

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE BENCH BANGALORE

DATED THIS THE 17th DECEMBER 1986

Present : Hon'ble Shri Ch. Ramakrishna Rao - Member(J)

Hon'ble Shri L.H.A. Rego - Member(A)

APPLICATION No. 167/86

M.N. Muthu
Driver,
National Tuberculosis Institute,
No.8, Bellary Road, Bangalore 3 - Applicant

(Shri M.Anandaramu, Advocate)

and

1. Union of India represented by
The Secretary, Ministry of Health Services,
New Delhi

2. Director General of Health Services,
New Delhi

3. Director, National Tuberculosis Institute,
No. 8 Bellary Road, Bangalore 3

4. K.K. Mathew
Mechanical Supervisor
National Tuberculosis Institute,
Bellary Road
Bangalore 3

- Respondents

(Sri M.S.Padmarajaiah, Senior C.G.S.C.)

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

O R D E R

This application was initially filed as a writ petition in the High Court of Karnataka and subsequently transferred to this tribunal. The facts of the case giving rise to this application are briefly as follows.

2. The applicant was appointed as temporary Driver in the National Tuberculosis Institute ('NTI') on 15.7.65 and later confirmed in that post from 5.4.1972. The applicant was placed under suspension on 29.7.1975 pending departmental disciplinary proceedings which were initiated on 15.9.1975. The proceedings culminated in an order of compulsory retirement passed by the third respondent ('R3') against the applicant on 16.6.1976 which was confirmed by the second respondent ('R2'). The applicant, however, succeeded in a w.p. filed by him in the High Court of Karnataka against the order of compulsory retirement and he was reinstated on 9.6.1978 with retrospective effect from 16.6.1976. Thereafter on 6.7.1978, R3 informed the applicant that he was transferred to the Central (Surplus Staff) Cell ('Cell') with effect from 1.7.78 for re-deployment facility. The applicant protested against the said order as a result of which he was taken back on the rolls of the NTI with retrospective effect from 1.7.1978. However, on 12.1.1979 R3 again transferred the applicant to the Cell which he received under protest. On 7.2.1979 he appealed against the said order to the R2 and a copy of the said appeal was also submitted by him to the Department of Personnel & Administrative Reforms, Ministry of Home Affairs, New Delhi ('DOP'). The applicant received a memo dated 7.2.79 from the DOP directing him to report for duty to the

...Director

Director, Pre-Investment Survey of Fishing Harbour, Bangalore immediately. He was, however, not taken on duty by that office on the ground that he had no heavy vehicle driving licence. Aggrieved by the order of R 3 transferring him to the Cell, the applicant has filed this application.

3. Shri Anandaramu, learned counsel for the applicant contends that the disciplinary proceedings initiated against his client and the subsequent action of R3 transferring him to the Cell were engineered by Shri K.K. Mathew, Mechanical Supervisor in the NTI (R 4). Shri M.S. Padmarajaiah, senior C.G.S.C, learned counsel for the respondents has denied this allegation. In fact Shri Mathew has filed a memo of objections denying any such role in the affairs of the applicant as alleged.

4. On a careful consideration of the matter, we are satisfied that R3 has acted on his own and was not in any way influenced by R4.

5. Sri Anandaramu next contends that his client being a permanent Driver in NTI, could not be transferred to the Cell. Shri Padmarajaiah submits that ten vehicles were condemned in NIT in 1976, based on the recommendations of a technical committee; that a list of surplus Drivers/Driver Mechanics was prepared according to the length of service put in by them and that ~~the~~ the list was forwarded to the Cell according to the scheme for the disposal of surplus personnel. The surplus staff has to be surrendered to the Cell against reduced cadre strength directly in the

reverse order of seniority in the affected cadre and ^{they} will be retained at the Headquarters, where they were last employed, till their re-deployment is arranged by the Cell.

