

CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE BENCH

ORIGINAL APPLICATION NO.170/00121/2019 to 130/2019

DATED THIS THE 4TH DAY OF FEBRUARY 2019

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

HON'BLE SHRI CV. SANKAR, MEMBER (A)

1.Lokesha.NR,
S/o Shri Rame Gowda,
Aged about 33 years,
Working as Helper
Mechanical Department
OO: Coaching Depot Office,
South Western Railway,
Mysore .

OA.121/2019

2.NB.Shivashankara,
S/o Late N.Basappa,
Aged about 33 years,
Working as Helper
Mechanical Department
OO: Coaching Depot Office,
South Western Railway,
Mysore .

OA.122/2019

3.Yoosuf.P
S/o Aboobaker,
Aged about 40 years,
Working as Helper
Mechanical Department
OO: Coaching Depot Office,
South Western Railway,
Mysore .

OA.123/2019

4.Suresh.TY
S/o Sanna Yarrappa,
Aged about 34 years,
Working as Helper

Mechanical Department
OO: Coaching Depot Office,
South Western Railway,
Mysore .

OA.124/2019

5.Satyanarayana.B
S/o Shri Bettle Gowda,
Aged about 40 years,
Working as Helper
Mechanical Department
OO: Coaching Depot Office,
South Western Railway,
Mysore .

OA.125/2019

6.Narthana.R
W/o Shri Nagaraju GT
Aged about 31 years,
Working as Helper
Mechanical Department
OO: Coaching Depot Office,
South Western Railway,
Mysore .

OA.126/2019

7.Shrikant.G
S/o Shri Govindaswamy
Aged about 30 years,
Working as Helper
Mechanical Department
OO: Coaching Depot Office,
South Western Railway,
Mysore .

OA.127/2019

8.Tejaswini.K,
W/o Shri Kumar.MR
Aged about 31 years,
Working as Helper
Mechanical Department
OO: Coaching Depot Office,
South Western Railway,
Mysore .

OA.128/2019

9.Shrikanth B. Maridevar
S/o Shri Basavanappa
Aged about 30 years,
Working as Helper
Mechanical Department
OO: Coaching Depot Office,
South Western Railway,
Mysore .

OA.129/2019

10.Lohit JB
S/o Shri Bette Gowda,
Aged about 29 years,
Working as Helper
Mechanical Department
OO: Coaching Depot Office,
South Western Railway,
Mysore .

OA.130/2019

....Applicants

(By Shri Izzhar Ahmed, Advocate)

Vs.

1.Senior Divisional Personnel Officer,
South Western Railway,
Personnel Department
Mysore Division,
Mysore 20 .

2.Senior Divisional Mechanical Engineer,
Mechanical Department
South Western Railway,
Mysore Division,
Mysore 20 .

3.Union of India,
through the General Manager,
South Western Railway,
Gadag Road,Hubli .

...Respondents.

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

O R D E R (ORAL)

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

1. Heard. The challenge of the applicants in all these matters is, they would say that the promotion now being postulated is against the roster point to be followed. They rely on Annexure-A21 letter issued by the Ministry of Railways, Railway Board No.2018-E(SCT)I/25/9 dated 28.12.2018 which we quote:-

“Government of India,
Ministry of Railways,
Railway Board

No.2018-E(SCT)I/25/9

New Delhi, dated 28.12.2018

General Manager,(P)
All Indian Railways
and Production Units.

Sub:Promotions on Railways.

Ref:Rly Bd's letters No.2016-E(SCT)I/25/8 dated 30.09.2016.
(RBE 117/2016) and (ii) 2018-E(SCT)I/25/9 dated
19.06.2018 (RBE 91/2018) and 21.06.2018 (RBE 94/2018)

Some of the Railways have referred the issue above Reservation in promotions in view of ongoing litigations as well as the judgement of the Five Judges Bench of the Hon'ble Supreme Court in the matter of Jarnail Singh and others versus Lacchmi Narain Gupta and others: SLP (Civil) No.30621 of 2011 dated 26.09.2018.

