

**CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE BENCH**

ORIGINAL APPLICATION NO.170/00515/2018

DATED THIS THE 30TH DAY OF JULY 2019

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

HON'BLE SHRI CV.SANKAR MEMBER (A)

S.Vijayakumar
S/o Sri V.Sundararaj
Aged about 42 years
Office Superintendent
O/o Sr.Divisional Mechanical Engineer,
South Western Railway,
Mysore
R/o #100/A, Railway Quarters,
Yadavagiri,
Mysore 570 020Applicant

(By Shri K.Shivakumar..... Advocate)

Vs.

1. Union of India
Rep. by General Manager
South Western Railway,
Hubli

2. Senior Divisional Personnel Officer,
S.W.Railway, Mysore. ...Respondents

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

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

1. Heard. In fact we had passed an order in which we had directed vide an order dated 6.1.2014 to regulate the seniority of employees on certain principles. Apparently, even though other Divisions had implemented it fully, Mysore Division alone did not implement it at that point of time. In the interregnum, the applicant was found medically unfit to hold the post of Loco Pilot. Therefore, he was offered with an alternate employment and in that stream, he is now an Office Superintendent with Grade Pay of Rs.4200/- which is the same as that of a Loco Pilot. But now, at this point the Mysore Division has woken up and readjusted the seniority of the applicant in the earlier stream based on the orders of this Tribunal in a batch of other cases. The promotion he had got as a Loco Pilot from Assistant Loco Pilot could not have been his seniority position is revisited at this point of time.

2. But then, after coming into Ministerial Wing at the instance of the respondents themselves, the applicant cannot be prejudiced due to a change in seniority because he now cannot be deemed as a member of the earlier service . Since he is now in the Ministerial Wing, his seniority has to be determined interse others in the Ministerial Wing from the date of his absorption as Ministerial officer.

That being so, the notice issued to him calling upon him to give his views on his being reverted back into the earlier position which would have been his having continued in the earlier service is no longer germane or relevant. Therefore, it is hereby declared that the applicant having entered into a new stream is eligible to be counted in the new stream only and not in the old stream. He has severed all the connections with the old scheme and we also note that the respondents will not be willing to accord him promotion in the new stream according to his chances in the old stream. That is only for the reason that he had now acquired a new identity. Having acquired that new identity, that new identity will stay with him for all purposes from the date of acquisition onwards. Therefore, impugned orders are hereby quashed. Applicant will be allowed to continue as Office Superintendent from 2014 with Grade Pay of Rs.2400/- as requested by him vide his letter dated 23rd April 2018 and in the absence of such post with that Grade Pay, a supernumerary post may be created for him. He will be entitled for all consequential benefits.

3. OA is allowed. No order as to costs.

(CV.SANKAR)
MEMBER (A)

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

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Annexures referred to by the Applicants in OA No.515/2018

Annexure-A1: Copy of Railway Medical Certificate dated 18.6.2014

Annexure-A2: Copy of the posting order as Office supdt dt 11.8.2014

Annexure-A3: Copy of the seniority list dated 24.01.2018

Annexure-A4: Copy of show cause notice dated 06.04.2018

Annexure-A5:Copy of reply dated 20.4.18

Annexure-A6: Copy of representations dated 23.4.2018

Annexure-A7: Copy of order of reversion dated 21.05.2018

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