

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL

BANGALORE BENCH: BANGALORE

DATED THIS THE 16TH DAY OF OCTOBER, 1986.

PRESENT:

Hon'ble Mr. Justice K.S. Puttaswamy .. Vice-Chairman

And

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

APPLICATION NO. 922 OF 1986

P.G.K. Murthy,  
Major, South Central Railways,  
Resident of Hubli,  
District Dharwad. .. Applicant.

(By Sri Jagannath, Advocate)

v.

1. The General Manager,  
South Central Railways  
at Secunderabad,  
Andhra Pradesh.
2. The Divisional Railway  
Manager, South Central  
Railways, Hubli Division,  
Hubli, District Dharwad. .. Respondents.

(By Sri M. Sreerangaiah, Advocate)

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This application coming on for hearing this  
day, 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 of 1985 ('the Act')  
the applicant has sought for a direction to the  
respondent to promote him as 'Chargeman (Electrical)'  
(Chargeman') from out of the quota reserved to  
members of Scheduled Tribe.

2. The applicant claims that he is a member of a scheduled tribe called 'Kondakapu'. He joined service on 19-9-1963 in the South Central Railway as A.C.Mechanic, Highly Skilled Grade-II. On 8-1-1981 the applicant was promoted as TLF Highly Skilled Grade-II from out of the quota reserved to members of scheduled tribe.. He again claimed promotion as 'Chargeman' from out of the quota reserved to members of scheduled tribe. But, that has not been granted by the respondents on the ground that the caste certificate produced by the applicant was not genuine.

3. The applicant has challenged the same inter-alia on the ground that the same had been arrived without issuing him a show cause notice and an opportunity of hearing, which fact is not denied by the respondents in their statement of objections filed in the case before the High Court

4. Sri R.Jagannath, learned counsel for the applicant contends that the authorities having once accepted the claim of the applicant that he was a member of <sup>the</sup> scheduled tribe were bound by the same and consider his case for further promotion to the post of Chargeman only on that and no other basis.

5. Sri M.Sreerangaiah, learned counsel appearing for the respondents sought to support the action of the respondents.

6. The fact that an authority had accepted the caste certificate at one point of time does not take away the power of that authority or superior authority

authority to re-examine the same and hold otherwise. In A.No.279/86 decided on 15-10-1986 S.S. Barker v. Director Postal Services, we have examined a similar question and rejected the very broad proposition urged for the applicant. We, therefore, reject the same.

7. The very procedural infirmity found in Barker's case is also found in this case. For the very reasons stated in Barker's case, we must direct the authorities to re-do the matter on the very lines indicated in that case.

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

(a) We reserve liberty to the respondents to hold an inquiry and decide as to whether the applicant was a member of a scheduled tribe or not. But, before commencing such inquiry, the respondents shall issue a show cause notice to the applicant 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 the inquiry in accordance with law. We direct the Respondents to complete such inquiry 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 respondents 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 them or the Department also.

(b) We direct the respondents or the competent officer to modulate the

promotion

promotion of the applicant from the reserved quota in conformity with the decision of the competent officer.

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

*[Signature]*  
VICE CHAIRMAN

*[Signature]*  
MEMBER (A) *(R)* 16-10-1986

Sr/np

CENTRAL ADMINISTRATIVE TRIBUNAL  
BANGALORE BENCH

REGISTERED

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

Dated 18/11/86

Application No. 922 /86(T)  
WP No. 23723/82

Applicant

P.G.K. Murthy

To

Versus G.M., S.C. Railway, Sec.bad and Others

(X) Sh R.U. Goulay, Advocate, (Advocate for Applnt)  
90/1, II Block,  
Thyagarajanagar,  
Bangalore - 28

The General Manager,  
South Central Railway, (R-1)  
Secunderabad (A.P.)

The Divisional Railway Manager,  
South Central Railways, (R-2)  
Hubli Division,  
Hubli, Distt. Dharwad

Sh M. Sreerangaiah, (Advocate for Respondents)  
Standing Counsel for Railways,  
High Court Buildings,  
Bangalore

*S. J. S.*  
*P. V. Sreerangaiah*  
*R.*

SUBJECT: Sending copies of Order passed by the Bench in  
Application No. 922/86(T)

....

Please find enclosed herewith the copy of the Order/  
~~Interim Order~~ passed by this Tribunal in the above said Application  
No. 922/86(T) on 30-10-86.

