

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL  
BANGALORE BENCH BANGALORE

DATED THIS THE 3RD NOVEMBER 1986

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

Application No. 419/86.

S.R. Satyanarayana Naik,  
S/o late S.T. Rangaiah,  
Senior Clerk, Southern,  
Railways, Mysore City. - Applicant

(Shri M.Raghavendra Achar, Advocate)

1. The Union of India, re-presented by its Secretary, Ministry of Railways, Rail Bhavan, New Delhi-1.
2. The Divisional Personnel Officer, Southern Railways, Mysore.
3. The Chief Personnel Officer, Southern Railways, Madras.
4. Smt. M. Jolly Devasia, major, Chief Clerk, Divisional Personnel Office, Southern, Railways, Mysore City. - Respondents

(Shri N. Venugopal, Advocate)

The application has come up for hearing before this Tribunal to-day, Mr. Justice K.S. Puttaswamy made the following

O R D E R

In this transferred application received from the High Court of Karnataka, under Section 29 of the Administrative Tribunals Act of 1985 (the Act), the applicant has challenged orders no. Y/P-535/VI/1/Vol.5. dated 18th October, 1978 (Annexure 'G'), Order No. Y/P.171/P/Vol.111 dated 29.2.80 (Annexure 'L') of the Divisional Personnel Officer, Mysore Division, Mysore (DPO).

2. The applicant claims to be a member of a Scheduled Tribe called "Naikas" so recognised at a later point of time.

3. While working as a Senior clerk in the office of the DPO, on an application made by the applicant, the DPO, by his letter/order No.Y/P171/SRS dt. 3.1.79, recognised him as a member of a Scheduled Tribe called 'Nayaka' with effect from 28.12.78. On that basis, the applicant claimed for promotion from the quota reserved to members of ST. But the DPO, on the basis of the information made available to him by the Revenue Officers of the District, had held that he was not a member of a Scheduled Tribe but was a member of "Other Caste"(OC). On 14th May, 1980, the DPO had promoted respondent 4, who was junior to the applicant from the quota reserved to members of ST. Hence this application.

4. The applicant has re-iterated that he was a member of a ST called Naika and the orders made by the DPO on 18th Oct'78 and 29.2.80 without issuing him a show-cause notice and affording him an opportunity to state his case is violative of the principles of natural justice.

5. Respondents 1 - 3 have filed their reply before this Tribunal justifying their orders and the promotion of respondent 4. Respondents 1 - 3 have asserted that the applicant was not a member of a Scheduled Tribe but was a member of OC and therefore, he cannot claim for promotion from the quota reserved to members of ST.

6. Shri B.V. Gangi Reddy, learned advocate for the applicant, contends that the orders made by the DPO on 18.10.1978 on 29.2.80, without issuing his client a show-cause notice and an opportunity to state his case and then decide the matter, is violative of the principles of natural justice and illegal. In support

of his contention, Shri Reddy strongly relies on a decision by us on 14.10.86, in A.No. 279/86, Shivappa/ Sagappa Barker Vs Director of Postal Services and another.

7. Shri A.N. Venugopal, learned counsel for respondents 1 to 3 contends that the order made by the DPO based on the unimpeachable evidence furnished by the Revenue Officers of the District does not suffer from any infirmity.

8. On an application made by the applicant, the DPO had recognised him as a member of a ST. But in derecognising his said status, the DPO had not issued a show-cause notice to the applicant and had not afforded him an opportunity to state his case, which are apparent, though the pleadings of the applicant are somewhat vague and not very clear.

9. An authority recognising a person as a member of a ST, as pointed out by us in S.S. Barker's case, has undoubtedly the power to derecognise that status and hold that he is a member of OC. But before doing so, as pointed out by us in Barker's case, he must issue a show-cause notice, consider the representations and then decide the matter one way or the other which the DPO had not done in the present case. For the very reasons stated in Barker's case, the orders made by the DPO on 29.2.80 (Annexure 'L') is liable to be quashed, and a direction issued to him to redetermine the matter.

10. Before the DPO re-examines and decides the matter afresh, this Tribunal cannot interfere with the promotion made of respondent-4, which however has to be reexamined in the light of the order to be made by him on the status of the applicant.

