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REGISTERED

CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE BENCH

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

Dated: 10-3-87

Application No. 655 /86(F)

W.P. No. _____

Applicant
Shri M.T. Keshava Gengar

v/s M/o Finance, New Delhi.

1. Shri M.T. Keshava Gengar
197/4, III Block
Rajaji Nagar
Bangalore - 560010.
2. Ministry of Finance
(Department of Revenue)
North Block
New Delhi - 110011
3. Shri M. Vasudeva Rao
Addl. Central Govt. Stg.
Counsel
High Court Buildings
Bangalore - 560001

Subject: SENDING COPIES OF ORDER PASSED BY THE BENCH
IN APPLICATION NO. 655/86(F)

Please find enclosed herewith the copy of the Order/

~~Interim Order~~ passed by this Tribunal in the above said

Application on 23-2-87.

Encl: As above.

B.V. Venkatesh Reddy
Deputy Registrar
(Judicial)

Please see to it
10/3/87

Incl.
12/3/87

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE BENCH BANGALORE

DATED THIS THE 23 FEBRUARY 1987

Present : Hon'ble Sri Ch. Ramakrishna Rao - Member (J)
Hon'ble Sri L.H.A. Rego - Member (A)

APPLICATION No. 655/1986

M.T. Keshava Iyengar
197/Y, III Block, Rajajinagar
Bangalore 560 010

- Applicant

and

Government of India
Ministry of Finance
(Department of Revenue)
North Block, New Delhi

- Respondent

(Sri M.Vasudeva Rao, Advocate)

This application came up for hearing before this Tribunal and Hon'ble Sri. Ch. Ramakrishna Rao, Member (J) to-day made the following

O R D E R

The facts giving rise to the application are, briefly, as follows. The applicant was holding the permanent post of Superintendent of Central Excise (Group B). He was promoted on a purely ad hoc basis as Assistant Collector of Customs & Central Excise in and by order dated 27.9.82 of the Ministry of Finance ('Ministry') while he was working at Bangalore. Later, he was transferred to Hyderabad and on 29.1.1986 an order of compulsory retirement under Rule 56(j) of Fundamental Rules ('Rules') was passed by the Ministry.



The Ministry in and by letter dated 2.4.1986 imposed certain restrictions and denied permission to the applicant to make personal appearance before any departmental/adjudicating/appellate authority/officer in connection with matters relating to customs, central excise and Gold Control cases for a period of two years from the date of his retirement. Aggrieved by this order the applicant has filed this application.

2. The applicant, appearing in person, submits that he was working as Assistant Collector in the Collectorate of Central Excise at Hyderabad as Group A officer only on ad-hoc basis; that the embargo on officers of Group A to practice for a period of two years after retirement is applicable only to such officers who are appointed on a permanent basis; that it is clear from the contents of the letter dated 31.7.78 of the Ministry communicated to Collectors on 19.8.87 (Enclosure III) that the conditions prescribed for determining the eligibility of officers for being considered for promotion to the senior scale (Group A) envisages inter alia, a minimum of three years of regular service (other than ad-hoc service) in the junior scale; that the option for fixation of pay under F.R. 22(a)(i) is not applicable to ad-hoc promotees (Enclosure VII); that the applicant being ad-hoc promotee was not covered by the Insurance Scheme meant for Group A officers (Enclosure VIII) and in view of these disadvantages under which the applicant laboured while in service, he

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should not be debarred from practicing.

3. Sri M.V. Rao, learned counsel for the respondents, submits that the distinction sought to be drawn by the applicant between an officer promoted to Group A on ad hoc and permanent basis is not legally justified; that the ban on practice is applicable to Group A officers whether appointed on ad hoc or permanent basis and, As such the letter dated 2.4.1986 of the Ministry addressed to the applicant does not suffer from any infirmity.

4. We have considered the rival contentions carefully. The meaning of 'ad hoc' as given in the Chambers Twentieth Century Dictionary (1977 edition) on page 14 is 'for this special purpose'. An ad hoc appointment is, therefore, to be understood as an appointment made as a special case for the purpose of filling up the vacancy. So viewed, the tenure of ad hoc appointee is precarious and terminable at any time as pointed out by the Supreme Court in State of Bihar v Yogendra Singh 1982 S.C.C. (L & S) 142. Further, enclosures 3, 7 & 8 relied upon by the applicant demonstrate that a distinction has been maintained by the Ministry between ad hoc promotees and officers confirmed as Group A officers.

5. In our view, unless a person becomes a full-fledged member of a service, no restrictions can be imposed on him in the matter of carrying on practice. Imposition of such restrictions on ad hoc appointees seems unreasonable since



they have not derived all the benefits which members of the service normally derive. Thus in the case of Additional Judges of the High Courts who are not made permanent, it is open to them to practise after the expiry of their term and we no reason why a different principle should be made applicable to ^a case of the kind we are dealing with.

6. Reliance is placed by Sri Rao on a decision of a Division Bench of the High Court of Andhra Pradesh in Y.J. Ramamurthy v Union of India (Writ Appeal No. 1079/82). The petitioner in that ^{case} was not ad hoc promotee as in the present case and as such, the ratio of that decision is not ^{therefore,} applicable.

7. We are, therefore, satisfied, that the letter dated 2.4.1986 of the Ministry addressed to the applicant imposing restrictions on practice is not sustainable.

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



Sd/-
Member (J)

Sd/-
Member (A) 7.2.2. 1987

-True copy-

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