

REGISTERED

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

Dated : 31-8-87

APPLICATION NO 43 /87 (F)

W.P. NO _____

Applicant

Shri K.A. Madappa

v/s The Secy, M/o Defence & 2 Ors

To

1. Shri K.A. Madappa
L.D.C.
Office of the Command
Works Engineer
Military Engineering Service
Dickenson Road
Bangalore - 560 042
2. Shri S.P. Kulkarni
Advocate
1693, 7th Main
'E' Block, II Stage
Rajajinagar
Bangalore - 560 010

3. The Secretary
Ministry of Defence
New Delhi - 110 011
4. The Engineer-in-Chief
Army Headquarters
Engineer-in-Chief's Branch
DHQ PO, New Delhi - 110 011
5. The Command Works Engineer
Military Engineering Services
Dickenson Road
Bangalore - 560 042

Subject: SENDING COPIES OF ORDER PASSED BY THE BENCH

Please find enclosed herewith the copy of ORDER/xxx/
xxxxxx passed by this Tribunal in the above said
application on 21-8-87.

Encl : as above

6. Shri M.S. Padmarajaiah
Central Govt. Stng Counsel
High Court Buildings
Bangalore - 560 001

P.V. *[Signature]*
Deputy Registrar
SECTION OFFICER
(JUDICIAL)

RECEIVED *[Signature]* 01/9/87
Diary No. 1088/CR/87
[Signature] Date: 1/9/87 *[Signature]*

Section 19 of the Administrative Tribunals Act, 1985
('the Act').

2. On 16.3.1956 the applicant joined service as a wireless operator in the Regiment of Artillery of the Indian Army. He was discharged from the Army on 13.5.1965. He was thereafter given a civil appointment as a Lower Division Clerk (LDC) in the Army in the then pay scale of Rs. 110-180 in Unit 56 Coy ASC (Supply) Bangalore with effect from 20.7.1965 and he has been working in that capacity ever since then.

3. On 24.10.1977, the Commander Works Engineer, Military Engineering Services, Bangalore (Commander) noticed that the applicant did not possess the minimum educational qualification of SSLC prescribed for the post of LDC and therefore directed him to acquire that qualification on or before 25.9.1979 or face a reversion to a lower post, which he followed it up by another order made on 11.9.1973. The applicant challenged them before the High Court of Karnataka in Writ Petition No.11940/79 which on transfer to this Tribunal was registered as Application No.192/86 ~~xxxxxx~~. On 15.10.1986 this Tribunal disposed of the same with a direction to the respondents to consider and dispose of the recommendations made ^{by} the Commander ⁱⁿ the time stipulated in that order.

4. In compliance with the aforesaid order of this Tribunal, Government of India in the Ministry of Defence has made an order on 7.1.1987 (Annexure-C) in favour of the applicant, which reads thus:

"With reference to Chief Engineer Headquarters Southern Command, Pune letter No.150105/4/LDC/EIB (R-DPC) dated 5th November, 1985, addressed to Engineer-in-Chief's Branch, Army Headquarters, New-Delhi, I am directed to convey sanction of Ministry of Defence, as a special case, to the relaxation of educational qualification in respect of Shri K.A. Madappa, LDC from the date of issue of this letter. Earlier period of service rendered by Shri K.A. Madappa will be treated as ad-hoc and will not count for the purpose of seniority, confirmation and promotion"

In this application, the applicant has challenged this order only to the extent it affects him namely that it will be effective from the date of issue, and the sentence following the same to the effect that the earlier period of service rendered by him will be treated as ad-hoc and will not count for the purpose of seniority, confirmation and promotion.



5. Among others, the applicant has urged that his case was similar to the cases of C.B. Viswanathan, Chitti Babu Naidu and N.K. Narayanan Nair and many others who had all been granted exemption from the date of their initial appointments and there was no reason or ground to deny him that very benefit from the date of his initial appointment to the post of LDC.

A handwritten signature in black ink, appearing to be a stylized 'B' or a similar character.

6. In justification of the order and the conditions imposed, the respondents have filed their reply.

7. Shri S.P. Kulkarni, learned counsel for the applicant, contends that his client's case was in all fours with those of Shri Viswanathan and others who had been granted exemption from the date of their very initial appointments counting their service from the date of their initial appointments and the denial of the same only to the applicant was violative of Articles 14 and 16 of the Constitution.

8. Shri M.S. Padmarajaiah, learned counsel, appearing for the respondents, contends that the cases of Shri Viswanathan and others were not at all comparable as asserted by the applicant and those persons had been granted benefit of counting their service either on the eve of their retirement or after their retirement only to facilitate grant of pensionary benefits and the applicant had not been chosen for a hostile and discriminatory treatment offending Articles 14 and 16 of the Constitution.

9. We have earlier set out the nature of the order made by this Tribunal and the entire order made by the Government thereto. The order of the Government without any doubt grants him the main relief he was agitating earlier. If that is so then the applicant cannot have any real grievance against the said order of Government at all.

10. On the conditions imposed to which only the applicant is taking serious objection, the respondents have denied every one of the assertions made by the applicant and contend that they had not chosen Viswanathan and others for a favourable treatment or had chosen the applicant for a hostile and discriminatory treatment. On this aspect both sides have not placed material to enable us to investigate the same and decide the question. Apart from this, it is too early to say as to how the authorities will themselves interpret and apply the terms and conditions to which objection is taken by the applicant. In other words the grievance of the applicant on the conditions imposed is too premature. In this view, we should decline to examine and pronounce on the same. We need hardly say that as and when the authorities examine the conditions and give effect to them to the detriment of the applicant, it is undoubtedly open to him to approach the higher authorities or this Tribunal for appropriate reliefs thereto .

11. In the light of our above discussion, we hold that this application is liable to be dismissed. We therefore dismiss this application. But in the circumstances of the case, we direct the parties to bear their own costs.

-True Copy-

R. V. Venkatesh
DEPUTY REGISTRAR
CENTRAL ADMINISTRATIVE TRIBUNAL
ADDITIONAL BENCH
BANGALORE

Sd/- —

21/5/81
11/8

Sd/- —
Member (A)

- True Copy -

CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE

DATED THIS THE 21ST DAY OF AUGUST, 1937

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

APPLICATION NO. 43/1987

K.A. Madappa,
aged about 52 years,
L.D.C.
Commander Works Engineer's
Office, Military Engineering
Service, Dickenson Road,
Bangalore.

..... **Applicant.**

(Shri S.P. Kulkarni, Advocate)

v.

1. Union of India by its Secretary, Ministry of Defence, New Delhi.
2. Engineer-in-Chief, Army Head Quarters, Engineer-in-Chief's Branch, DHQ P.O., New Delhi.
3. Commander Works Engineer, Military Engineering Services, Dickenson Road, Bangalore-42.

..... Respondents.

(Shri M.S. Padmarajaiah, SCGSC)

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

ORDER

This is an application made by the applicant under Section 19 of the Administrative Tribunals Act, 1985 ('the Act').

2. On 16.3.1956 the applicant joined service as a wireless operator in the Regiment of Artillery of the Indian Army. He was discharged from the Army on 13.5.1965. He was thereafter given a civil appointment as a Lower Division Clerk (LDC) in the Army in the then pay scale of Rs. 110-180 in Unit 56 Coy ASC (Supply) Bangalore with effect from 20.7.1965 and he has been working in that capacity ever since then.

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