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BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL  
BANGALORE BENCH, BANGALORE

DATED THIS THE 31st DAY OF MARCH, 1987

Present : Hon'ble Shri Ch.Ramakrishna Rao MEMBER(J)

Hon'ble Shri L.H.A.Rao MEMBER(A)

APPLICATION No. 19J4/85(F)

Smt.Navida Akthar,  
Junior Clerk,  
No.169, 9th Cross, Shivaji Road,  
N.R.Mohalla,  
Mysore - 7.

... APPLICANT

( Shri Dr. Nagaraj

... Advocate )

V.

The Welfare Commissioner,  
Ministry of Labour,  
Welfare Organisation, Bangalore Region,  
No.75, Millers Road,  
Bangalore - 52.

... RESPONDENT


( Shri M.V.Rao

... Advocate )

This application has come up before the court today.

Hon'ble Shri Ch.Ramakrishna Rao, Member(J) made the following :

ORDER



The applicant in this application was appointed as a Junior Clerk(JC) in the office of the Welfare Commissioner(M) on a purely temporary and ad hoc basis in several spells ranging from 4.11.78 to 31.12.80. From 1.1.1981 she was appointed on half yearly basis until her services were terminated in and by order dated 21.10.86 (Annexure-H). This order is challenged by the applicant.

2. Dr.M.S.Nagaraj, contends that his client has served as JC continuously for eight years and the reason given in the order of termination is that she failed to qualify in the Staff Selection Commission Examination ('SSCE') held on 28/29 July, 1985 is not justified. Sri Nagaraj maintains that the reason assigned in the

order is extraneous for ~~the~~ retention of his client in service since no such condition was imposed in the orders of appointment issued from time to time. Dr. Rao was given benefits like DA, HRA, CCA, subscription to GPF, maternity leave, leave travel concession facility etc to which Central Government employees appointed on regular basis are normally entitled and, as such, the services of his client should not have been terminated but continued in service.

3. Sri M.V.Rao, learned counsel for the respondent, submits that in the orders appointing the applicant as JC, it is clearly stated that the appointment was on a temporary and ad hoc basis and the services of the applicant were terminated because she had not qualified at the SSCE.

4. We have considered the rival contentions carefully. The appointment order of the applicant as JC did not contain any clause making it obligatory on the applicant to qualify at the SSCE and it was, therefore, obligatory on the part of the appointing authority to have included such a condition in the order of appointment. In our view, the order terminating the services of the applicant is invalid on this ground.

5. Sri Rao contends that despite the non-inclusion of a term relating to SSCE in the order of appointment, the applicant appeared at the SSCE in 1982 & 1983 but did not qualify.

6. While this contention is prima facie attractive, we are not persuaded to give effect to it since, as already stated, a specific provision in the order of appointment making it obligatory on the part of the applicant to qualify at the SSCE is necessary in the eye of law.

Ans



- 3 -

7. We, therefore quash the order dated 21.10.86 terminating the services of the applicant (Annexure-H) and direct (i) the respondents to re-instate the applicant in service as on within a period of one week from the date of receipt of this order; (ii) to sponsor the name of the applicant, if not already done, for the ensuing SSCE; and (iii) to regulate the pay and allowances of the applicants for the period from the date of termination of service upto the date of re-instatement after the results of SSCE are known, in accordance with the rules.

8. In the result the application is allowed. No order as to costs.

Sd \_\_\_\_\_  
MEMBER (J)

Sd \_\_\_\_\_  
MEMBER (A) 12.12.87

AN.

*'True Copy'*

R. V. Venkatesh  
DEPUTY REGISTRAR  
CENTRAL ADMINISTRATIVE  
ADDITIONAL BENCH  
BANGALORE

SECTION 1  
10/22/95  
R2

SUPREME COURT OF INDIA  
RECORD OF PROCEEDINGS

Petition (s) for Special Leave to Appeal (Civil/Cr) No. (s)

8416 of 87

(From the Judgment and order dated 31.3.87

CAT, Bangalore in Application No. 1904 of 1986)  
The Welfare Commissioner, Bangalore

of the High Court of

Versus

Petitioner (s)

Smt. Navida Akthar  
(With appln. for ex-parte stay and c/delay in filing)

Date : 19.4.95

This/these Petition (s) was/were called on for hearing today.

CORAM :

Hon'ble Mr. Justice  
Hon'ble Mr. Justice  
Hon'ble Mr. Justice

S.C. Agrawal  
Sujata V. Manohar

For the petitioner (s)

Mr. A.N. Jai Ram, A.S.G.  
Mr. C.V. Subba Rao, Adv.  
Mr. B. Parthsarthy, Adv.  
Mr. P. Parneswaran, Adv.

