

CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE BENCH, BANGALORE

ORIGINAL APPLICATION NO.170/00765/2017

DATED THIS THE 19TH DAY OF MARCH 2019

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

HON'BLE SHRI CV.SANKAR MEMBER (A)

K.Murugan,
S/o Kariberan,
Aged about 39 years,
Working as
Technician Grade-I, AC/CWS/AP
South Western Railway,
Mysuru South 570 008.
Residing at No.253,
12th Cross, 'A' Block,
Mahadevapura,
Mysuru-570 031

... Applicant

(By Shri AR.Holla..... Advocate)

vs.

1.Union of India,
By General Manager,
South Western Railway,
Gadag Road, Hubli: 580 020

2.The Chief Workshop Manager,
South Western Railway,
Central Workshops
Mysuru South 570 008.

3.The Workshop Personnel Officer,
South Western Railway,
Central Workshops
Mysuru South 570 008.

4.Sri GL.Rajasekara,
Technician Grade-II, WHL,
Now promoted as Junior Engineer,
South Central Railway,
Central Workshop
Mysuru South 570 008.

5.Sri S.Ravishankara,
Technician Grade-I, BRS
Now promoted as Junior Engineer,
South Central Railway,
Central Workshop
Mysuru South 570 008.

6.Sri B.Shivakumara,
Technician Grade-II, MC
Now promoted as Junior Engineer,
South Central Railway,
Central Workshop
Mysuru South 570 008.

7.Sri C.Santhosh kumar,
Technician Grade-I, CL
Now promoted as Junior Engineer,
South Central Railway,
Central Workshop
Mysuru South 570 008.

...Respondents

(By Shri.N.Amaresh, Senior Panel Counsel for R-1 to 3)
(By Shri Izzhar Ahmed Counsel for R-4 to 6)
(By Shri Shivakumar, Counsel for R-7)

ORDER (ORAL)

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

1. We heard the matter in great detail. Applicant's case is that he should have got 2 more marks extra on the basis of a correct answer given which had been overlooked and on the basis of ACR the

respondents had not answered to this question. But would say that they are ready to reconsider the matter. Shri Shivakumar, learned counsel on behalf of his client R-7 would say that in 2013-2014 he had got an award and if the consideration was prior to 2016 then he would have got a benefit. Shri N.Amaresh would counter it by saying that the usual practice is that since between the notification and the written examination there is always a time gap, even though notification would have been issued on a particular date the effect is given from the date of the examination. All through and universally it is so. That means its consideration is from August. But then they say that consideration had been from March 2017 backwards as that is the date on which ACR has to be completed and so he would say that for practical purpose we should count back from March 2017-March 2014 and in that case the award obtained by Shri Shivakumar's client may not have any relevance. We think a reconsideration is required on this aspect also but only in future cases as over ruling can only be prospective. This we leave it to respondents' discretion to decide. Any how within the next 6 months. But, at the same time, since the respondents had not denied the award of 2 marks to the applicant, we will now afford them an opportunity to look into this aspect of the matter whether the applicant is eligible for 2 extra marks as shown above. If so, he will be

promoted. Since Shri N.Amaresh submits that one more vacancy may be available, applicant may also be accommodated in his rightful seniority position. But, otherwise they may have to revert somebody. The last selected candidate may have to go.

2. OA disposed off as above. 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.765/2017

Annexure A1: Copy of notification dt. 4.1.2017.

Annexure A2: Copy of notification dt. 16.6.2017.

Annexure A3: Copy of Memorandum dt. 21.8.2017.

Annexure A4: Copy of Representation dt. 23.8.2017.

Annexure A5: Copy of statement dt. 12.09.2017

Annexure A6: Copy of Memorandum dt. 10.10.2017.

Annexure A7,8,9: Copy of Representations dt. 25.10.2017, 20.11.2017 & 21.10.2017

Annexure A10: Copy of Order dt. 24.11.2017.

Annexure A11: Copy of dt. 24.2.2011.

Annexure A12: Copy of Letter dt. 15.3.2014

Annexure referred to by the Respondents in the reply

Annexure R1: Copy of corrigendum dated 4.1.2017

Annexure R2: Copy of Railway Board letter dated 24.6.2011

Annexure R3: Copy of Railway Board letter dated 22.8.2006

Annexure R4: Copy of representation dt 23.8.2017

Annexure R5: Copy of diploma certificate of applicant

Annexure R6: Copy of service details of applicant

Annexure referred to by the Respondents 4,5,6 in the reply

Annexure: R-01. A true copy of Section 21 of AT Act-1985

Annexure: R-02. A true copy of letter dated 30.11.2017.

Annexure: R-03. A true copy of letter dated 30.11.2017.

Annexure: R-04. A true copy of pay fixation dated 12.01.2018

Annexure: R-05. A true copy of letter dated 01.12.2018.

Annexure: R-06.A true copy of posting order dated 03.12.2018.

Annexure: R-07.A true copy of seniority List dated 04.01.2019.

Annexure: R-08.A true copy of marks obtained in aggregate.

Annexure: R-09. A true copy of Rules 223 and 228 of IREM,I-2009.

Annexure:R-10.A true copy of letter Service of notice dated 10.01.2019.

Annexure referred in Rejoinder

Annexure A13: Copy of question paper of examination held on .
14.7.2017

Annexure A14: Copy of letter dt. 13.12.2017

Annexure A15: Copy of letter dt. 6.2.2018

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