

REGISTERED

CENTRAL ADMINISTRATIVE TRIBUNAL  
BANGALORE BENCH

APPLICATION No. 629/87 (F)

(WP. NO.       )

COMMERCIAL COMPLEX, (BDA)  
INDIRANAGAR,  
BANGALORE-560 038.

DATED: 08 Oct '87

APPLICANT M. N. Muthu Vs

TO

1. Sri M. N. Muthu,  
C/o Dr. M. S. Nagaraja  
Advocate,  
No. 35, II Floor,  
(Above Hotel Swagati),  
I Main Road,  
Ganeshnagar,  
Bangalore- 560 009.

2. Dr. M. S. Nagaraja,  
Advocate,  
No. 35, II Floor,  
(Above Hotel Swagati)  
I Main Road,  
Ganeshnagar, Bangalore-560 009.

SUBJECT: SENDING COPIES OF ORDER PASSED BY THE  
BENCH IN APPLICATION NO. 629/87 (F)

3. Secretary, and Family Welfare,  
Ministry of Health, ~~and~~  
New Delhi.

4. The Director General of  
Health Services, Nirman Bhawan,  
New Delhi.

5. The Director,  
National Tuberculosis Institute,  
Bangalore- 560 003.

6. Sri K. K. Mathur,  
Mechanical Supervisor,  
National Tuberculosis Institute,  
No. 8, Bellary Road,  
Bangalore- 560 003.

Please find enclosed herewith the copy of the Order  
passed by this Tribunal in the above said Application on  
24 Sep 87.

7. Sri M. S. Padmarajiah,  
Advocate (CAGC),  
High Court Building,  
Bangalore-1.

8. ~~The Secretary~~,  
Ministry of Personnel & Training,  
~~EMOB~~: As above.  
Public Grievances and Pension,  
New Delhi.

Ans: as above.

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

*dc.*

*Received copy on*

*9/10/87*

*(M. N. Muthu)*

**RECEIVED** *20/10/87*  
Diary No. 1274 (R) 57  
Received Date: 12.6.1987  
*X*

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL  
BANGALORE BENCH: BANGALORE

DATED THIS THE TWENTYFOURTH SEPTEMBER, 1987

Present: Hon'ble Sri P. Srinivasan ... Member (A)  
Hon'ble Sri Ch. Ramakrishna Rao ... Member (J)

APPLICATION NO. 629/87

Sri M.N. Muthu  
Driver  
National Tuberculosis Institute  
No.8, Bellary Road  
Bangalore - 560 003  
(Dr. M.S. Nagaraja, Advocate) ... Applicant

Vs.

1. Union of India  
represented by the Secretary  
Ministry of Health Service  
New Delhi.
2. The Director General of Health  
Services,  
New Delhi.
3. The Director  
National Tuberculosis Institute  
Bangalore - 560 003.
4. Sri K.K. Mathew  
Mechanical Supervisor  
National Tuberculosis Institute  
No.8, Bellary Road  
Bangalore - 560 003. ... Respondents

(Sri M.S. Padmarajaiah, Advocate)

This application has come up for  
hearing today, Hon'ble Sri Ch. Ramakrishna Rao, Member (j)  
made the following:

O R D E R

In this application made under section  
19 of the Administrative Tribunals Act, 1985, the applicant

*Ad*

who was formerly a driver in the National Tuberculosis Institute, Bangalore, (NTI), wants us to quash the order dated 23/30-3-1987 passed by the Director, NTI - Respondent 3 - by which the applicant was transferred to the Central Surplus Cell in the Ministry of Personnel and Training, Public Grievance and Pension, New Delhi, for redeployment with effect from the afternoon of 31st March, 1987.

2. This application has a history behind it. Earlier, respondent 3 transferred the applicant to the Surplus Cell and that order was challenged in application No.167/86 before this Tribunal. In its order dated 17-12-1986, this Tribunal upheld the said order of R-3. Learned counsel for the applicant submitted that there were vacancies of drivers in the NTI itself and since the applicant had already put in 22 years of service in the said Institute, he may be considered for adjustment against one of those vacancies. "If this be true", the Tribunal observed, "the name of the applicant for filling up such vacant posts may be considered by R3". It will be noticed that there was no direction but a mere suggestion that, if possible, R3 in that application, who is also respondent 3 in this application consider re-absorbing the applicant in the NTI itself. Thereafter, respondent 3 considered the matter and came to the



