

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL: BANGALORE.

DATED THIS THE THIRTIETH DAY OF APRIL, 1987.

Coram: Hon'ble Shri Justice K.S. Puttaswamy, Vice-Chairman,
and

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

Application No. 1889/86

G. Nagappa,
R/o Meter Guage,
Hospet Loco Shed,
S.C.R., Hospet,
Bellary District.

...Applicant.

(Shri Vadiraj Ghatikar, Advocate)

vs.

1. Union of India,
Ministry of Railways,
Central Govt. Secretariat,
New Delhi.

2. The Asst. Personnel Officer,
S.C.R. Divl. Office,
Personnel Branch,
Hubli.

3. The Senior Divl. Mechanical Engineer,
S.C.R.
Hubli.

4. Inquiry Officer/Divl. Engineer,
Divl. Office, S.C.R.
Hubli.

5. The Asst. Mechanical Engineer/L/,
Divl. Office, SCR, Hubli.

6. The Indian Railway Board,
Rail Bhavan,
New Delhi, rep.by its Chairman.

...Respondents.

(Shri M. Sreerangaiah, Standing Counsel for Railways)


Application having come up for hearing today, the
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. On 26.7.1955, the applicant joined service as a 'Khalasi', a Class IV post, in the Hubli Division of South Central Railway, and in 1977 was working in that capacity at the Hospet Railway Station where he absented himself from duty on a number of occasions. On that ground, the Assistant Mechanical Engineer (L), Hubli ('AME') commenced disciplinary proceedings against the applicant under the Railway Servants (Discipline & Appeal) Rules, 1968 ('Rules'), and appointed one Shri R. Ramachandrappa as the Inquiry Officer ('IO').

3. In his written statement and in the inquiry before the IO, the applicant did not deny his absences on the several dates mentioned in the charge memo, but pleaded certain circumstances as justifying his absences. On a consideration of the same, and evidence placed before him, the IO found that the applicant was guilty of the



charge levelled against him and accordingly submitted his report to the AME, who then submitted the records to the Senior Divisional Mechanical Engineer ('Sr.DME'), who by his order made on 28.3.1981 (Annexure-C) inflicted on him the penalty of removal from service w.e.f. 15.4.1981. Aggrieved by this order, the applicant filed an appeal before the Divisional Railway Manager ('DRM'), who by his order made on 23.4.1981 (Annexure-A) dismissed the same. Aggrieved by them, ^{said order} the applicant filed a review petition before the General Manager, Southern Railway ('GM'), who has also dismissed the same. Aggrieved by these orders, the applicant approached the High Court in writ petition No. 12673/84, which on transfer has been registered as A. No. 1889/86.


5. In justification of the impugned orders, the respondents have filed their reply and produced the records.

6. Shri Vadiraj Ghatikar, learned counsel for the applicant, contends that the order made by the DRM as the appellate authority was not a speaking order and was illegal.

6. Shri M. Sreerangaiah, learned Standing Counsel for the Railways, appearing for the respondents, contends, that notwithstanding any infirmity in the order of the DRM, having regard to the admission of the charges by the applicant, this is a fit case, in which this Tribunal should decline to interfere with all the impugned orders.

7. In the charge memo, the AME had indicated all the dates of unauthorised absences of the applicant. In his written statement as also at the inquiry, the applicant had not denied that ~~that~~ charge at all. Even the explanation offered by the applicant as to the loss of his wife, at the highest, was good on the day his wife died, and one or two days thereafter, and was no explanation for all his intermittent and frequent absences in 1977. What emerges from this is, that the applicant had admitted the charge levelled against him. If that is so, then the IO holding a regular inquiry, or any of the authorities considering his case on his guilt, does not at all arise. On this view, we will not be justified in needlessly interfering on the guilt of the applicant.

8. Shri Ghatikar, next contends, that the extreme penalty of removal from service was disproportionate to




the gravity of the charge levelled and proved against the applicant, and the same calls for substantial reduction.

9. Shri Sreerangaiah opposes any modification in the punishment imposed against the applicant.

10. When the applicant absented himself in 1977, and the punishment was imposed, he had completed more than 25 years. The charge was one of dereliction in duty and did not involve any moral turpitude. In his advanced age, the applicant was unlikely to secure any other employment. When that is so, if the penalty of removal from service were to be inflicted against the applicant, he would be a destitute. On a consideration of all these facts and circumstances, we are of the view that the ends of justice would be met, by imposing the punishment of compulsory retirement from service, instead of removal from service.

