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REGISTERED

CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE BENCH

APPLICATION No. 1415/86(T)

(WP.NO. 297/85)

COMMERCIAL COMPLEX, (BDA)
INDIRANAGAR,
BANGALORE-560 038.

DATED: 15-6-87

APPLICANT

Shri K. Satyanarayana

TO

Vs

RESPONDENTS

The Divisional Engineer, Telegraphs
B'lore and 2 Ors.

1. Shri K. Satyanarayana
7181, Yellapuri Oni
Bankapur Chowk
Hubli - 580 028
2. The Divisional Engineer
Telegraphs
19/B, Hindustan Complex
B.V.K. Iyengar Road
Bangalore - 560 009
3. The General Manager
Telecommunication
Karnataka Circle
Maruthi Complex
Bangalore - 560 009

4. The Divisional Engineer
Telephones, Sujatha Complex
Hubli - 580 029
5. Shri M.S. Padmarajaiah
Senior Central Govt. Stng Counsel
High Court Buildings
Bangalore - 560 001

SUBJECT: SENDING COPIES OF ORDER PASSED BY THE
BENCH IN APPLICATION NO. 1415/86(T)

....

Please find enclosed herewith the copy of the Order
passed by this Tribunal in the above said Application on
3-6-87.

ENCL: As above.

for DEPUTY REGISTRAR
(JUDICIAL)

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE BENCH, BANGALORE

DATED THIS THE THIRTH DAY OF JUNE, 1987

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

APPLICATION No.1415/86(T)

Shri K. Satyanarayana,
7181, Yellapuri Oni,
Bankapur Chowk,
Hubli - 580 028.

... Applicant

V.

Divisional Engineer,
Telegraphs,
19/B, Hindustan Complex,
B.V.K.Iyengar Road,
Bangalore-560 009.

The General Manager,
Telecommunication,
Karnataka Circle,
Maruti Complex,
Bangalore-560 009.

The Divisional Engineer,
Telephones, Sujata Complex,
Hubli-580 029.

... Respondents

(Shri M.S. Padmarajiah ... Advocate)

This application has come up for hearing before this Tribunal
today, Hon'ble Vice-Chairman made the following:

O R D E R

This is a transferred application and is received from the High
Court of Karnataka under Section 29 of the Administrative Tribunals
Act, 1985 (the Act).

2. Prior to 26.4.1983 the applicant was working as an Office Assistant
in Hubli Phones Division of the Telecommunication Department of
Government of India. On 26.4.1982 the Divisional Engineer Telephones
(DET) Hubli, transferred the applicant from his office to the office
of DET, Bangalore Division, Bangalore. That order which has given
rise to this proceeding reads thus:



"INDIAN POSTS AND TELEGRAPHS DEPARTMENT"

No.E-29/119 Office of the Divisional
Engineer Telephones, Hubli-580 029
Hubli, dated 26.4.1982

Sub: Transfer under rule 37 of P&T Manual Vol.IV,
Case of Shri K. Satyanarayana, Hubli Phone
Division, Hubli.

-.-.-

In accordance with the orders contained in
the G M T Bangalore No.Staff/3-93 dated 17.4.1982,
Shri K. Satyanarayana, Office Assistant, Hubli
Phones Division, is hereby struck off from the fore-
noon of 26.4.1982, from the strength of Hubli Phones
Division, with orders to report as Office Assistant,
Office of the Divisional Engineer, Telegraphs,
Bangalore Division, Bangalore.

is

The transfer/under Rule 37 of P&T Manual
Vol. IV.

The transfer is in the interest of service.

Sd/- xxx
Divisional Engineer
Telephones, Hubli-29"

When the High Courts were exercising jurisdiction over service
matters of Central Government, the applicant challenged this
order before the High Court of Karnataka in writ petition No.
17278/1982 principally on the ground that the same was vitiated
by mala fides. On 14.7.1982 the High Court dismissed the said
writ petition and upheld this order of the DET. Thereafter on
19.7.1982 the applicant reported for duty at Bangalore and was
working there till he was removed from service on 10.4.1985, in
a disciplinary proceeding the validity of which is still under
challenge by him before the authorities.

3. On 7.1.1985 the applicant again approached the High Court
in writ petition No.297/85 seeking for the following relief:

"Under the aforesaid paras, the petitioner had proved,
beyond any shadow of doubt, that the transfer within
the meaning of SR 2(18) had been defeated and therefore,
it cannot be called as "Permanent transfer". The
petitioner prays the Hon'ble High Court of Karnataka to
declare the transfer taken place under Rule 37 of P&T
Manual Vol. IV, as "deputation par with the officials
deputed to project circles/maintenance circles and
territorial arms within the P&T Department and necessary
allowances, eligible to the petitioner may kindly be
ordered for payment."



On 9.1.1987 Doddakelegowda J issued rule nisi in the case. On the constitution of the Tribunals under the Act, the said writ petition has been transferred to this Tribunal and the same has been now registered as A No.1415/86.

4. In justification of the relief sought by him, the applicant has urged a large number of grounds. Shri Satyanarayana who is the applicant appeared in person and reiterated every one of them before us.

5. Shri M.S. Padmarajaiah, learned senior standing counsel for the Central Government appearing for the respondents, at the threshold contends that the relief sought even if well founded cannot be granted as the same was barred by constructive res judicata.

6. We have earlier reproduced the order of transfer made by the DTE, which was subjected to a challenge before the High Court which was then competent to adjudicate the same, and dismissed the same.

7. In his second writ petition which is now transferred to this Tribunal, the applicant is seeking for a relief flowing from the very order of transfer challenged in his earlier writ petition No.17278/82. In his earlier writ petition, it was undoubtedly open to the applicant to seek that very relief and that it was open to the High Court to have granted the same, even if it upheld the order of transfer. We are not now concerned as to why he did not to do so. We are now only concerned with the legal effect only.

8. When an order is challenged and relief thereto is sought, then the person has to challenge the same on all such grounds on which the same can be challenged and all reliefs that can be sought, must be also be sought by him. If a party, for whatever reason that be, does not urge any ground or does not seek for any relief that he could



and ought to have sought, then he is deemed to have given up the same or the court is deemed to have refused the same is true requirement of constructive res judicata. In other words the very relief sought by the applicant as arising from the very order of transfer on the very grounds urged in this application must be deemed to have been sought in the earlier writ petition and refused by the High Court. If that is so then the present relief sought in this application barred by constructive res judicata cannot be examined and granted by us even if there is any merit in the same. On this view, this application is liable to be dismissed without examining all other interesting questions urged by the applicant at great length with same thoroughness. We, therefore, dismiss this application. But in the circumstances of the case we direct the parties to bear their own costs.



bsv

Sd - - -

VICE CHAIRMAN

3/6/87

Sd - - -

MEMBER (A)

True copy

15/6/87
SECTION OFFICER
CENTRAL ADMINISTRATIVE TRIBUNAL
ADDITIONAL BENCH
BANGALORE