phadke that the applicants 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 one post will be now kept vacant for the consideration of the applicant. 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 applicant 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 one post 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.575 /2018

Annexure A1: Copy of Notification dated 9.9.2010

Annexure A2:Copy of letter dated 22.11.2010

Annexure A3:Copy of letter dated 7.3.2018

Annexure A4:Copy of representation of applicant dated 29.8.2018 & .
2.4.2018

Annexure A5:Copy of representation of applicant dated 16.12.2016 &
14.10.2017

Annexure A6:Copy of letter dated 10.4.2018

Annexure A7:Copy of letter dated 27.4.2018

Annexure A8:Copy of OM dated 10.4.1989 & 27.3.1997

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