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

(a) we uphold the orders of the authorities, in so far as they hold that the applicant was guilty of the charge levelled against him;



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(b) we modify the impugned orders in so far as they relate to the imposition of penalty of removal from service and modify them to one of compulsory retirement from service from 15.4.1981; and

(c) we direct the respondents, to compute the pension and other terminal benefits, payable to the applicant on the basis of this order, and make him available all financial benefits flowing from the same, with all such expedition as is possible in the circumstances of the case, and in any event, within four months from the date of receipt of this order.

12. Application is disposed of in the above terms. But in the circumstances of the case, we direct the parties to bear their own costs.

M. S. Ramesh
VICE CHAIRMAN

30/4/1981

[Signature]
MEMBER(A) 30-4-1981

dms.

REGISTERED

CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE BENCH

APPLICATION No. 1889/86(T)

(WP.NO. 12623/84)

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

DATED: 25 MAY 1987

APPLICANT

Vs

RESPONDENTS

Shri G. Nagappa

The M/o Railways and 5 Ors

TO

1. Shri G. Nagappa
R/o Meter Gauge
Hospet Loco Shed
Bellary District
2. Ministry of Railways
Central Govt. Secretariat
New Delhi
3. The Assistant Personnel Officer
South Central Railway Divisional Office
Personnel Branch
Hubli
4. The Senior Divisional Mechanical Engineer
South Central Railway
Hubli
5. The Inquiry Officer/Divl. Engineer
Divisional Office
South Central Railway
Hubli
6. The Assistant Mechanical Engr/L/
Divisional Office
South Central Railway
Hubli
7. The Chairman
Indian Railway Board
Rail Bhavan
New Delhi-110 001
8. Shri M. Sreerangaiah
Railway Advocate
3, S.P. Buildings
10th Cross, Cubbonpet Main Road
Bangalore - 560 002
9. Shri Vadiraj Ghatikar
Advocate
C/o Shri G. Doraswamy
Advocate
No. 1, Krishnappa Naik Lane
Balapet
Bangalore - 560 053

SUBJECT: SENDING COPIES OF ORDER PASSED BY THE
BENCH IN APPLICATION NO. 1889/86(T)

....

Please find enclosed herewith the copy of the Order
passed by this Tribunal in the above said Application on

30-4-87

ENCL: As above.

for DEPUTY REGISTRAR
(JUDICIAL)

All communications should be addressed to the Registrar, Supreme Court, by designation, NOT by name.
Telegraphic address :—
"SUPREMECO"

No. 3745/87/Sec.IV.A

SUPREME COURT INDIA

FROM : The Additional Registrar
Supreme Court of India.

To : The Registrar,
Central Administrative Tribunal
Additional Bench, Bangalore.

Dated New Delhi, the 10th May, 1988.....198 .

PETITION FOR SPECIAL LEAVE TO APPEAL (CIVIL) NO. 9900 OF 1987
(Petition under Article 136 of the Constitution of India for Special Leave to Appeal to the Supreme Court from the Order dated 30.4.1987 of the Central Administrative Tribunal Additional Bench, Bangalore in Application No. 1889 of 1986.

Union of India & Ors.

...Petitioners

Versus.

...Respondent.

G. Nagappa

Sir,

I am to inform you that the petition above-mentioned for Special Leave to Appeal to this Court was filed on behalf of the Petitioner above-named from the Order of the Central Administrative Tribunal, Additional Bench, Bangalore noted above and that this Court on the 12th day of April, 1988 was pleased to pass the following Order:—

"Having regard to the facts and circumstances of the case and in particular that the petitioner had put in a period of 22 years of service we feel that this is not an appropriate case in which we should grant special leave under Article 136 of the Constitution. However, we leave the questions of law raised in this petition open. Special Leave petition is dismissed."

Yours faithfully,

[Signature]
FOR ADDL. REGISTRAR.

REGISTERED

CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE BENCH

Commercial Complex (BDA)
Indiranagar
Bangalore - 560 038

Dated : **13 JUN 1988**

CONTEMPT OF COURT APPLICATION NO.