For the respondent (s)

UPON hearing counsel the Court made the following  
O R D E R

Delay condoned.

In view of the lapse of the time  
the question raised in the special  
leave petition no longer survives  
so far as the respondent is concerned.  
The special leave petition is dismissed.  
However, the question raised is left  
open.

(S.B. Sharma)  
Court Master

(Anita Kashyap)  
A.R. cum P.O.

19/4/



भारत सरकार  
श्रम मंत्रालय

GOVERNMENT OF INDIA  
MINISTRY OF LABOUR

Phone : 2207491  
Grams : WELFARE  
Fax : 080 2267491

R3  
कल्याण आयुक्त कार्यालय, श्रम कल्याण संगठन,  
७५, बसवेश्वर रोड बेंगलूर-५६० ०५२  
Office of the Welfare Commissioner  
Labour Welfare Organisation  
For Karnataka, Kerala and  
Lakshadweep Islands  
75, Basaveswara Road  
Bangalore-560 052

No. 23(15)/4/A4/95

Date : 12-1-96

To

Shri Ahmed Ayub,  
Deputy Director,  
Staff Selection Commission  
Dr. Ambedkar Veedhi,  
Bangalore.

Sir,

Sub:- Application No. 1904 of 86 of Smt. Navida Akthar before the CAT Bangalore and special leave petition No. 8416 of 87 filed in the Supreme Court, New Delhi against the CAT judgement dt. 31st March, 1987.

-x-

Kindly recall the discussion we had on 4th Jan. 96 in your Chamber.

A copy of the CAT judgement, Bangalore dt. 31st March, 1987 and Supreme Court order dated 19-4-1995 dismissing the special leave petition filed against the above CAT judgement were already handed over to you for your kind perusal and comments. A copy of Government of India, Ministry of Personnel & A.R. Office Memorandum No. 6/60/84-CS-II dt. 28-2-1985 is also enclosed as desired by you.

The facts of the case regarding the subject matter are enumerated below for your information:-

The applicant Smt. Navida Akthar, Junior Clerk was appointed in this organisation on a purely temporary on adhoc basis from 4-11-78. She was continuing in service by renewing her appointment at a periodical intervals of 45 days/90 days. From 1-1-1981 she was appointed on half-yearly basis until her services were terminated vide this Office letter No. C1/PF/NA/85 dt. 21-10-1986 on account of her negative results in this special qualifying examination conducted by the Staff Selection Commission in the year 1985.

This order is challenged by the applicant vide application No. 1904 of 85 and pronounced judgement by CAT Bangalore in favour of her. The special leave petition filed by the Ministry of Labour was also rejected by the

Supreme Court as could be seen from the copies of judgement already delivered on 4-1-1996.

Since the Hon'ble Supreme Court have rejected the SLP against CAT judgement dt. 31-3-87 in respect of application No. 1904 of 85 the orders of the Hon'ble CAT Bangalore have become absolute and have to be implemented in letter and spirit. In order to implement the orders of the Tribunal you are requested to arrange a special qualifying examination for considering her regularisation of the services on adhoc basis from the date of her appointment and to regulate the pay & allowances for the period from the date of termination of her services upto the date of reinstatement, as per the direction of the Court.

An early action is requested in the matter.

Yours faithfully,

  
(DINESH CHANDRA)  
Welfare Commissioner

Encl : as above



सत्यमेव जयते

भारत सरकार

कर्मचारी चयन आयोग

कार्मिक तथा प्रशिक्षण विभाग

21 वी मंजिल, विश्वेश्वरय्या टवर

बायटर अंबेडकर रोड, बेंगलूर-560 001

तार-पता : स्टोसलकाम

Telegraphic Address : STASELCOM

Telephone : 2250215

Telex No. : 8458972 SSC (B) IN

CONFIDENTIAL

Immediate  
By Hand

30

नं.  
No.

12/1/96-SSC(K.I.)

GOVERNMENT OF INDIA

STAFF SELECTION COMMISSION

DEPARTMENT OF PERSONNEL & TRAINING

21st Floor, Visveshwarayya Tower, Dr. Ambedkar Road,  
BANGALORE-560001.

दिनांक :

dated, the 21st March, 96.

To

Shri. Dinesh Chandra  
Welfare Commissioner  
Labour Welfare Organisation  
Bangalore.

Subject:- Conduct of qualifying examinations for regularisation of services of Smt. Navidha Akther in your department - regarding.

...

