

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE BENCH: BANGALORE
DATED, THIS THE SIXTH DAY OF FEBRUARY, 1987
PRESENT

HON'BLE MR. JUSTICE K.S.PUTTASWAMY .. VICE CHAIRMAN
HON'BLE MR. L.H.A. REGO .. MEMBER(A)

APPLICATION NO.1536 OF 1986(T)

Shri A.J.Ghasti
Major
Asst. Post Master,
Resident of Gokak,
Dist. Belgaum. .. **Applicant.**

(By Shri C.R.Patil, Advocate for the petitioner)

-vs.-

1. The Post Master General
Karnataka Circle
Bangalore-1.
2. The Superintendent of Post Offices,
Gokak Division, Gokak. .. **Respondents.**

(By Shri N.Basavaraju, Learned Standing Counsel for
Central Government, for respondents)

Application under Section 29 of the Administrative
Tribunals Act, 1985, filed by the applicant challenging the
order dated 27-3-1980 (Annexure-A).

The application coming on for hearing this day,
VICE CHAIRMAN made the following:

ORDER

In this transferred application received from
the High Court of Karnataka under Section 29 of the
Administrative Tribunals Act, 1985 ('Act'), the applicant
has challenged the order dated 27-3-1980 (Annexure-A) of

the

the Superintendent of Post Offices, Gokak Division, Gokak ('Superintendent').

2. The applicant claims to be a member of a Scheduled Tribe called 'Koli Mahadev' specified in The Scheduled Tribes Order of 1950, promulgated by the President of India and on that basis, he sought for selection as a Time Scale Clerk ('Clerk') in the Postal Department, Government of India ('PT' Department). On verification of the proof produced by him, the applicant was selected and appointed as a Clerk on 5-12-1957 from out of the quota reserved to members of Scheduled Tribes. On 1-6-1974, the applicant was also promoted as a Lower Selection Grade Clerk ('LSG Clerk') from out of the quota reserved to members of Scheduled Tribes and from that date, he has been working in that capacity. But, when the applicant sought for a further promotion on that very basis, the Superintendent has communicated an order made by the Head of the Department on 23-3-1980, which reads thus:

"In this connection a reply received from the P.M.G. Bangalore Lr.No. STA/1-17/II dated 23-3-1980 is produced below:

"The D.G. & T.N.D. has decided that, the official's service in the cadre of L.S.G. prior to 27-7-77 cannot be considered for the purpose of fixation of seniority. As such the Official's case for promotion to H.S.G. II will be considered at appropriate time according to his revised seniority."

The concerned official may please be informed accordingly."

In Writ Petition No.9077 of 1980, the applicant challenged this order before the High Court of Karnataka, which on transfer has been registered as Application No.1536/86.

3. Sri C.R.Patil, learned Counsel for the applicant, contends that the impugned order made by the Head of the Department, which was bereft of reasons, was not a speaking-order, arbitrary and illegal.

4. Sri N.Basavaraju, learned Additional Standing Counsel for the Central Government appearing for the respondents, contends that the date 27-7-1977 had been selected by the Head of the Department for the reason that from that date the caste 'Koli Mahadev' had been recognised as a Scheduled Tribe in the State of Maharashtra.

5. The order itself does not give reasons muchless the reason that is now pleaded by the respondents. When the order as such does not give reasons, this Tribunal cannot re-construct that order and uphold the same. On this short ground, the impugned order which is bereft of reasons, arbitrary and illegal, is liable to be struck down.

6. We have earlier noticed that the applicant had secured his initial appointment on the ground that he was a member of a Scheduled Tribe, which has not so far been derecognised. When that is so, that status recognised by the authority must necessarily hold the field even if what is urged for the respondents is correct. On this view also, the impugned order cannot be upheld.

7. In the light of our above discussions, we hold that the impugned order is liable to be quashed. We, therefore, quash the impugned order.

8. Application is allowed. But, in the circumstances of the case, we direct the parties to bear their own costs.

Ms. Dharmendra
VICE CHAIRMAN
6/2/98

Ok
MEMBER(AM)(R) 6-2-98

CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE BENCH
* * * * *

Commercial Complex(BDA)
Indiranagar
Bangalore - 560 038

Dated : 17 JUN 1988

CONTEMPT OF COURT APPLICATION NO
IN APPLICATION NO. 1536/86(T)
W.P. NO.