*Ad*

conclusion that in view of the position of road-worthy vehicles available with the NTI it was not possible to absorb the applicant in NTI. This decision which was conveyed in office order dated 27/30-3-1987 <sup>and that</sup> is challenged in this application

3. Dr. M.S. Nagaraja, learned counsel for the applicant, strongly contended that R3 had not considered the matter of absorbing the applicant in NTI fairly and that due to malice towards the applicant he had stuck to the old decision to declare him surplus. According to Dr. Nagaraja, there were a large number of vehicles in NTI, and there was no justification for declaring the applicant surplus. He admitted that the applicant was the junior most driver in the NTI but even so, the decision to declare him surplus was not justified.

4. Sri M.S. Padmarajaiah, learned counsel for the respondents, refuting the contentions of Dr. Nagaraja submits respondent 3 had honestly tried to accommodate the applicant in NTI but was unable to do so. The question as to how many drivers are needed by NTI is entirely a matter within the discretion of R3 who, after considering all the relevant circumstances, had found that there was no post to be given to the applicant. This Tribunal cannot determine the strength of drivers to be maintained in NTI.



5. After hearing counsel on both sides, we agree with Sri Padmarajaiah that it is not for us to decide whether NTI should employ one driver more than it does because the requirements of NTI in this regard are best known to its Director. It is not for us to do this, for otherwise we would be interfering in the normal day to day administration of the Institute. The applicant has not been able to persuade us that the decision to declare him surplus was malafide and so we cannot strike down the decision as illegal. We have, therefore, no choice but to dismiss the application.

6. Before parting with this application, we may notice one request made by Dr. Nagaraja. His client has been in Bangalore, working in NTI itself for about 23 years now, his children are in Kannada schools and it would be difficult for him to go to Vijayawada where he has been posted by the surplus cell. Therefore, he pleads that this Tribunal may issue a direction that the applicant be considered for appointment in one of the Central Government departments located in Bangalore itself. According to Dr. Nagaraja, there were vacancies of drivers in the Geological Survey of India, Income Tax Department and Post & Telegraph, Bangalore, in which the applicant can be accommodated. We do not think that we should issue any direction to this effect but we are mentioning this here with the hope that the respondents themselves,

CA

particularly respondent 3, will do whatever they can, as a measure of staff welfare, to help the applicant, who is their ex-employee, in this regard. A copy of this order may also be sent to the Ministry of Personnel & Training, Public Grievances and Pension, New Delhi, for considering the request of the applicant.

7. In the result, the application is dismissed. Parties to bear their own costs.



mr.

Sd/-

MEMBER (A)

Sd/-

MEMBER (J)

-True Copy-

*B.V. Venkatesh*  
DEPUTY REGISTRAR  
CENTRAL ADMINISTRATIVE TRIBUNAL 8/19  
ADDITIONAL BENCH  
BANGALORE

629/87(F)  
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DTE. GENERAL OF HEALTH SERVICES  
( TB SECTION )

DD 24/98

SUB: Transfer to Sh.M.N.Muthu, Ex-Driver, National-Tuberculosis Institute, Bangalore, to Central (surplus staff) Cell.

REF.: Deptt. of Personnel & Training letter No.4/10/87, CS III, dated 10.3.87 & 10.6.87.

...

The undersigned is directed to refer to para 6 of the Judgement, dated 8.10.87, on the application no. 629/87(F), of Central Administrative Tribunal, Bangalore Bench (copy enclosed) and to request that the application of Sh. M.N.Muthu may please be considered sympathetically for appointment in any one of the Central Govt. department (located in Bangalore itself). The action taken in the matter may please be intimated to this Directorate.

( P.K.GHAI )  
Deputy Director Administration(D)

Dept. of Personnel & Training, C.S.III, Nirvachan Sadan, N.Dli  
DGHS I.D.No. C-28018/3/87-TB, Dated the

28 नवम्बर १९८७

Copy for information to

1. The Deputy Registrar (Judicial), Central Administrative Tribunal, Bangalore Bench, Commercial Complex(BDA), Indiranagar, Bangalore-39.

2. The Director, National TB Institute, No.8, Bellary Road, Bangalore-3, 560 003.

( P.K.GHAI )  
Deputy Director Administration (D)

