

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL  
BANGALORE BENCH, BANGALORE

DATED THIS THE EIGHTEENTH DAY OF NOVEMBER 1986

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

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

APPLICATION NO. 885/86(T)

M.V. Mathew,  
Store Keeper Gr. II,  
1385922, Training Battalion 3,  
Madras Engineer Group & Centre,  
Bangalore-33.

.. Applicant

V.

The Union of India  
represented by its Secretary,  
Ministry of Defence,  
'Raksha Bhavan',  
New Delhi.

The Engineer-in-Chief,  
Army Headquarters,  
New Delhi - 11.

.. Respondents

(Shri M.S. Padmarajaiah ... Advocate)

This application has come up for hearing before this  
Tribunal to-day, Hon'ble Vice Chairman made the following:-

ORDER

In this transferred application received from the High Court of Karnataka under section 29 of the Administrative Tribunals Act, 1985 (The Act) the applicant has sought for a direction to the respondents to regularise the period from 4.2.1975 to 6.9.1981 as spent on duty.

2. At the material time, the applicant was working as a Store Keeper in the Office of the Commandant, HQ MEG & Centre, Bangalore. In a disciplinary proceedings instituted against him under the CCS (CCA) Rules, 1965 (Rules) the applicant was removed from service on 4.2.1975 by the Commandant which was also affirmed in appeal also. But the President of India exercising the power of review

under Rule 29 of the Rules on 14.8.1981 (Annexure A) set aside the orders made by the authorities and directed a de novo enquiry into the alleged misconduct of the applicant. The order made by the President which is material reads thus:-

"....

Now, therefore, the President, in exercise of the powers vested in him under sub-rule 29(1)(c) of the CCS(CC&A) Rules, 1965, orders that:

- (1) the case is remitted to the competent disciplinary authority for initiating fresh disciplinary proceedings from charge-sheet stage and for passing appropriate orders;
- (2) Shri M.V.Mathew be allowed to resume duty immediately;
- (3) The period from the date of removal from service till he actually rejoins duty will be regularised later on."

In pursuance of this order a fresh enquiry was held and the applicant has again been removed from service, the validity of which is challenged by him in Application No.913/86 posted to 24.11.1986 for hearing.

3. When the respondents did not carry out the directions of the President in para 3 of the directions, the applicant moved the High Court in writ petition No.14169/82 seeking a direction to the respondents to comply with the same which was allowed by the High Court as an interim measure. When the respondents delayed in complying with these directions the applicant instituted Contempt of Court proceedings before the High Court in C.C. Application No.126/85. On 30.9.1985 a Division Bench of the High Court consisting of Jagannatha Shetty & Patil, JJ, disposed of the same in these words:-

"The Central Government Standing Counsel has tendered a cheque for Rs.50,784.45 ps. as salary and other allowances payable to the complainant. The complainant is present in Court. He has also been identified by his counsel Shri K. Sridhar. Shri Sridhar also receives the cheque and hands it over to the complainant, who

acknowledges receipt thereof. Since the order of this Court has been fully complied with, we drop the proceedings."

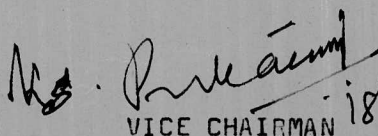
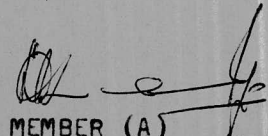
From this, it is clear that the respondents have counted the period from 4.2.1975 to 6.9.1981 as spent on duty by the applicant and have paid him all the amounts due to him also.

4. But still the applicant Shri M.V. Mathew who argued his own case, contends that his case for promotion had not been considered and other consequential benefits flowing from the same had also not been settled.

5. Shri M.S. Padmarajaiah, learned Senior Standing Counsel for Central Government appearing for the respondents contends, that the order of the President and orders made by the High Court had been fully complied by the respondents and this application no longer survives for consideration.

6. Whether the applicant is entitled for promotion before the institution of the disciplinary proceedings and during its pendency or not, very much depends on the outcome of the order to be made by this Tribunal in Application No.913/86. But at this stage we cannot really examine these aspects in this application which is only limited to treating the period from 4.2.1975 to 6.9.1981 as spent on duty. We are ~~of~~ of the view that this claim of the applicant has been fully satisfied by the respondents and there is nothing more that remains to be examined and decided by this Tribunal. We, therefore, dismiss this application as having become unnecessary, with no order as to costs.

7. Application is dismissed.

  
VICE CHAIRMAN 18/11/86  
  
MEMBER (A) 18-11-86