

**CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE BENCH, BENGALURU**

ORIGINAL APPLICATION NO.170/000656/2019

DATED THIS THE 27th DAY OF SEPTEMBER, 2019

**HON'BLE DR.K.B.SURESH
HON'BLE SHRI C.V. SANKAR**

**...MEMBER(J)
...MEMBER(A)**

J Samuel,
S/o Sri John David,
Aged about 44 years,
Working as Mate (SSK),
O/o Garrison Engineer
Air Force, MES Hebbal,
Headquarter Training Command,
Campus, Bangalore – 06.

..Applicant

(By Advocate Shri M. Subramanya Bhat)

Vs.

1. Union of India
Through its Secretary
Ministry of Defence,
Central Secretariat,
New Delhi – 110 001

2. Engineer in Chief,
Engineer in Chief's Branch,
Army Head Quarters, DHQ (PO)
New Delhi – 01

3. The Chief Engineer,
Head Quarters,
Southern Command,
Engineer's Branch, Pune – 01

4. Commander Works Engineer (AF-North),
Bellary Road, Bangalore – 06

5. Garrison Engineer
Air Force, MES, Hebbal,
Headquarter Training Command,
Campus, Bangalore – 06.Respondents

(By Standing Counsel Shri S. Sugumaran for Respondents)

ORDER (ORAL)

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

Heard. The matter seems to be covered by our order in OA. No.181-198/2019 dated 22.01.2019, which we quote:

“Hon’ble Dr K.B. Suresh ... MEMBER(J)

The matter is in a very small compass. The applicants had approached various Tribunals and obtained orders in their favour. The question here is, then at what point of time will their right arise. We have held in many other cases also that the Trade Test in the circumstances and in the process of merger of Industrial and non-industrial, from 1990 onwards and on the basis of 5th Pay Commission Report, is to be viewed in a special fashion.

2. Therefore, the issue is in a very small compass now. When will their right arise? The Trade Test which had been conducted following our orders do not have a juncture in time as it is, but juncture in opportunity. While availing this opportunity, these people have crossed the suitability barrier, which made them eligible for enhancement in career opportunity. But then, since there was great delay in conducting all these tests, their right must construe not from the date of availing that Trade Test but when the opportunity arose for them.

3. We therefore remit the matter back to the respondents to find out when each mate person have become eligible for the enhancement and after passing of the Trade Test become eligible as having crossed the suitability barrier. There upon, they will grant the notional benefits to the applicants from that earliest point of time. They need not give the consequences of this benefit to them because they have not worked in the new post.

4. Therefore the OA is allowed to the limited extent. Matter remitted back to the respondents to do the needful with the above lines within the next 2 months. No costs.”

2 Learned counsel for the respondents Shri S. Sugumaran, submits that this order is being implemented. Therefore, since the applicant is also in parimateria position, the OA is allowed to the same extent as in the OA stated above. No costs.

3 Shri Sugumaran, learned counsel for the respondents seeks 2 months' time to implement the order. We grant 3 months to implement the order.

(C.V. SANKAR)
MEMBER(A)

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

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Annexures referred to by the Applicant in OA No.656/2019

1. Annexure A1 : Copy of order passed in OA.No.181-198/2019 dated 22.1.2019.
2. Annexure A2 : Copy of the joint representation dated 23.4.2019.

Annexures referred to by the Respondents in the Reply

1. Annexure R1 : Copy of Result of Trade Test dated 2.8.2016.
2. Annexure R2 : Copy of promotion order dated 10.9.2016 promoting to Mate (SSK).
3. Annexure R3 : Copy of Trade Test dated 11.9.2017. for the post of SK.
4. Annexure R4 : Copy of OA No.896/.2012.
5. Annexure R5 : Copy of promotion order dated 22.8.2014
6. Annexure R6 : Copy of Recruitment Rules of the year 2013.