Sir,

With reference to your letter No. 23(15)/4/14/95 dated 12.1.96 on the above mentioned subject I am to say that as per the Govt. of India, Ministry of Personnel & A.R. C.E. quoted by you viz No. 6/60/84-CS.II dated 28.2.85, the special Clerks' Grade Examination for regularisation of services of ad-hoc employees was conducted as a SPECIAL CASE. It is reported that no such exam. is being conducted at present by the Commission for the purpose nor is it proposed to conduct such examination in near future.

Yours faithfully,

(Signature)

( ANNE A.M.F.B )  
Deputy Director

Today  
(Signature)

AAO  
Please xerox  
& discuss

25/4

(Signature) 23/4



No. C-18012/9/86-W.I  
Government of India/Bharat Sarkar  
Ministry of Labour/Shram Mantralaya

RS

Jaiselmer House, Man Singh Road,  
New Delhi 110011, dated the 02 Sept. 96.

To

Welfare Commissioner,  
Bangalore.

Subject : S.L.P.No.8416/87 between the Welfare Commissioner,  
Bangalore Vs Smt.Navida Akther, Jr.Clerk in the Hon'ble  
Supreme Court, New Delhi.

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Sir,

I am direct to refer to your letter No.23(15)/4/A4/95 dated 10-6-96 on the above mentioned subject and to state that the Hon'ble C.A.T. may please be apprised that as per their direction the Staff Selection Commission, Bangalore was requested to conduct qualifying examination for regularisation of services of Smt.Navida Akther. S.S.C. has informed that the Special Clerks Grade Examination for regularisation of services of ad-hoc employees was conducted as a SPECIAL CASE. No such examination is being conducted at present by the Commission for the purpose nor is it proposed to conduct such examination in near future. In view of the facts mentioned above the Hon'ble C.A.T may be requested to give fresh direction in the matter.

Yours faithfully,

*(HARI SINGH)*  
(HARI SINGH)  
Under Secretary

WC

OFFICE OF THE WELFARE COMMISSIONER  
Labour Welfare Org.  
BANGALORE

12778  
10 SEP 1996

BCDEF

Immediate  
action

2/11/96

AAO  
Pt. Officer

AY  
189

Spoken  
2/2/96



CENTRAL ADMINISTRATIVE TRIBUNAL  
BANGALORE BENCH

Second Floor,  
Commercial Complex,  
Indiranagar,  
BANGALORE - 560 038.

Misc.Appln.No.129 of 1997 in

Dated: **7 APR 1997**

APPLICATION NO. 1904 of 1986(F)

APPLICANT(S) : Smt.Navida Akthar,  
V/s.,

RESPONDENTS : The Welfare Commissioner, M/o. Labour,  
Bangalore.

To.

1. Dr.M.S.Nagaraja, Advocate,  
Second Floor, First Cross,  
Sujatha Complex, No.11,  
Gandhinagar, Bangalore-9.
2. Sri.K.N.Chandrasekhar, Addl. Central  
Govt. Standing Counsel, No.708,  
73rd Cross, Rajajinagar, Bangalore-10.

Subject:- Forwarding of copies of the Orders passed by  
Central Administrative Tribunal, Bangalore-38.  
-x-x-x-

A copy of the Order/Stay Order/Interim Order,  
passed by this Tribunal in the above stated applicatio(s)  
is enclosed for information and further necessary action.  
The Order was pronounced on 26-03-1997.

*Issued*  
*02/04/97*

gm\*


*For* Deputy Registrar  
Judicial Branches.

*OK*

**IN THE CENTRAL ADMINISTRATIVE  
TRIBUNAL ADDITIONAL BENCH,  
BANGALORE**

Order Sheet (contd)

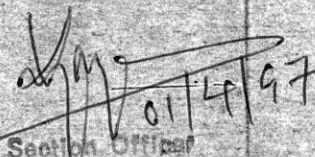
A.No 1904/86(F)

Date	Office Notes	Orders of Tribunal
		<p>KR(MA)/GRR(PD) 26.3.97</p> <p>Heard Shri K.M. Chandrasekhar, counsel for the respondents who had filed M.A.129/97. After seeing the records, we find that the department has sponsored the name of the applicant to the Staff Selection Commission for examination. It amounts complying with the orders passed. If the examinations are not conducted as intimated by the department, it is for the applicant to seek what is available to her. Hence, we see no reason to entertain the M.A. Hence, the M.A. is dismissed.</p>

MEMBER (J)

MEMBER (A)

TRUE COPY

  
 Section Officer  
 Central Administrative Tribunal  
 Bangalore Bench  
 Bangalore