

CENTRAL ADMINISTRATIVE TRIBUNAL  
BANGALORE BENCH

ORIGINAL APPLICATION NO.170/01554/2018

DATED THIS THE 09<sup>TH</sup> DAY OF APRIL, 2019

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

**HON'BLE SHRI C.V. SANKAR, MEMBER (A)**

S. Dhinakaran  
S/o Late T. Sankaran  
Aged 59 years  
Technician I/Tele  
South Western Railway  
R/o #4148, 6<sup>th</sup> Cross, 1<sup>st</sup> Main,  
Vivekanandanagar, Bangarpet – 563 114 ..... Applicant  
(By Advocate Shri K. Shivakumar)

Vs.

1. Union of India  
Rep. by General Manager  
South Western Railway, Hubli
  2. Senior Divisional Personnel Officer,  
South Western Railway, Bangalore ..... Respondents
- (By Shri N. Amaresh, Senior Panel Counsel)

O R D E R (ORAL)

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

Heard. The matter is in a very small compass. Applicant contracted a disease of forgetfulness, apparently unexplainable. He says that he will forget everything and is unable to remember anything but then may not be upto the point of Dementia. He was treated at the NIMHANS and thereafter, since that treatment was not satisfactory to him, he went to Kerala and had Ayurvedic treatment. But then this line of treatment was not approved by Railway Authorities. He says that in the interregnum period he had sought for several benefits from them for the period 16.08.2006 to 20.12.2012. Maybe because they are also concerned about the situation, the railways did not take any action against him. Thereafter on 21.12.2012 he had rejoined service after being completely cured. In relation to a promotion on a timescale, as his juniors were already promoted, he had requested to effect his promotion from January, 2013 as his juniors were also promoted on that date.

2. Apparently on this the railways did not take any action. However on 09.07.2013 they issued him with a chargesheet and following which imposed a punishment of reduction to one stage lower for a period of two years with non-cumulative effect. Thereafter he was granted the usual promotion on 18.04.2016 and later he had retired from service.

3. The claim of the applicant is that he is eligible for this benefit from

January, 2013, the date on which his juniors got the promotion as, as on that date, there was no cloud against his being granted a promotion. Possibility of a future departmental enquiry against him cannot be taken as marring his opportunities.

4. The railways, on the other hand, would contend that since the applicant had been absent for a very long time should not they be allowed to take some action against him for his intransigence. But then that they should have taken it between 16.08.2006 and 20.12.2012 in the interregnum of which applicant was in regular contact with them and the respondents also knew what was the situation with him. If he was in a state of forgetfulness all along and he was being treated for it, then, no adverse prejudice can be drawn against the applicant and it can also be seen by the conduct of the respondents who had condoned it also. That being so, we declare that applicant is eligible for the promotion along with his juniors from January, 2013 but then consequential promotions which his juniors might have got because of residency in the new post will not be available to him. Therefore, the last drawn pay of the applicant will now be modulated on the basis of this benefit to be granted to him on January, 2013.

5. The OA is allowed to this extent. Benefit to be made available within the next three months. No order as to costs.

(C.V. SANKAR)

(DR.K.B.SURESH)

MEMBER (A)

MEMBER (J)

/ksk/

**Annexures referred to by the applicant in OA No. 170/01554/2018**

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| Annexure 1 | Copy of the office order dated 10.09.2007   |
| Annexure 2 | Copy of the penalty advice dated 05.30.2014 |
| Annexure 3 | Copy of the memorandum dated 02.06.2015     |
| Annexure 4 | Copy of the office order dated 18.04.2016   |
| Annexure 5 | Copy of the representation dated 02.07.2018 |

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