

CENTRAL ADMINISTRATIVE TRIBUNAL  
BANGALORE BENCH

ORIGINAL APPLICATION NO.170/00523/2017  
and  
ORIGINAL APPLICATION NO.170/00010/2019

DATED THIS THE 9th DAY OF JANUARY, 2019

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

HON'BLE SHRI CV.SANKAR MEMBER (A)

Sri.T.Ashwathnarayana, 51 years,  
S/o Late Sri.Thammaiah,  
Occn: Ticket Examiner,  
O/o Senior Divisional Commercial Manager,  
South Western Railways,  
Divisional Office,  
Commercial Branch,  
Bengaluru: 560 023.

APPLICANT

(By Shri PA.Kulkarni..... Advocate)

vs.

1.Union of India  
to be represented by its General Manager,  
South Western Railway,  
HUBLI: 580 020.

2.Divisional Commercial Manager,  
South Western Railway,  
Divisional Office, Commercial Branch,  
SBC, Bengaluru: 560 023.

(By Shri J.Bhaskar Reddy, ..... Advocate)

OA.NO.170/00010/2019

Sri.T.Ashwathnarayana, 52 years,  
S/o Late Sri.Thammaiah,  
Occn: Ticket Examiner,  
O/o Senior Divisional  
Commercial Manager,  
South Western Railways,  
Divisional Office,

Commercial Branch,  
Bengaluru: 560 023  
(Under orders of removal from service)  
Residing at Door.No.697/3,  
Pipeline Road,  
Yeshwanthapura,  
Bengaluru: 560 022.

.....Applicant

(By Shri PA.Kulkarni..... Advocate)

vs.

1.General Manager,  
South Western Railway,  
Rail Soudha,  
Gadag Road,  
Hubballi: 580 020.

2.Divisional Commercial Manager,  
South Western Railway,  
Divisional Office,  
Commercial Branch,  
SBC, Bengaluru: 560 023.

(By Shri J.Bhaskar Reddy, ..... Advocate)

ORDER (ORAL)

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

1. Heard. In the matter relating to the charge memo we have heard both counsels in great detail. In OA.523/2017 we hold that even though we had directed to hold denovo enquiry and since we have said that proper evidence should be marshelled and remodulated , it was open to the respondents to issue a fresh charge sheet on the same lines, may be correct in the grammar that involves no prejudice on the part of the applicant and we uphold the decision of the respondents. This OA is, therefore, held without merit.

2. This OA is dismissed. No order as to costs.

OA.NO.170/00010/2019

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

1. Heard. There are two matters to be heard together. This matter is entirely different. Taking protection under Rule 14, while the enquiry is in process, an order has been passed dismissing the applicant from service. Without any doubt, it is illegal. Under Article 311 of the Constitution of India, any government employee has a right to be heard. We have long passed the age of colonial occupation and these kind of things cannot hamper the rights of any government employee.

2. It is covered by the rulings of the Hon'ble Apex Court in Kendriya Vidyalaya Sangathan vs. SC.Sharma, AIR 2005 SC 768. Therefore, this dismissal order is hereby quashed. It will be, as if, the applicant is still continuing in service. But, since he had not proven that he had not been working elsewhere, we are not directing grant of remuneration during that period. We will direct that applicant will be reinstated back into service within next one week. But, within that time, the enquiry where it had stopped will recommence again against the applicant and appropriate order be passed. We also will allow the applicant to be placed on suspension, if the presence of the applicant in office will be detrimental to the functioning of the office, if the respondents deems that it is fit to be done. But, then, subsistence allowance allowed to the applicant must be paid for the interregnum

period till an appropriate order is passed under law as we uphold the right of the respondents to conduct a DE against the applicant.

3. This OA.10/2019 is allowed to the limited extent. The OA.No.523/2017 is dismissed. No order as to costs.

4. We make it clear that it is the duty of the applicant to cooperate with the respondents and the daily order sheet must reflect this.

(CV.SANKAR)  
MEMBER (A)

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

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Annexures referred to by the Applicant in OA.No.523/2017

Annexure A-1: Copy of Charge memo dated 9.2.2010

Annexure A-2: Copy of the OA 170/1227/2015 sans annexure

Annexure A-3: Copy of the order dated 31.1.2017 in OA 170/1227/2015

Annexure A-4: Copy of the impugned order dated 13.09.2017 passed by R-2.

Annexure A-5: Copy of the impugned charge memo dated 15.09.2017 issued by R-2.

Annexure A-6: Copy of Communication dated 15.5.2005

Annexures referred to by the Respondents in the Reply Statement

Annexure R-1: Copy of letter No.28/2014-15 dated 17.12.2014

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Annexures referred to by the Applicant in OA.No.10/2019

Annexure A-1: Copy of Charge memo dated 9.2.2010

Annexure A-2: Copy of the OA 170/1227/2015 sans annexure

Annexure A-3: Copy of the order dated 31.1.2017 in OA 1227/2015

Annexure A-4: Copy of the impugned order dated 13.09.2017 passed by R-2.

Annexure A-5: Copy of the impugned charge memo dated 15.09.2017 issued by R-2.

Annexure A-6: Copy of the interim order dated 10.10.2017 in pending OA 523/2017.

Annexure A-7: Copy of the impugned order dated 28.12.2018

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