*P. V. Sreerangaiah*  
SECTION OFFICER  
(JUDICIAL)

Encl: as above.

balu\*

*Journal*  
*26/11/86*

*(X) O/C*  
*R. Jagannath*  
*Adv.*

*M. V. S. S. S.*  
*25/11*



Date

Office Notes

Orders of Tribunal

KSP(VC)/LHAR

30/10/86

Orders on I.A.No. 1

In this IA, the applicant has moved this Tribunal to notice and decide one more contention viz., the binding nature of the earlier acceptance of the caste certificate as one of the grounds for review. Shri R.U.Goulay, learned counsel for the applicant, contends that the circumstances set out in IA no. 1 justify this tribunal to review the order and re-hear the original application.

We will assume that an inter-locutory application for review is maintainable. But even if such an inter-locutory application is maintainable, we are clearly of the view that the grounds urged by the applicant in IA No. 1 does not justify us to review the order made by us on 16/10/86. We see no merit in this application and reject the same.

Sd/-

VICE CHAIRMAN B.M.

Sd/-

MEMBER (AM) (H)

True Copy -

R. Singh 18/11/86

SECTION OFFICER

CENTRAL ADMINISTRATIVE TRIBUNAL

ADD:



CENTRAL ADMINISTRATIVE TRIBUNAL  
BANGALORE BENCH  
\*\*\*\*\*

Commercial Complex(BDA)  
Indiranagar  
Bangalore - 560 038

Dated : **5 APR 1988**

CONTEMPT OF COURT APPLICATION NO. 52  
IN APPLICATION NO. 922/86(T)  
W.P. NO. 87

Applicant

Shri P.G.K. Murthy  
To

Respondent

V/s The GM, South Central Railway, Secunderabad  
& another

1. Shri P.G.K. Murthy  
C/o Shri R.U. Goulay  
Advocate  
90/1, 2nd Block  
Thyagarajanagar  
Bangalore - 560 028
2. Shri R.U. Goulay  
Advocate  
90/1, 2nd Block  
Thyagarajanagar  
Bangalore - 560 028
3. The General Manager  
South Central Railway  
Secunderabad (A.P.)
4. The Divisional Railway Manager  
South Central Railways  
Hubli Division  
Hubli (Dharwad District)
5. 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 on 25-3-88.

*B. V. Venkatesh*  
DEPUTY REGISTRAR  
(JUDICIAL)

Encl : As above

CENTRAL ADMINISTRATIVE TRIBUNAL

BANGALORE

DATED THIS THE 25TH DAY OF MARCH, 1988

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

CONTEMPT OF COURT APPLICATION NO. 52/1987

Shri P.G.K. Murthy,  
Major, South Central Railways,  
Resident of Hubli,  
District Dharwad.

.... Petitioner.

(Shri R.U. Goulay, Advocate)

v.

1. The General Manager,  
South Central Railways,  
at Secunderabad, A.P.

2. The Divl. Railway Manager,  
South Central Railways,  
Hubli Division,  
Hubli, Dist. Dharwad.

.... Contemnors..

(Shri M. Sreerangaiah, Advocate)

This application having come up for hearing to-day,  
Vice-Chairman made the following:

O R D E R

Case called on more than one occasion in the pre-lunch session and again in the post lunch session at 3.10 P.M. On every occasion, the petitioner and his learned Counsel are absent.

2. The contemnors have filed their reply and have produced their records. In their reply, the contemnors have asserted that the order made by this Tribunal on 16.10.1986 had been complied. Shri M. Sreerangaiah, learned Counsel appearing for the Contemnors urges for dropping the contempt of Court proceedings.





3. We notice that in pursuance of our order made on 16th October, 1986 the competent authority had made an order on 29.2.1988 inter alia holding that the petitioner was not a member of a Scheduled Tribe ('ST'). We are of the view that this order complies with the directions of this Tribunal.

4. In the contempt of Court proceedings, we cannot examine the validity of the order made by the Contemnors on 29.2.1988. If the petitioner is aggrieved by that order, the remedy open to him is to pursue the legal remedies open to him on the same either before the Authorities or this Tribunal in a fresh application under Section 19 of the Administrative Tribunals Act. Whether he should do so or not is a matter for the petitioner to decide. On this view, we have not also examined the correctness of the order made on 29.2.1988 and is left open.

5. On the foregoing discussion, we hold that this contempt of Court proceedings are liable to be dropped. We, therefore, drop the contempt of Court proceedings against the contemnors. But in the circumstances of the case, we direct the parties to bear their own costs.



Sd/-  
VICE-CHAIRMAN 25/1

Sd/-  
MEMBER (A) 25/1

TRUE COPY

np/Mrv.

By *[Signature]*  
JOINT REGISTRAR (JDL)  
CENTRAL ADMINISTRATIVE TRIBUNAL  
BANGALORE