

CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE BENCH

ORIGINAL APPLICATION NO.170/00043/2019

DATED THIS THE 24th DAY OF JULY, 2019

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

HON'BLE SHRI CV.SANKAR MEMBER (A)

K.Manjunath,
S/o P.Krishnamurthy,
Aged about 52 years,
Ticket No.3293,
Technician-I, Paint Shop,
South Western Railway Workshop,
Manadavadi Road,
Mysuru South.
Mysuru. 570008

...Applicant

(By Shri B.S. Venkatesh Kumar..... Advocate)

Vs.

1.Workshop Personnel Officer,,
Office of the Chief Workshop Manager,
Central Workshop,
South Western Railway,
Mysore 570008

2.Chief Workshop Manager,
Central Workshop,
South Western Railway,
Ashokpuram,
Mysore 570008

3.The General Manager,
South Western Railway,
Hubballi 580031

...Respondents

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

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

1. Heard. Matter is in very small compass. Apparently, following a dispute as to some financial misdeeds in the Railway Men Housing Society, one Member has filed a complaint. Apparently, in this matter after an FIR was filed, the Hon'ble High Court of Karnataka in Criminal Petition No.8305/2016 and vide order dated 6.10.2017 had stayed all the process in Crime No.0077/2016 pending on the file of V Additional I Civil Judge & JMFC, Mysore until further orders.

2. He relies on Annexure R-1 issued by the Railway under Rule 4 & 5 of the same which we quote:-

4. Six Monthly Review of cases - It is necessary to ensure that the disciplinary case/ criminal prosecution instituted against a Group 'C'/ Group 'D' Railway servant is not unduly prolonged and all efforts to finalise the proceedings expeditiously should be taken so that the need for holding back the promotion in such cases is limited to the barest minimum. It has, therefore, been decided that the competent authorities concerned should review comprehensively the case of such Railway servants on the expiry of 6 months from the date of the original selection/ original suitability test etc. Such a review should be done subsequently also every 6 months. The review should inter-alia cover the aspect of the progress made in the disciplinary proceedings/ criminal prosecution and further measures to be taken to expedite their completion.

5. Procedure for ad-hoc promotion - In spite of the six-monthly review referred to in para 4 above, there may be some cases, where the disciplinary case/criminal prosecution against the Railway servant is not concluded even after the expiry of 2 years from the

date of the original selection/ formation of suitability list. In such a situation, the Promoting Authority may review the case of the Railway servant concerned, provided he is not under suspension, to consider the desirability of giving him ad-hoc promotion keeping in view the following aspects:-

- a. Whether the promotion of the officer will be against public interest.*
- b. Whether the charges are grave enough to warrant continued denial of promotion.*
- c. Whether there is no likelihood of the case coming to a conclusion in the near future.*
- d. Whether the delay in the finalisation of proceedings, departmental or in a court of law is not directly or indirectly attributable to the Railway servant concerned.*
- e. Whether there is any likelihood of misuse of official position, which the Railway servant may occupy after ad-hoc promotion, which may adversely affect the conduct of the departmental case/ criminal prosecution.*

3. Therefore, he submits that the Railways may be directed to look into the matter while deciding the issue in view of the stay granted by the Hon'ble High Court of Karnataka, we feel, if we remit the matter to the Railways they will be able to do the needful. ***Therefore, there will be a mandate to the Railways to look into the matter and pass an appropriate order under Rule 5 as stated above.*** OA, is therefore, disposed off. No order as to costs.

(CV.SANKAR)
MEMBER (A)

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

bk

Annexures referred to by the applicant in OA.No.43/2019

Annexure A1: Copy of impugned order Dtd. 2/3.3.2017

Annexure A2: Copy of order in PCR

Annexure A3: Copy of FIR

Annexure A4: Copy of interim order Dtd. 6.10.2017 in crl.ptn. No.8305/2016

Annexure A5: Copy of interim order Dtd. 15.12.2017 in OA. No.795/2017

Annexure A6: Copy of final order dated 9.1.2018 in OA. No.795/2017

Annexure A7: Copy of representation dtd. 30.11.2018

Annexure A8: Copy of impugned order dtd. 3.12.2018

Annexure referred in reply by the Respondents

Annexure R1: Copy of RBE.No.13/1993

Annexure R2: Copy of OM dtd.2.11.2012

bk.