23 /88
9077 /80

Applicant

Shri A.J. Ghasti

To

Respondent

v/s The PMG, Karnataka Circle, Bangalore & another

1. Shri A.J. Ghasti
C/o Shri C.R. Patil
Advocate
1272, 8th 'A' Main
Prakash Nagar
Bangalore - 560 021
2. Shri C.R. Patil
Advocate
1272, 8th 'A' Main
Prakash Nagar
Bangalore - 560 021
3. The Post Master General
Karnataka Circle
Bangalore - 560 001
4. The Superintendent of Post Offices
Gokak Division
Gokak
5. Shri M.S. Padmarajaiah
Central Govt. Stng Counsel
High Court Building
Bangalore - 560 001

Subject : SENDING COPIES OF ORDER PASSED BY THE BENCH

Please find enclosed herewith the copy of ORDER/SOPA/INTERIM ORDER
passed by this Tribunal in the above said Contempt of Court application on 2-6-88.


DEPUTY REGISTRAR
(JUDICIAL)

Encl : As above

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE BENCH: BANGALORE

DATED THIS THE SECOND DAY OF JUNE, 1988

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

C.C. APPLICATION NO. 23/1988

Shri A.J. Ghasti
R/o. Raichur,
ccc: Service as Head Post
Master
Raichur. .. Applicant
(Shri C.R. Patil, Advocate)

Vs.

1. The Post Master General
Karnataka Circle
Bangalore-1.
2. The Supdt. of Post Office
Gokak Division
Gokak .. Respondents
(Shri M.S. Padmarajaiah, Advocate)

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

ORDER

In this application made under Section 17
of the Administrative Tribunals Act, 1985 and the
Contempt of Court Act 1971, the petitioner has moved this
Tribunal to punish the Contemners for non-implementation
of an order made in his favour on 6.2.1987 in A.No.1536/86
(Annexure-G).

2. In A. No. 1536/86, the applicant had
challenged an order made by the Post Master General (PMG)

Bangalore on 23.3.1980 which was resisted by the Respondents. On an examination of that order, this Tribunal by its order dated 6.2.1987 quashed the same without issuing any directions in that behalf. On 6.11.1987 the PMG has made an order regulating certain service matters of the petitioner. The petitioner complains that this order does not fully implement the order made by this Tribunal in A.No.1536/86.

3. In their reply the Respondents have asserted that they had faithfully implemented the order made by this Tribunal and the later order made by the PMG on 6.11.1987 does not constitute contempt of this Tribunal.

4. Shri C.R, Patil, learned counsel for the petitioner, contends that the order made by the PMG on 6.12.1987 was in violation of the order made by this Tribunal on 6.2.1987 in A. No. 1536/86 and the same constitutes contempt of this Tribunal.

5. Shri M.S. Padmarajaiah, learned counsel for the respondents refuting the contention of Shri Patil contends that the order made by the PMG on 6.11.1987 does not constitute contempt of this Tribunal at all.

6. We have carefully examined order made by this Tribunal on 6.2.1987 and the later order made by the PMG on 6.11.1987.



-: 3 :-

7. In our order we had not issued any directions on any one of the matters to the PMG. Our order only quashed the order challenged in the application. When that it is so, it is difficult to hold that the order made by the PMG on 6.11.1987 on the correctness of which we express no opinion, does ~~not~~ at all constitute contempt of this Tribunal.

8. We need hardly say that if the applicant is aggrieved by the order made on 6.11.1987, it is undoubtedly open to him to challenge the same ~~order~~ in separate legal proceedings on all such grounds as are available to him.

9. In the light of our above discussion, we hold that these contempt of court proceedings are liable to be dropped. We, therefore, drop the contempt proceedings with no order as to costs. But this does not prevent the petitioner from challenging the order dated 6.11.1987 in separate legal proceedings.



Sd/-

VICE CHAIRMAN

2/6/88

TRUE COPY

mr.

Sd/-

MEMBER (A)

DEPUTY REGISTRAR (JDL)

CENTRAL ADMINISTRATIVE TRIBUNAL

BANGALORE