

CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE

DATED THIS THE 22nd DAY OF JUNE , 1987

Present : Hon'ble Justice Sri K.S.Puttaswamy Vice-Chairman

Hon'ble Sri L.H.A.Rego Member

APPLICATION No. 1835/86(F)

Nagendra Jettappa Bajanthri,
R/a Chhannapeth,
Narayana Sofa Old Hubli,
Dharwad District.

(Sri S.V.Shastri

... Applicant

... Advocate)

Vs.

Union of India Secretariat to
the Ministry of Railways,
Sansad Marg, New Delhi.

The General Manager,
South Central Railways,
Secunderabad - 500 371.

The Divisional Manager,
South Central Railways,
Hubli, Dharwad District.

(Sri K.V.Lakshmanachar

... Respondents.

... Advocate)

This application has come up before the court today.

Hon'ble Justice Sri K.S.Puttaswamy, Vice-Chairman made the following :

O R D E R

In this application made under Section 19 of the
Administrative Tribunals Act, 1985(the Act) has challenged order No.
H/P 171/III/C/IX dated 7.1.1984(Annexure 'G') of the Divisional Person-
nel Officer, Hubli (DPO).


2. The applicant claims to be a member of a caste called
'Korwar'. He initially joined service in the Railway Protection Force,
in 1974, but was later transferred as a Luggage Porter in the Commercial
Department of the South Central Railway.

3. The applicant claims that when he initially joined

service the community to which he belonged viz., 'Korwar' had not been recognised as Scheduled Caste and the same was recognised as Scheduled Caste by an amendment to the Presidential Order by the Scheduled Castes and Scheduled Tribes Orders (Amendment) Act, 1976 No.108 of 1976. On that basis he made an application on 10.10.1983 before the DPO to recognise him as a member of a Scheduled Caste, but the DPO taking the view that he was not a member of Scheduled Caste rejected the same on 7.1.1984 (Annexure-G). Hence this application.

4. Before making this application the applicant challenged this order of the DPO in OS No.473/84 in the Court of First Additional Munsiff, Hubli and sought for appropriate ~~relief~~ ^{to set aside} in that suit, but the applicant withdrew the same on 20.10.1986 and the learned Munsiff dismissed the same without reserving liberty to institute a fresh suit or a proceeding under the Act. Sri S.V.Sastry, learned counsel, for the applicant does not dispute these facts. But he submits that the applicant had made an application before the learned Munsiff to recall his order made in OS No.473/84, to restore that suit to its original file and then transfer the same to this Tribunal under Section 29 of the Act and that till such time to postpone the hearing of this case.

5. Sri K.V.Lakshmanachar, learned counsel for the respondents opposes the adjournment and urges for dismissal of this application. We have earlier noticed that the applicant had withdrawn the suit and the learned had dismissed the same without reserving liberty to file a fresh suit or a fresh proceeding under the Act before this Tribunal. If that is so, then this application is not maintainable as concluded by Supreme Court in AIR 1987 p.88 Sarguja Transport Private Service v. State Transport Appellate Tribunal. On the principles enunciated in this case this application cannot be entertained by us and is liable to be dismissed.



6. We will assume that the applicant had made an application before learned Munsiff and the same is still pending ^{& before} him. As to how the learned Munsiff will decide that application cannot be predicted by us. But if the learned Munsiff allows that application, restore the suit to its original file then we need hardly say that the same will have to be transferred to this Tribunal under Section 29 of the Act. When that suit is so transferred to this Tribunal, we have necessarily decide the same on its own merits without reference to this order, which we will undoubtedly do. But ^{& then} also we see no justification to keep this application pending at all.

7. We may before parting with this application notice that the DPO made his order on 10.1.1984 and this application under Section 19 of the Act has been presented on 10.1.1986. This application which is not within one year from the date of the order is clearly barred by time is liable to be rejected on that ground also. But as already stated by us, even this ground will not come in the way of deciding the case if any to be transferred to this Tribunal.

8. In the light of our above, discussion we hold that this application is liable to be dismissed. We, therefore, dismiss this application. But in the circumstances of the case we direct the parties to bear their own costs.

NS. P. Maresud
VICE CHAIRMAN
22/6/87

MEMBER (A) (R)
22.6.1987

REGISTERED

CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE BENCH

Commercial Complex(BDA),
Indiranagar,
Bangalore - 560 038

Dated : 3-7-87

Application No. 1835/86(F) /86()

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Applicant

Nagendra Jettappa Bajanthri

V/s. Min. of Railways & ers.

To

1. Nagendra Jettappa Bajanthri
R/a Chhannapeth,
Narayana Sofa Old Hubli,
Dharwad District.

4. The Divisional Manager,
South Central Railways,
Hubli, Dharwad District.

2. Sri.S.V.Shastrri,
Advocate, No.F-82,
IInd Main Road,
Gandhinagar, B'lore-9.

5. Sri.K.V.Lakshmanachar, Advocate
No.4, 5th Block,
Briand Square Police Qrs.,
Mysore Road,
B'lore- 2.

^{The}
3. A Secretary,
Min. of Railways,
Sansad Marg, New Delhi.

4. The General Manager,
South Central Railways,
Secunderabad- 500 371
Andhra Pradesh

Subject: SENDING COPIES OF ORDER PASSED BY THE BENCH IN
APPLICATION NO. 1835/86(F)

Please find enclosed herewith the copy of the Order/~~Interim Order~~
passed by this Tribunal in the above said Application on 22nd June, 1987.

Encl : as above.

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SECTION OFFICER
(JUDICIAL)

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Issued
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6/7/87

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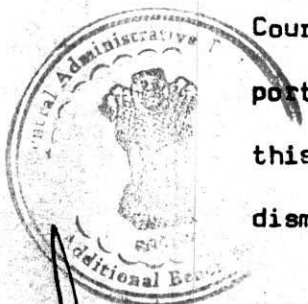
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SD _____
VINE CHAIRMAN

SD - - -
MEMBER (A) (R)

True copy
SECTION OFFICER 317

CENTRAL ADMINISTRATIVE TRIBUNAL
ADDITIONAL BENCH
BANGALORE