

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL  
BANGALORE BENCH BANGALORE

DATED THIS THE 24th FEBRUARY 1987

Present : Hon'ble Sri. Ch. Ramakrishna Rao + Member (J)  
Hon'ble Sri. L.H.A. Rego - Member (A)

APPLICATION No.271/86

M. Narasimhalu  
Driver, Parallel V 14  
A.K.Colony, Cox Town  
Jeevanahalli P.O.  
Bangalore 560005

-Applicant

(Sri M.N. Ananda Ramu, Advocate)

and

1. Union of India by its  
Secretary to the Govt of India,  
Ministry of Health & Family Welfare Services,  
New Delhi
2. The Director General of Health Services,  
New Delhi
3. The Director  
National Tuberculosis Institute  
No.8, 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 Sri Ch.Ramakrishna Rao, Member(J)  
to-day made the following

O R D E R

This application was initially filed before the  
High Court of Karnataka and subsequently transferred to  
this Tribunal. The facts giving rise to the application  
are, briefly, as follows. The applicant after serving in  
the Indian Army for a decade, was appointed as a Driver in  
the National Tuberculosis Institute ('NTI') - R3 on 7.10.65.

On 7th March 1977, the applicant and others were formally transferred to the Central (Surplus Staff) Cell with effect from 1.3.77 for re-deployment facility by the respondent 3. ~~The applicant was served with a copy of the application~~ In accordance with the instructions contained in the letter of the Department of Personnel and Administrative Reforms, New Delhi ('DPAR') dated 29-4-77 and Doordharshan Kendra Jaipur, the applicant was relieved from the NTI from 22-8-77. to enable him to join the post of Driver which was offered to him by the DPAR at Doordarshan Kendra, Japur. He could not, however, avail of the offer because of his ill-health. Since he had worked for a decade in the Indian Army and for 12 years in NTI, he opted for voluntary retirement. <sup>Con</sup> DPAR could not offer any alternative post to the applicant, nor did they ~~accept~~ accede to the request made by the applicant for voluntary retirement. His services were terminated on 31.8.77. Aggrieved by this order, the applicant has filed this application.

2. Sri M.N. Ananda Ramu, learned counsel for the applicant, submits that his client was holding a permanent post of Driver in NTI and it was not, therefore, open to R3 to declare him surplus. Shri MS. Padmarajaiah, Senior C.G.S.C., appearing for the respondents submits that the post of driver which the applicant was holding, was abolished and in the case of drivers who are rendered surplus on account of abolition of posts, a scheme has been evolved by the Central Government to rehabilitate them.

According to Sri Padmarajaiah, action of the Central Government in terminating the services of the applicant is legally valid.

3. The rival contentions now raised were earlier raised in *Muthu v. Union of India and others* (A.No. 167 of 1986) and we held in that case that the scheme is applicable to permanent employees as well. We see no grounds to take a different view in the present case which is virtually a case of abolition of the post which was held by the applicant. The ratio of the decision in Muthu's case cited supra is, therefore, applicable in this case also.

4. Sri Ananda Ramu next submits, that the request of the applicant for retirement, should have been accepted by DPAR since his client was afflicted by T.B. According to Sri Padmarajaiah, the applicant has not impleaded the DPAR as respondent in this application and as such the prayer of the applicant cannot be entertained.

5. The plea of Shri Padmarajaiah though appears to be technical, has force, since without the concerned department being present before us, it will not be possible to consider the merits of the claim and grant any relief, if possible.

6. It is, however, open to the applicant to make a representation afresh to DPAR, bringing to its notice all the grievances and DPAR shall consider the same sympathetically as and when such an application is received by them.

7. In the result the application is dismissed. No order as to costs.

*Chandrasekhar*  
Member (J) 24/2/87

*AM*  
Member (AM) 24.2.1987