

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE BENCH, BANGALORE

DATED THIS THE 24TH DAY OF MARCH, 1987.

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

APPLICATION NO.654/86

Shri Mohamed Obaidulla,
S/o late Abdul Sattar,
Gurappanapalya Main Road,
Behind Shop No.12,
Jayanagar 9th Block,
Tavarekere Post,
Bangalore-81.

... Applicant.

(Shri M.S. Anandaramu, Advocate)

1. The Union of India
represented by its Secretary
to the Ministry of Steel,
Mines and Coal,
Department of Mines,
Indian Bureau of Mines,
NEW DELHI.
2. The Controller General,
Indian Bureau of Mines,
Ministry of Steel,
Mines and Coal,
Department of Mines,
NAGPUR-1.
3. The Head of Office,
Department of Mines,
Indian Bureau of Mines,
NAGPUR-1.
4. The Superintending Officer
(Ores Dressing),
Indian Bureau of Mines,
No.29, Industrial Suburb,
2nd stage, Tumkur Road,
Goreguntepalya,
Yeshwanthpur,
Bangalore-22.

... Respondents.

(Shri M.S. Padmarajaiah, SCGSC)


This application having come up for hearing to-day, 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') the applicant has challenged the orders dated 30.5.1985 (Annexure-B) and 1.10.1985 (Annexure-D) of the Head of Office, Indian Bureau of Mines, department of Mines, Nagpur (HO).

2. The HO appointed the applicant as a safaiwala from 18.3.1983 on a temporary basis in the Office of the Regional Ore Dressing Laboratory, Indian Bureau of Mines, Bangalore (ROD). In exercise of the powers conferred by the proviso to sub-rule (i) of Rule 5 of the Central Civil Services (Temporary Service) Rules, 1965 ('the Rules') the HO on 30.5.1985 gave notice of termination to the applicant, which was served on him on 17.6.1985. Aggrieved by the same, the applicant filed an appeal before the Controller General, Indian Bureau of Mines, Nagpur (CG), who on 27.6.1985 (Annexure-C) had rejected the same. Hence, this application.


3. The applicant has urged more than one ground in support of his case, which will be noticed and dealt by us.



4. In justification of the orders made, the respondents have filed their reply. At the hearing the respondents have produced the relevant records also.

5. Shri M.S. Anandaramu, learned counsel for the applicant, contends that in terminating the services of the applicant, the principle of 'last come first go' had been violated.

6. In para 5 (h), the applicant had urged that in terminating his services, the HO had not followed the principle of 'last come first go' which has been denied by the respondents. In this or any other para, the applicant has not furnished details of the persons who were appointed later but still retained in service. Even at the hearing also, Sri Anandaramu was unable to furnish particulars. Without any doubt this plea urged by the applicant is vague and general and is liable to be rejected on that very ground itself. But without being technical we are also satisfied on the assurance held out by the respondents, that in terminating the services of the applicant, the principle of last come first go has not been violated. For all these reasons we see no merit in this contention of Shri Anandaramu and we reject the same.




7. Shri Anandaramu next contends that the order of termination of the applicant though worded innocuously was as a measure of punishment and illegal.

8. Shri Padmarajaiah, refuting the contention of Shri Anandaramu contends that the termination of the applicant was on the ground that he was found unsuitable to hold the post and was not as a measure of punishment.

9. It is now well settled by several rulings of the Supreme Court that Courts and Tribunals can and must not go behind the order and ascertain whether an innocuous order of termination was as a measure of punishment or not. With due regard to this legal position, we have carefully examined all the relevant records and on such an examination, we are satisfied that the termination of the applicant was on the ground that he was not suitable to hold the post and was not as a measure of punishment as pleaded by the applicant. We see no merit in this contention of Sri Anandaramu and we reject the same.

10. Shri Anandaramu contends that the office of ROD where the applicant had been employed, was an 'industry' and that he was a 'workman' within the




meaning of those terms occurring in the Industrial Disputes Act, 1947 (ID Act) and his termination without complying with the requirements of Section 25F of that Act was illegal.

11. Shri Padmarajaiah contends that the office ROD was not an industry and the applicant was not a workman to invoke Section 25F of the ID Act.

12. The office of the ROD of the Department of Mines had been established in exercise of sovereign or governmental functions of Government. The duties performed in that office are governmental duties. The duties and activities of that office are not that of an industry to attract the ID Act. The office of the ROD is not an industry and the applicant is not a workman within the meaning of those terms occurring in the ID Act. If that is so, then Section 25F of the ID Act has no application. We see no merit in this contention of Sri Anandaramu and we reject the same.

13. Shri Anandaramu, lastly contends that the applicant was a physically handicapped person and this Tribunal should, therefore, view his case with sympathy and direct his reinstatement, if necessary on terms.

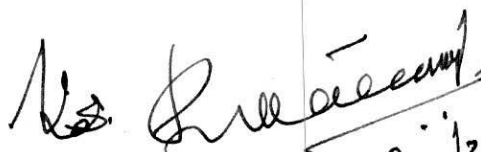
14. Shri Padmarajaiah contends that the applicant was not a physically handicapped person and that in




any event, that cannot be a factor to annul the impugned orders which are otherwise legal and valid.

15. When the applicant joined service, he did not claim to be a physically disabled person. But, he later appears to have claimed that status which is being disputed by the respondents. We cannot, therefore, accept the status claimed by the applicant. But, we will even assume that the applicant is a physically disabled person as claimed by him also. But, that can hardly be a ground to invalidate the impugned orders which are otherwise valid, direct the reinstatement of the applicant.

16. In the result, we dismiss this application. But, in the circumstances of the case, we direct the parties to bear their own costs.


Vice-Chairman 22/3/87


Member (A) 24/3/87

np/Mrv.