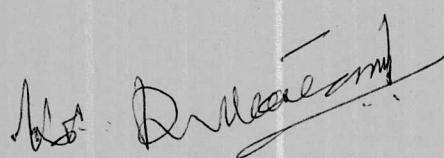
11. In the light of our above discussion, we make the following orders and directions:

- (i) We quash letter/order no.Y/P171/P.Vol.III dt. 29.2.80 (Annexure 'L').
- (ii) We reserve liberty to the DPO to hold an enquiry and decide as to whether the applicant was a member of a Scheduled Tribe or not. But before commencing such enquiry, the DPO shall issue a show cause notice with copies of all such documents that are in the possession of the department and also permit him to inspect the file, receive the objections/ reply that may be filed by the applicant within the time stipulated in the show cause notice, which shall not be less than 15 days and then hold an inquiry in accordance with law. We direct the DPO to complete such enquiry with all such expedition as is possible in the circumstances of the case and in any event within 6 months from the date of receipt of the order of this Tribunal. We make it clear that it is open to the DPO to rely on all the evidence already collected and in the possession of the Department and all further evidence, if any, to be collected by him or the Department also.
- (iii) We direct the DPO to modulate the promotion of the applicant and respondent 4 from the reserved quota in conformity with the decision to be taken by him on the status of applicant.

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.

13. Let this order, along with a copy of the order made by us in A.No. 279/86 be communicated or respondent No. 2 within 15 days from this day.

  
Vice-Chairman

  
Member(AM)(R)

SB.

Regd

CENTRAL ADMINISTRATIVE TRIBUNAL  
BANGALORE BENCH  
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Commercial Complex (BDA),  
Indiranagar,  
Bangalore - 560 038

Dated : 29/9/87

APPLICATION NO 419 / 86(T)

(W.P. NO 9740 / 80)

Applicant S.R. Sathyanarayana Naik

To, 1) The Union of India Replied by  
Secretary Ministry of Railways  
Rail Bhawan. New Delhi

2) The Divisional Personnel Officer  
Southern Railway Mysore

3) The Chief Personnel Officer  
Southern Railway Madras.

4) Smt H. Jolly Devasia. Chief Clerk  
Divisional Personnel Officer S.Rly  
Mysore City.

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 on 23-9-87.

5) Shri N.S. Srinivasan & C/o  
Railway Advocate  
High Court Building  
Bangalore - 1

SECTION OFFICER  
(JUDICIAL)

6) Shri H.R. Achrekar Advocate  
NO 1074, 1075, Budashankri 1<sup>st</sup> Stage  
Srinivasa Nagar II phase. Bangalore

qc.

RECEIVED  
5/10/87  
Diary No. 12181  
For Date: 30-9-87  
I.C. No. 7-87

Received copy  
Ref. No. 12181  
Central Administrative  
Court of India  
29.9.87

IN THE CENTRAL ADMINISTRATIVE  
TRIBUNAL ADDITIONAL BENCH,  
BANGALORE

A 419/86

Order Sheet (contd)

Date	Office Notes	Orders of Tribunal
		<p><u>KSPVC/LHARM(A)</u> 23.9.87.</p> <p><u>ORDERS ON I.A.No.1 - Application for extension of time:</u></p> <p>In this I.A., the respondent Nos. 1 to 3 have sought for extension of time for complying with the directions made in A.No. 419 of 1986.</p> <p>In I.A.No.1, the respondents have stated that they have not been able to complete the inquiry inspite of all efforts made in that behalf.</p> <p>I.A. No.1 is opposed by the applicant.</p> <p>We are of the view that on the facts and circumstances stated in this application, it is just and proper to grant extension of time till 30.11.1987 for complying with the directions issued in A.No. 419 of 1986. We, therefore, allow this petition, extend the time for complying with our directions in A.No. 419/86 till 30.11.1987.</p> <p>- Sd -      - Sd -</p> <p>VICE CHAIRMAN      MEMBER(A) dms.</p> <p>"True COPY"</p> <p><i>Hase</i></p> <p>SECTION OFFICER 29/3</p> <p>CENTRAL ADMINISTRATIVE TRIBUNAL ADDITIONAL BENCH BANGALORE</p>

CENTRAL ADMINISTRATIVE TRIBUNAL

BANGALORE BENCH

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Commercial Complex(BDA)  
Indiranagar  
Bangalore - 560 038

Dated : 14 APR 1988

CONTEMPT OF COURT APPLICATION NO  
IN APPLICATION NO. 419/86(T)

W.P. NO.