Attention is invited to Railway Board's RBE 117/2016 dated 30.09.2016 and subsequent instructions issued vide RBE 91/2018 dated 19.06.2018 and RBE 94/2018 dated 21.06.2018, which reiterated the instructions issued by DOPT.

Now, in view of the above judgement in Jarnail Singh's case, promotions can be made as directed therein.

It may also be ensured that

(i)As per the extant instructions, seniority list/eligibility list of those coming up for promotion is circulated in advance.

(ii)As further instructions from the Nodal Ministry are awaited, all promotion orders should be on provisional basis stating that “ these orders are provisional and are subject to the final outcome of ongoing litigations/court cases on the subject”.

All concerned may note accordingly.

This issues with the approval of Board(MS & CRB).

Sd/-

(UN.Mehta)
Jt.Dir.E(Res.)I “

2. We heard Shri N.Amaresh learned Standing Counsel for Railways also in great detail. Shri N.Amaresh, Sr.Panel Counsel had taken notice on our direction. He would say that they are only following the roster point for now, as the matter is actually pending in the Hon'ble Apex Court and depending on the Hon'ble Apex Court, they are also willing to indicate against their promoted positions that it is provisional and the final result will depend on the Hon'ble Apex Court order. We think that while recording this we can dispose off the OA granting liberty to the applicants also to challenge any order which is passed by the Railways, if, it is against their interest while following the

Hon'ble Apex Court order. Reserving this right, with the above direction OAs are disposed off.

3. But, we make it clear that members of the SC & ST who comes into promotional avenues by dint of their own merit will be treated as general candidates following several judgements of Hon'ble Apex Court in this cause and they need not be treated as SC & ST candidates. But, then their merit need not be ignored, if, they have to get a promotion earlier. The subsequent adjustments, if any, will be made by the Railways following the Hon'ble Apex Court order. OAs are disposed off.

4. At this point of time, Shri Izzhar Ahmed points out that sanctioned strength is only 60 and there are 60 incumbents, but then against an apparent back log vacancy promotions are sought to be issued for 30 positions. Promotions, of course can only be issued, only if, there are sanctioned vacancies available. This also the Railways will bear in mind while effecting the promotions, if any. OAs are disposed off. 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. 121 to 130 /2019

- Annexure- A-01. A copy of seniority list dated 24.04.2012
- Annexure: A-02.A copy of merit list dated 11.04.2014.
- Annexure- A-03.A copy of provisional seniority list dated 03.08.2016
- Annexure- A-04. A copy of list of trade test dated 20.04.2017.
- Annexure- A-05. A copy of list Trade test dated 12.06.2017.
- Annexure- A-06. A copy of promotion order dated 23.11.2017.
- Annexure- A-07. A copy of seniority list of Helper dated 01.01.2018.
- Annexure- A-08.A copy of list of Trade Test dated 20.09.2018.
- Annexure- A-09.A copy of promotion order dated 30.11.2018.
- Annexure- A-10.A copy of list of eligible candidates dated 18.12.2018.
- Annexure- A-11. A copy of representation dated 20.12.2018.
- Annexure- A-12.A copy of impugned promotion order dated 28.12.2018.
- Annexure- A-13.A copy of vacancy position dated 01.12.2018.
- Annexure- A-14. A copy of Railway Board's order dated 06.04.2005.
- Annexure- A-15. A copy of Railway Board's order dated 29.01.2009.
- Annexure- A-16. A copy of Railway Board's order dated 01.09.2010.
- Annexure- A-17. A copy of Railway Board's orders dated 30.09.2016.
- Annexure- A-18.A copy of DoP&T's OM dated 15.06. 2018.
- Annexure- A-19.A copy of Railway Board's order dated 19.06.2018.
- Annexure- A-20. A copy of Railway Board's order dated 21.06.2018.
- Annexure- A-21. A copy of Railway Board's orders dated 28.12.2018.
- Annexure- A-22. A copy of application under RTI dated 01.01.2019.

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