6. We have considered the matter carefully. We find no substance in the contention of Shri Anandaramu, since the scheme is applicable to permanent employees as well. The list of surplus drivers/driver mechanics (exhibit R1) surrendered by the NTI to the Cell was prepared in conformity with the principles of the scheme. The respondents in the statement of objections have stated:

"Hence, it is clear that referring the name of the Petitioner to Surplus Cell was not an action of vindictiveness as alleged in the writ petition. It is emphatically denied that the name of the petitioner has been referred arbitrarily. 3 Drivers who are seniors to the Petitioners and 9 Drivers excluding Driver Mechanics who are juniors to the Petitioners were rendered to the Surplus Cell."

We, therefore, uphold the order of R3 transferring the applicant to the Cell.

7. Shri Anandaramu, brings to our notice that NTI is at present having 30 vehicles and there are only 12 drivers two of whom are attaining the age of superannuation during January 1987 and submits that since his client has put in 22 years of service in NTI, he may be considered against any post of Driver in the NTI. If this be true, the name of the applicant for filling up such vacant posts may be considered by R3.

8. In the result the application is disposed off as indicated above. No order as to costs

Chandramouli
Member (J) 17/12/86

Deepti
Member (A) 17.12.86

REGISTERED

CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE BENCH

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

Dated

24/11/87

Review Application No. 6/87
In. A. No. 167/86(C)

Applicant

M. N. Muthu

To

1. Sh. M N Muthu, Driver, National Tuberculosis Institute,
8, Bellary Road, Bangalore-3.
2. Secretary to Govt. of India, Ministry of Health Services, New Delhi.
3. The Director General of Health Services, New Delhi.
4. The Director, National Tuberculosis Institute,
8, Bellary Road, Bangalore-3.
5. K.R. Muthu, Mechanical Supervisor,
National Tuberculosis Institute,
Bellary Road, Bangalore-3.
6. Sh. K. Subba Rao, Advocate,
128, Cubbonpet Main Road
Bangalore - 2.
7. Sh. M.S. Padmarajiah,
Senior Contd. Govt Standing Counsel
High Court Building, Bangalore-560001.

SUBJECT: Sending copies of Order passed by the Bench in
Review Application No. 6/87

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Please find enclosed herewith the copy of the Order/
Interim Order passed by this Tribunal in the above said Application No. 6/87 on 16-1-1987. L Review


SECTION OFFICER
(JUDICIAL)

Encl: as above.

Copy to: F. No. 167/86(C)

ORDER SHEET

Review Application No

6 of 1987

Applicant

H. A. Kartikey

Advocate for Applicant

Respondent

Leg. & Health Services Corp.

Advocate for Respondent

Sh. K. Subba Rao.

Orders of Tribunal

(Ch RKR)MJ/LHAR(M(A))

16-1-87
R. A. NO. 6/87
ORDER (A NO. 167(86))

None present for the applicant. Shri M.S.Padmara-jaiah, senior C.C.S.C. for the respondents.

We have perused the objections filed by the applicant under Section 22(F) of the Administrative Tribunals Act 1985.

Among the grounds justifying review of an order passed by this Tribunal, the relevant one is that the order could be reviewed if an error is apparent on the face of the order discernible. On a careful perusal of the order we do not find any error in our order and we do not find any ground for reviewing the same since we have considered the matter in extenso.

The contention of the petitioner is that certain posts of Drivers were still vacant in NTI for being filled in and the applicant should be considered in the matter of filling up the vacant posts.

In fact, we have already dealt with this ~~contention~~ prayer of the applicant and have also given necessary directions in para 7 of the Order.

Date	Office Notes	Orders of Tribunal
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We, therefore, do not find any reason to elaborate on the direction of the Tribunal.

In the result, the objection lacks substance and is rejected.

Chandru

Member (J)

DR. S. J.

Member (Am) 16-1-87

-Same Copy -

R. Bhattacharya

23/1/87

S. J.

CENTRAL ADIVASI

ADDITIONAL DDCB

MANGALORE