16

/ 88

IN APPLICATION NO. **1889/86(T)**
W.P. NO.

Applicant(s)

Shri G. Nagappa
To

Respondent(s)

V/s The Secretary, M/o Railways, New Delhi & 4 Ors

1. Shri G. Nagappa
S/o Shri Masthangadu
Harijan Beedi
Adonger
Kaval Bazaar
Bellary
2. Shri Vadiraj Ghatigar
Advocate
497, Upstairs, Avenue Road
Bangalore - 560 002
3. The Secretary
Ministry of Railways
Rail Bhavan
New Delhi - 110 001
4. The Assistant Personnel Officer
South Central Railway
Divisional Office
Personnel Branch
Hubli - 580 020

5. The Senior Divisional Mechanical Engineer
South Central Railway
Hubli - 580 020
6. The Assistant Mechanical Engineer (L)
Divisional Office
South Central Railway
Hubli - 580 020
7. The Chairman
Indian Railway Board
Rail Bhavan
New Delhi - 110 001
8. Shri M. Sreerangaiah
Railway Advocate
3, S.P. Building, 10th Cross
Cubbonpet Main Road
Bangalore - 560 002

Subject : SENDING COPIES OF ORDER PASSED BY THE BENCH

Please find enclosed herewith the copy of ORDER/~~STAY~~ ~~INTERIM ORDER~~
passed by this Tribunal in the above said application(s) on 9-6-88.

Encl : As above


DEPUTY REGISTRAR
(JUDICIAL)

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE BENCH: BANGALORE

DATED THIS THE NINTH DAY OF JUNE, 1988

Present: Hon'ble Shri Justice K.S. Puttaswamy... Vice-Chairman
Hon'ble Shri L.H.A. Rego.... Member (A)

C.C.NO. 16 OF 1988

Sri G. Nagappa,
son of Masthangadu,
Harijan Beedi, Adongerri,
Kaval Bazaar, Bellary.

Applicant

(Shri Vadiraj Ghatiger... Advocate)
Vs.

1. Secretary,
Ministry of Railway,
Rail Bhavan,
Union of India,
New Delhi- 1.
2. The Assistant Personnel
Officer, South Central
Divisional Office,
Personnel Branch,
Hubli - 580 020.
3. The Senior Divisional
Mechanical Engineer,
South Central Railway,
Hubli - 580 020.
4. The Assistant Mechanical
Engineer(L), Divisional
Office, South Central
Railway, Hubli-580 020.
5. The Chairman,
The Indian Railway Board,
Rail Bhavan,
New Delhi - 1.

Respondents

(Shri M. Sreerangaiah..... Advocate)

This application has come up for hearing
before this Tribunal to-day, Hon'ble Shri Justice K.S.
Puttaswamy, Vice-Chairman, made the following :

O R D E R



In this application made under Section 17 of the Administrative Tribunals Act, 1985 and the Contempt of Courts Act, 1971, the petitioner has moved this Tribunal to punish the respondents for non-implementation of an order made in his favour on 30-4-1987 in A.No. 1889/86.

2. In A.No. 1889/86, which was a transferrred application, the petitioner had challenged his removal from service, which was resisted by the respondents. On an examination of the same, we modified the punishment imposed on the petitioner to one of compulsory retirement and directed the respondents to make him available the financial benefits flowing from the same within the time allowed in our order.

3. Shri K.V. Laxmanachar, appearing for Shri M. Sreerangaiah, learned counsel for the respondents, files a memo stated that the order made by us in A.No. 1889/86 has been implemented and all the financial benefits due to the applicant had been made available to him. Shri Vadiraj Ghatigar, learned counsel for the petitioner, is unable to vouchsafe to the correctness of the statement made by the respondents.

4. We have no reason to disbelieve the responsible statement made by the respondents, in their memo. If that is so, then we must necessarily hold that the respondents had already



implemented the order of this Tribunal. On this, these contempt of court proceedings are liable to be dropped. We, therefore, drop these contempt of court proceedings. But in the circumstances of the case, we direct the parties to bear their own costs.

Sd/-

(K.S. PUTTASWAMY)
VICE-CHAIRMAN

Sd/-

(L.H.A. REGO)
MEMBER (A)

9.6.1985

TRUE COPY



DEPUTY REGISTRAR (JDL)
CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE