

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE BENCH, BANGALORE

DATED THIS THE THIRTEENTH DAY OF NOVEMBER 1986

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

Hon'ble Shri P. Srinivasan .. Member (A)

APPLICATION NO.1656/86

Sri M. Govindaraju,
S/o Mudalagiriyappa,
Peon, Forest Survey of India,
Southern Zone,
103-E, 16th Main Road,
Vijayanagar, Bangalore-560 040. ... Applicant

(Shri M. A nanda Ramu . Advocate)

V.

The Union of India repre-
sented by its Secretary,
Forest Survey of India,
New Delhi.

The Director,
Government of India,
Forest Survey of India,
Subhas Road,
Dehra Dun.

The Joint Director,
Government of India,
Southern Zone,
103-E, 16th Main Road,
Vijayanagar,
Bangalore-560 040. ... Respondents

(Shri M. Vasudava Rao. Advocate)

This application has come up for hearing before this
Tribunal today, Hon'ble 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 order
No.4-13/82-83/982 dated 16.5.1985 (Annexure E) and notice No.
4-13/82-83 dated 29.11.1984 (Annexure B) of the Joint Director,
Southern Zone, Bangalore (JD).

2. On 17.2.1983 the applicant was appointed as a Peon in the
office of the JD (Annexure A) on a temporary basis on the terms


and conditions set out in that order and in pursuance of the same he reported for duty on 25.2.1983 and was working in that office ever since then. In terms of the appointment order and the Central Civil Servants (Temporary) Service Rules (the Rules), the JD on 29.11.1984 issued a notice (Annexure B) under Rule 5(1) of the Rules to the applicant, giving him one month's notice of termination from ~~the~~ temporary service and on the expiry of that period he was relieved from his duties. Aggrieved by the same the applicant filed a petition or an appeal under Rule 5(2)(a) of the Rules on 6.3.1984 before the Director, who on 9.5.1985 rejected the same, which is communicated by the JD on 16.5.1985 (Annexure E). Hence this application.

3. The applicant has urged that his termination was in contravention of the rules and the principle of 'last come first go'. Alternatively he has urged that his termination was actuated by ~~the~~ personal bias of the then JD whose demands for rendering his personal services were not obliged by him.

4. In justification of the orders made, the respondents have filed their reply. At the hearing, the respondents have produced all the records leading to the termination of the applicant.

5. Shri M.S. Ananda Ramu, learned counsel for the applicant contends, that the termination of his client without following the principles of 'the last come first go' was violative of Articles 14 and 16 of the Constitution and illegal. In support of his contention, Shri Ramu strongly relies on the ruling rendered by the Principal Bench of the Tribunal in Ramachandra Hari Karmarkar V. U.C.I. and others 1986 Vol. I ATR 164.

6. Shri M. Vasudeva Rao learned counsel for the respondents



contends, that the termination of the applicant being on the ground that he was found unsuitable to hold the post and the same was in conformity with the appointment order and the rules *and* *h* the ratio in Ramachandra Hari Karmarkar's case, did not really bear on the point.

7. The applicant had only been appointed on a temporary basis. His termination was, therefore, permissible under the appointment order and the rules.

8. When the termination was in terms of the appointment order and the rules, this Tribunal as ruled by the Supreme Court in State of Maharashtra V. Vaerappa R. Saboji and another 1980 SCC L&S 61, generally should not *d* delve deep into the reasons and records and fish out for other reasons. We must on this ground conclude the controversy.

9. But in order to ascertain that the termination was not actuated by bias or collateral considerations, we have carefully examined the records.

10. We find that the ~~xxx~~ JD had terminated the services of the applicant on the ground that his attendance was irregular and his work was not upto the mark or he was unsuitable to hold the post.

11. When the JD holds that the applicant was unsuitable to hold the post and his services should be terminated, this Tribunal cannot sit as a Court of appeal and come to a different conclusion on his decision. We find it difficult to hold from the records that the termination was not justified.

12. In Ramachandra Hari Karmarkar's case, on which strong reliance was placed by Shri Ramu, he had not been terminated on the ground

that he was unsuitable to hold the post as in the present case but almost fancifully and arbitrarily and in contravention of the principle 'last come first go'. In this view, the ratio in Ramachandra Hari Karmarkar's case does not really bear on the point.


13. On the foregoing discussion, we hold that there is no merit in the contention of Shri Ramu and we reject the same.

14. Shri Ramu next contends, that the order made by the Director without giving reasons and really applying his mind to the grounds urged by the applicant in his appeal or review petition, was not a speaking order and illegal.

15. Rule 5(2)(a) does not provide for an appeal against an order of termination. Rule 5(2)(a) only empowers a superior authority or Government of India to suo motu, review an order made by a subordinate authority under the Rules, which can also be exercised at the instance of an aggrieved civil servant ~~also~~. But the same does not become statutory appeal under the Rules, requiring the authority to make a 'speaking order'. We see no merit in the contention of Shri Ramu and we, therefore, reject the same.

16. Shri Ramu contends that the order was actuated by ~~the~~ personal bias of the then JD, who was piqued by the failure of the applicant to attend to his personal duties.

17. We have carefully examined the allegations of mala fides made by the applicant against the then JD. We are of the view that the allegations of malafides made by the applicant against the then JD are as vague as they could be, which themselves justify us to reject them without any further serious examination.



18. Even otherwise we have ascertained that the then JD who made the order was one Shri Erappa, a member of IFS who has been repatriated to his parent cadre. The applicant has not named that person and has not made him a party even to justify us to further investigate the allegations of mala fides.

19. Shri Ramu made a passionate appeal to us to direct the respondents to condone the lapses of the applicant and reinstate him to service on such terms as this Tribunal may deem fit to direct.

20. We have ascertained from the respondents whether it is possible to accommodate the applicant. We are informed by them that a large number of posts have been abolished and that even if they were to take a sympathetic view it is impossible for them to accommodate the applicant. We have no reason to disbelieve this submission of the respondents. We cannot therefore accede to this request of Shri Ramu.

21. As all the grounds urged by the applicant fail, this application is liable to be dismissed. We, therefore, dismiss this application. But in the circumstances of the case we direct the parties to bear their own costs.

Mr. Prasad
13/11/86
VICE CHAIRMAN

P. S.
13/11/86
MEMBER (A)