

URGENT
OUT-TODAY

CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE BENCH

REGISTERED

Commercial Complex(BDA)
Indira Nagar,
BANGALORE- 560 038.

Dated 26/11/86

Application No. 1424 & 1629/86(F)

WP No. _____

Applicant

Mrs Vijaya Balaraman & M.Navakeerthi.

To

Smt Yamuna Sridharan, Advocate,
"RAM DOOTH", 24, Yamuna Bai Road,
Kumara Cot Lay Out, High Grounds,
Bangalore - 560001

Sh Ranganath Jois, Advocate,
150/36, National High School Road,
V.V. Puram, Bangalore - 560 004.

Union of India, Ministry of Railways,
(Railway Board), New Delhi.
(R-1 in A. No 1424/86(F)) & 1629/86(F)

Divisional Railway Manager, (P),
Divisional Office,
Southern Railways, Mysore.

The General Manager,
Southern Railway, Madras-3
(R-2 in A.No 1629/86(F))

The Chief Personnel Officer,
HQ Office, Southern Railway, (R-3)
Madras-3

The Divisional Personnel Officer,
Divisional Office, Southern Railway, (R-4)
Mysore-21.

Medical Superintendent,
Railway Hospital, Yadavagiri, (R-5)
Mysore-20

(All are Respondents in A.No 1629/86(F))

Sh NS Srinivasan,
12, 2nd Floor, SSB Mutt Buildings,
Tank Bund Road,
Bangalore - 560 009
(Advocate for Respondents)

SUBJECT: Sending copies of Order passed by the Bench in
Application No. 1424/86 (F) & 1629/86(F)

....

Please find enclosed herewith the copy of the Order/

~~Interim Order~~ passed by this Tribunal in the above said Application
No. 1424 & 1629/86(F) on 18th November, 1986.

Encl: as above.

SECTION OFFICER
(JUDICIAL)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE BENCH : BANGALORE

DATED THIS THE 18TH NOVEMBER, 1986

Present

The Hon'ble Justice Shri K.S. Puttaswamy : Vice-Chairman

The Hon'ble Shri L.H.A. Rego . : Member

Application Nos. 1424/86 and 1629/86(F)

1. Mrs. Vijaya Balaraman,
Substitute Pharmacist,
Railway Hospital,
Mysore.

...Applicants

2. Shri M. Navakeerthi,
Laboratory Superintendent, Gr. III,
Railway Hospital, Mysore.

(Smt. Yamuna Sridharan & Shri Ranganath Jois, Advocates)

1. Union of India,
Ministry of Railways,
(Railway Board),
New Delhi.

Respondents

2. Divisional Railway Manager (P),
Divisional Office,
Southern Railway, Mysore.

(Shri A.N. Venugopal, Advocate)

These applications have come up for hearing before
this Tribunal today, the Hon'ble Justice Shri K.S. Puttaswamy,
Vice-Chairman, made the following:

O R D E R

As the question that arise for determination in these
cases are common, we propose to dispose of them by a common order.

2. The applicants are Diploma in Pharmacy.

3. Smt. Vijaya Balaraman, applicant in Application No. 1424/86
was appointed as a 'substitute pharmacist' on 18.6.1983 in the
office of the Divisional Railway Manager, Divisional Office,
Southern Railway, Mysore (DRM) respondent No. 2. From 18.6.1983
and onwards she has been in continuous service on the basis of
the appointment orders issued from time to time.

.../-



4. Shri M. Navakeerthi, applicant in Application No.1629/86 was appointed as a 'substitute Assistant Chemist' on 4.2.1983 in the office of the DRM. From 4.2.1983 and onwards this applicant also is in continuous service on the basis of appointment orders issued from time to time.

5. On 11.7.1986 and 5.8.1986 respectively, the applicants have approached this Tribunal under Section 19 of the Administrative Tribunals Act, 1985 (Act) for a direction to respondent No.2 to regularise their services without terminating them.

6. The applicants have urged that in terms of Circular No.E(IG)II-84/SB/9 (Annexure-2) of the Railway Board (Board) respondent No.2 was bound to regularise their services since they had completed three years of service.

7. In their separate but identical replies, the respondents have resisted the claim of the applicants.

8. Smt. Yamuna Sridharan, learned counsel for the applicant in Application No.1424/86 and Shri S. Ranganath Jois, learned counsel for the applicant in Application No.1629/86 contend that on the very terms of the circular dated 19.12.1984 (Annexure-2) of the Board, their clients who satisfy all the requirements of that circular were entitled for regularisation and that we should, therefore, direct respondent No.2 to to regularise their services.

9. Shri A.N. Venugopal, learned counsel for the respondents contend that the circular dated 12.12.1984 had been modified by the Board on 28.10.1985 and the applicants had not acquired an indefeasible right for regularisation of their service.

10. Both sides do not dispute that the Board had issued circulars or orders providing for regularisation or regular appointments to the posts held by the applicants. The true nature of those circulars and rights, if any, of the applicants thereunder have not so far been examined and decided by



respondent No.2. But even before that, the applicants have unnecessarily rushed to this Tribunal and have prevented their authority from examining their claims and making his orders thereto. When that is so, the proper order to make is to direct respondent No.2 to consider the cases of the applicants for regularisation and pass such orders as the circumstances justify. We need hardly say that after respondent No.2 makes his orders, it is open to the applicants, if they are still aggrieved to work out their legal remedies in accordance with law.

11. Learned counsel for the applicants seek for a further direction to respondent No.2 not to disturb their clients till their cases for regularisation are considered and orders are made.

12. Shri Venugopal opposes the direction sought for the applicants.

13. While admitting these applications, this Tribunal had granted stay orders on the strength of ^{of which 2} ~~the~~ the applicants are continuing in service. Before the authorities consider the cases of the applicants and pass orders, it would be proper for them not to disturb the applicants.

