

REGISTERED

CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE BENCH
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Commercial Complex(BDA),
Indiranagar,
Bangalore - 560 038

Dated : 24/8/87

APPLICATION NO 2060 /86(F)

W.P. NO

Applicant

Shri Kumaraswamy Veerabhadraiah Menadai

V/s The Station Engineer, AIR, Dharwad

To

1. Shri Kumaraswamy Veerabhadraiah Menadai
Behind Taluka Office
Sahapur Pet
Post : Gadag
Pin : 582101
2. Shri S. Munir Ahmed
Advocate
C/o Shri U.L. Narayana Rao
Advocate
581, 3rd Main Road
Sadashivnagar
Bangalore - 560 080

3. The Station Engineer
All India Radio
Dharwad
4. Shri M.S. Padmarajaiah
Central Govt. Sing Counsel
High Court Buildings
Bangalore - 560 001

Subject: SENDING COPIES OF ORDER PASSED BY THE BENCH

Please find enclosed herewith the copy of ORDER/~~STAY~~/
~~INTERIM ORDER~~ passed by this Tribunal in the above said
application on 18-8-87.

Encl : as above

B. V. Venkatesh
DEPUTY REGISTRAR

~~SECTION OFFICER~~
(JUDICIAL)

RECEIVED 25-08-87

Diary No. 1055/CR/87

Ann Date: 25/8/87

CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE

DATED THIS THE 18TH DAY OF AUGUST, 1987

Present: Hon'ble Shri Justice K.S. Puttaswamy, Vice-Chairman
and
Hon'ble Shri P. Srinivasan, Member (A)

APPLICATION NO. 2060/86

Kumaraswamy Veerabhadraiah
Menedal,
S/o Veerabhadraiah Menedal,
Staff Artist (Announcer)
All India Radio,
Dharwad.

.... Applicant.

(Shri U.L. Narayana Rao, Advocate)

v.

Station Engineer,
All India Radio,
Dharwad.

.... Respondent.

(Shri M.S. Padmarajaiah, SCGSC)

This application having come up for hearing to-day,
Vice-Chairman made the following:

O R D E R

This is an application made by the applicant under Section
19 of the Administrative Tribunals Act, 1985.

2. The applicant claims to be a member of a caste
called Beda-Jangama and that caste had also been recognised
as a Scheduled Caste under the Constitution and the laws
made thereto for the same.

3. On the above said basis the applicant applied for an
appointment, to the post of Staff Artist (Announcer Junior
Grade) (Artist) which ^{was} reserved to members of Scheduled Castes.

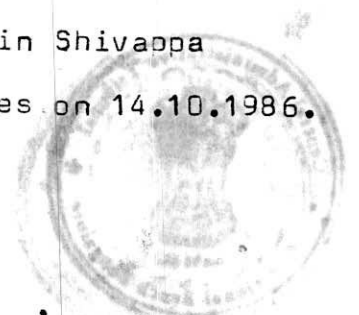


Accepting his said claim, the Station Director, All India Radio, Dharwar, (Director) on 27.10.1983 (Annexure-E) appointed the applicant as an Artist on probation for a period of two years from 27.10.1983 which was extended by six months or upto 26.4.1986 (Annexure-J). But before that, the Director on 2.12.1985 had terminated the services of the applicant. In this application filed on 22.12.1986 the applicant has challenged the said order of the Director.

4. Among others, the applicant has urged that his termination on the ground that he was not a member of Scheduled Caste and had committed a misconduct, without issuing him a show-cause notice, affording him an opportunity of hearing and holding an inquiry thereto was illegal and impermissible.

5. In their reply the Respondents had asserted that the appointment of the applicant was under a contract and therefore he was not holding a civil post and to invoke the principles of natural justice and the Rules regulating inquiries .

6. Shri S. Munir Ahmed, learned counsel for the applicant, contends that the termination of his client without issuing him a show-cause notice, affording him an opportunity of hearing in contravention of CCS(CCA) Rules of 1965 was illegal. In support of his contention Shri Ahmed strongly relies on a decision rendered by this Bench in Shivappa Sangappa Barkar v. Director of Postal Services on 14.10.1986.



7. Shri M.S. Padmarajaiah, learned Senior Central Government Standing Counsel appearing for the Respondents, contends that as the appointment of the applicant was under a contract, his termination in terms of the same was legal and valid.

8. Even if the initial appointment of the applicant was under a contract that does not necessarily mean that he had not been appointed to a civil post under the Union of India. If the applicant had been appointed to a civil post, then his termination cannot be de-hors the rules and the principles of natural justice. This was all the more necessary when the Director was casting a stigma on the applicant and was holding otherwise on the status claimed by him. We are of the view that the principles enunciated in Barkar's case equally governs the question. If that is so then we are bound to quash the impugned order and direct the reinstatement of the applicant to the post he held before that date with liberty thereto to re-do the matters in accordance with law.

9. But notwithstanding the above, Shri Padmarajaiah contends that this is a fit case in which we should deny all arrears of salary to the applicant from 2.12.1985 till his reinstatement for which the respondents be given time at least till 31.8.1987. and contends Shri Munir Ahmed opposes this request of Shri Padmarajaiah / that there is no justification whatsoever to deny arrears of salary to the applicant.



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20/08/1987

10. We have earlier noticed, that the applicant approached this Tribunal only on 22.12.1986. When the applicant was not diligent and had approached this Tribunal on 22.12.1986 we consider it proper to deny all salary, to the applicant from 2.12.1985 till 31.8.1987.

11. In the light of the above discussion, we quash order No. DHA-21(7)/85-S(KVM) dated 2.12.1985 of the Director and direct the Director to reinstate the applicant to the post he held on 2.12.1985, not later than 1.9.1987 however denying him all arrears of salary till that date. But this order does not prevent the authorities from placing the applicant under suspension or holding an inquiry on his status and terminating him also in accordance with law.

12. Application is disposed of in the above terms. But in the circumstances of the case we direct the parties to bear their own costs.

13. Let this order be communicated to the parties immediately.



Sd---

Vice-Chairman

Sd---

Member (A)

18/8/87

True copy

bsv/Mrv.

B.V. Venkatesh Reddy
DEPUTY REGISTRAR
CENTRAL ADMINISTRATIVE TRIBUNAL
ADDITIONAL BENCH
BANGALORE

