

CENTRAL ADMINISTRATIVE TRIBUNAL  
BANGALORE BENCH

ORIGINAL APPLICATION NO.170/00868/2017

DATED THIS THE 27TH DAY OF NOVEMBER, 2018

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

HON'BLE SHRI DINESH SHARMA, MEMBER (A)

Nagappa Basappa Ganiger,  
S/o Sri Basappa  
Aged about 64 years,  
Retired Junior Engineer,  
Railway Workshop, Hubli  
R/o No. 29, Shivagiri Colony,  
Uday Nagar, Bengeri,  
Hubli 580023.

....Applicant

(By Shri K.Shivakumar..... Advocate)

Vs.

1.Union of India  
Rep. by General Manager  
South Western Railway, Hubli

2. Workshop Personnel Officer,  
Railway Workshop  
South Western Railway, Hubli ...Respondents.

(By Shri N.Amaresh ... Sr. Panel Counsel)

ORDER (ORAL)

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

1. Apparently, this matter relates to grant of an MACP erroneously or not. One day prior to his retirement this was found out and withdrawn. But then, without giving an opportunity of being heard no adverse order can be passed against any government servant.

Therefore, the orders relating to discontinuance of the MACP are hereby quashed. But then, we grant liberty to the respondents to issue show cause notice and after hearing the applicant pass an appropriate order. But, in the mean while what has been denied earlier will be restored within one month next . Therefore, OA is allowed to this limited extent.

2. This appears to us as an abuse of power. Just because the authority who fixes benefits have power to look into it, it cannot be said that they are free from all administrative shackles. Before passing an adverse order against the government servant, necessarily a show cause notice must be issued and then only action to be taken against them. If action has not been taken for years together, it is the fault of that authority and not the fault of the concerned government employee. Therefore , we are not prepared to look into any other arguments of the learned counsel. Without issuing a show cause notice no adverse order can be passed.

3. OA is allowed to this limited extent. No order as to costs.

(DINESH SHARMA)  
MEMBER (A)

bk

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

Annexures referred to by the Applicants in OA No.868/2017

Annexure A1 : Copy of relevant pages of Service Register

Annexure A2 : Copy of the Railway Board order dated 12.9.2012

Annexure A3 : Copy of office order dated 29.9.2014

Annexure A4 : Copy of the representation dated 11.8.2016

Annexure A5 : Copy of the representation dated 14.6.2017

Annexures referred to by reply

Annexure R1 : Copy of IREM Vol.I

Annexure R2 : Copy of letter dated 30.9.2009

Annexure A15 : Copy of letter dated 12.9.2012