14. In the light of our above discussion, we make the following orders and directions:

- (1) We direct respondent No.2 to consider the cases of the applicants for regularisation in conformity with law and pass his orders thereto with ~~at~~ such expedition as is possible in the circumstances of the case and in any case within three months from the date of receipt of this order. But till then, we direct the respondents not to disturb the applicants from the posts they are now holding.

.../-



15. Applications are disposed of in the above terms.
But in the circumstances of the cases we direct the parties
to bear their own costs.

16. Let this order be communicated to the parties within
10 days from this day.



Sd/-
(K.S. Puttaswamy) 18/11
Vice-Chairman
18.11.1986

Sd/-
(L.H.A. Rego)
Member (AM)
18.11.1986

am

True Copy -
R. [Signature] 26/11/86
SECTION 1
CENTRAL ADMINISTRATIVE TRIBUNAL
ADDITIONAL BENCH
BANGALORE

o/

CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE BENCH
@@@@@@@@@@@@@@@@

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

Dated : 1/9/87

C.C. APPLICATION NO 6/87 ~~xxx~~
in Application No. 1629/86(F)
~~xxxxxxxx~~

Applicant

M.Navakeerthi Vs ^{DPO} TM.Jayaraman, Major, S.Rly. Mysore & anr.

To

1. Shri M.Navakeerthi,
Laboratory Superintendent Gr.III.
Railway Hospital, Mysore.
2. Shri T.M.Jayaraman, Major,
Divisional Personnel Officer,
Southern Railway, Mysore.
3. Chief Personnel Officer
H.Q. Office, Southern Railway,
Madras-3
4. Shri Ranganath Jois, Advocate,
'Vagdevi', 36, ~~Shankarapuram~~
Shankara Park, Shankarapuram,
Bangalore-560 004.
5. Shri A.N.Venugopal, J.R.
Central Govt. Standing Counsel,
High Court Building,
Bangalore.

Subject: SENDING COPIES OF ORDER PASSED BY THE BENCH

Please find enclosed herewith the copy of ORDER ~~xxxxx~~
~~xxxxxx~~ passed by this Tribunal in the above said
application on 25-8-1987.

Encl : as above

[Signature]
Deputy Registrar
SECTION OFFICER
(JUDICIAL)

CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE

DATED THIS THE 25TH DAY OF AUGUST, 1987

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

C.C. APPLICATION NO. 6/1987

M. Navakeerthi,
Aged 28 years,
Laboratory Superintendent Gr.III,
Railway Hospital, Mysore.
(Shri Ranganath Jois, Advocate)
v.

.... Petitioner

1. Sri T.M. Jayaraman,
Major,
Divisional Personnel Officer,
Southern Railway,
Mysore.

2. Chief Personnel Officer,
H.Q. Office, Southern Railway,
Madras.

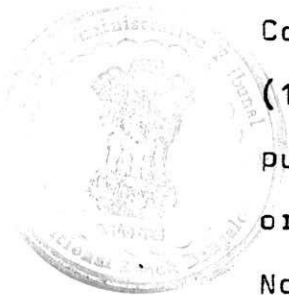
.... Contemnors

(Shri A.N. Venugopal, Advocate)

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 17 of the
Administrative Tribunals Act, 1985 ('the Act') and the
Contempt of Courts Act, 1971 (Central Act No.70/1971)
(1971 Act) the petitioner had moved this Tribunal to
punish the contemnor ^{No.1} for the alleged disobedience of an
order made in his favour on 13.11.1986 in Application
No.1629 of 1986.



[Handwritten signature]

2. In Application No.1424 and 1629 of 1936 this Tribunal directed the Contemnor^{No.1} and the Union of India, who were parties, to consider the cases of the petitioner and the applicant in A.No.1424/1986 for regularisation with expedition and in any event within 3 months from the date of receipt of the order with a condition that they should not be disturbed from the posts they were then holding till such consideration.

3. On an examination of the order made by this Tribunal and all other factors ~~xxx~~ contemnor No.-1 by his order No.Y/P.268/VIII/I/Pharmacist/Vol.VIII dated 20.4.1987 had terminated the services of the petitioner (Annexure-A) and same is being separately challenged by him in A.No.320 of 1987.

4. Sri S. Ranganath Jois, learned counsel for the petitioner strenuously contends that the contemnor had deliberately flouted the order of this Tribunal and is therefore liable to be punished under the 1971 Act.

5. Sri A.N. Venugopal learned counsel for the contemnor contends that in making the order dated 20.4.1937 the contemnor had not flouted the order of this Tribunal.

6. We have carefully read the directions made in A.No. 1424 and 1629 of 1986.

7. We are of the view that the order made by this Tribunal did not prohibit the contemnor from terminating



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the services of the petitioner. Whether that order is legal or not has necessarily to be examined and decided in A.No.320 of 1987. But, that can hardly be a ground for holding that the contemnor had wilfully flouted the order of this Tribunal. We are of the view that the contemnor had not wilfully disobeyed the order made by this Tribunal to justify us to punish him under the 1971 Act.

8. On the foregoing discussion, we hold that the contempt proceedings are liable to be dropped. We, therefore, drop the contempt proceedings with no order as to costs. But this should not be understood as our expressing an opinion on the legality or otherwise of the order made by the contemnor which is the subject matter of Application No.320 of 1987.

Sd----

Vice-Chairman

Sd----

Member (A)

np/Mrv.

True copy

B.V. Venkatesh Reddy

DEPUTY REGISTRAR
CENTRAL ADMINISTRATIVE TRIBUNAL
ADDITIONAL BENCH
BANGALORE

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