34

88

9740

80

Applicant

Shri S.R. Satyanarayana Naik

To

Respondent

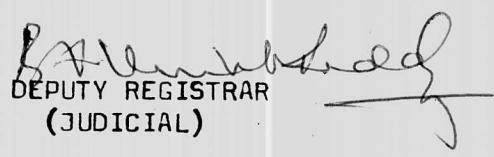
v/s

The Divisional Personnel Officer,  
Southern Railway, Mysore

1. Shri S.R. Satyanarayana Naik  
D.No. 25, 1st Stage, 3rd Cross  
Gokulam  
Mysore
2. Shri M. Raghavendra Achar  
Advocate  
1074-1075, Banashankari I Stage  
Bangalore - 560 050

Subject : SENDING COPIES OF ORDER PASSED BY THE BENCH

Please find enclosed herewith the copy of ORDER/XX/XX/XX/XX ORDER  
passed by this Tribunal in the above said application on 8-4-88.  
Contempt of Court

  
DEPUTY REGISTRAR  
(JUDICIAL)

Encl : As above

CENTRAL ADMINISTRATIVE TRIBUNAL  
BANGALORE

DATED THIS THE 8TH DAY OF APRIL, 1988

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

C.C. APPLICATION NO. 34/1988

Shri S.R. Sathyanarayana Naik,  
D.No.25, 1st Stage,  
3rd Cross, Gokulam,  
MYSORE:

.... Applicant.

(Shri M. Raghavendrachar, Advocate)

v.

Shri Muthu Mankymam,  
Divisional Personal Officer  
Southern Railway,  
Mysore.

.... Respondent.

This application having come up for hearing to-day,  
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 of 1971 ('the Act') the petitioner has moved  
us to punish the contemnor for disobedience of an order  
made in his favour on 3.11.1986 in A.No.419/86.

2. The petitioner who claims to be a member of a  
'Scheduled Tribe' (ST) called 'Nayaka' in A.No.419/86 had  
challenged various orders made against him by the respon-  
dents in that case holding him that he was not a member  
of a 'ST' but was a member of other community ('OC'). On  
3.11.1986 this Tribunal allowed that application reserving  
liberty to the authorities to hold a fresh inquiry and  
redo the matter.



3. In pursuance of the order made by this Tribunal, the contemnor who was respondent No.2 in A.No.419/86 had made an order on 30.11.1987 (Annexure-C) which reads thus:

"On perusal of the records on the representation made by you in your reply dated 26.4.1987 to the show cause Notice issued vide No.Y/P.171/SRs of 19-3/1.4.87 and based on the records and enquiries made it has been established that you belong to "BEDA" community only and not "NAYAKA" community which is classified as 'ST'. In the circumstances, you are treated as belonging to other community as already advised to you under this Office letter No.Y/P.171/p/Vol.III of 29.2.1980."

In this order the authority has held that the petitioner was not a member of ST but was a member of OC. But notwithstanding this order, the petitioner claims that the contemnor had not complied with the order and had committed contempt of this Tribunal.

4. Sri M. Raghavendrachar, learned Counsel for the petitioner, contends that the order made by the contemnor on 30.11.1987 was only an eye-wash and was not in full and faithfull compliance of the order made by this Tribunal and in making such an order, the contemnor had committed contempt of this Tribunal.

5. Without any doubt the order made by the contemnor was in compliance of the order made by this Tribunal. Whether that order itself is a legal order or not cannot be properly examined and decided in contempt of court proceedings. The validity of that order has necessarily to be examined and decided in a separate proceeding only. On this view, we cannot initiate contempt of court proceedings against the contemnor. We, therefore, reject this application at the admission stage without notice. But this does not prevent the petitioner from challenging the order of the contemnor in a separate proceeding on all such grounds as are available to him.

Sd/-

VICE-CHAIRMAN

8/11/83

Sd/-

MEMBER (A) 1/11/83

TRUE COPY

Deputy Registrar (JDL)

CENTRAL ADMINISTRATIVE TRIBUNAL  
BANGALORE

*P. Venkatesh*  
DEPUTY REGISTRAR (JDL)  
CENTRAL ADMINISTRATIVE TRIBUNAL  
BANGALORE