

MEMO OF APPEARANCE  
~~CENTRAL~~  
BEFORE THE ~~KARNATAKA~~ ADMINISTRATIVE TRIBUNAL  
AT BANGALORE -38.

Recd. the Messenger.  
R 9/9/87  
K.B.

C.A.T. APPLICATION No. .... 72 ..... /1987

BETWEEN :

Allowed on 3/9/87

S. T. Ramesh

.. Applicant/s

And :

The Chief Secretary to Govt of Karnataka.  
Bangalore & others

.. Respondent/s

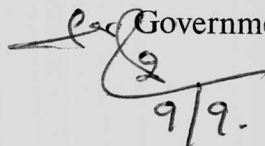
To :

Central The Registrar,  
~~Karnataka~~ Administrative Tribunal,  
B. D. A. Shopping Complex,  
Indiranagar, Bangalore-560 038.

The undersigned has been directed by the ~~Karnataka~~ Central  
Administrative Tribunal to appear for Respondent Nos. One  
in the above case/s. Please enter my appearance for the said  
party/parties in the above case/s.

Bangalore :

Dated : 9-9-87

 Government Advocate.  
9/9.

Address for Service :

Government Advocate,  
Advocate General's Office, K. A. T. Unit,  
B. D. A. Shopping Complex.  
Indiranagar, Bangalore-560 038.

CENTRAL ADMINISTRATIVE TRIBUNAL  
BANGALORE BENCH

.....

Commercial Complex(BDA),  
II Floor, Indiranagar,  
Bangalore- 560 038.

Dated: 9.9.87

To

1. Shri.Sanjeev Malhotra,  
All India Services Law Journal,  
Hakikat Nagar, Mal Road,  
New Delhi- 110 009.
2. Shri.R.Venkatesh Prabhu, Member,  
Editorial Committee,  
Administrative Tribunal Reporter,  
67- Lower Palace Orchards,  
Bangalore- 560 003.
3. The Editor,  
Administrative Tribunal Cases,  
C/o. Eastern Book Co.,  
34, Lal Bagh,  
Lucknow- 226 001.
4. Delhi Law Times Office,  
5335, Jawahar Nagar,  
(Kolhapur Road),  
Delhi- 110-007. (Rep.by Miss.Alka Kulkarni, Reporter, Bangalore)
5. M/s.All India Reporter,  
Congressnagar,  
Nagpur.
6. Services Law Reporter,  
108, Sector 27-A,  
Chandigarh- 160 019.

Sir,

I am directed to forward herewith a copy of the under mentioned order passed by a Bench of this Tribunal comprising of Hon'ble Mr. Justice K-S.Puttaswamy, Vice-Chairman/Member (J) and Hon'ble Mr. P. Srinivasan Member(A) with a request for publication of the order in the Journals.

Order dated 3-9-87 passed in A.Nos 72/87(F)

Yours faithfully,

sd=

(B.V.VENKATA REDDY)  
DEPUTY REGISTRAR(J).

O/c

CR

Recd mine (18)

9.9.87

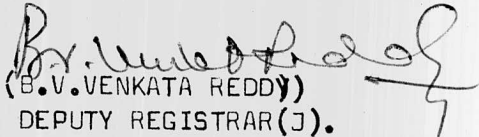
Recd  
14/9/87

.. Copy with enclosure; forwarded for information to:

1. The Registrar, Central Administrative Tribunal, Principal Bench, Faridkot House, Copernicus Marg, New Delhi- 110 001.
2. The Registrar, Central Administrative Tribunal, Tamil Nadu Text Book Society Building, D.P.I.Compounds, Nungambakkam, Madras- 600 006.
3. The Registrar, Central Administrative Tribunal, C.G.O.Complex, 234/4, AJC Bose Road, Nizam Palace, Calcutta- 700 020.
4. The Registrar, Central Administrative Tribunal, CGO Complex(CBD), First Floor, Near Kankon Bhavan, New Bombay- 400 614.
5. The Registrar, Central Administrative Tribunal, 23-A, Post Bag No.013, Thorn Hill Road, Allahabad- 211 001.
6. The Registrar, Central Administrative Tribunal, S.C.O.102/103, Sector 34-A, Chandigarh.
7. The Registrar, Central Administrative Tribunal, Rajgarh Road, Off Shilong Road, Guwahati- 781 005.
8. The Registrar, Central Administrative Tribunal, Kandamkulathil Towers, 5th and 6th Floor, Opp.Maharaja College. M.G.Road, Ernakulam, Cochin- 682 001.
9. The Registrar, Central Administrative Tribunal, CARAVS Complex, 15, Civil Lines, Jabalpur(MP).
10. The Registrar, Central Administrative Tribunal, 88-A, B.M.Enterprises, Shri Krishna Nagar, Patna- 1.
11. The Registrar, Central Administrative Tribunal, C/o.Rajasthan High Court, Jodhpur(Rajasthan)
12. The Registrar, Central Administrative Tribunal, New Insurance Building Complex, 6th Floor, Tilak Road, Hyderabad.
13. The Registrar, Central Administrative Tribunal, Navrangpura, Near Sardar Patel Colony, Usmanapura, Ahmedabad.
14. The Registrar, Central Administrative Tribunal, Dolamundai, Cuttak-753001.

Copy with enclosures also to:

1. Court Officer(Court I)
2. Court Officer (Court II)

o/c   
(B.V.VENKATA REDDY)  
DEPUTY REGISTRAR(J).

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL  
BANGALORE

DATED THIS THE 3rd DAY OF SEPTEMBER, 1987

Present : Hon'ble Justice Sri K.S. Puttaswamy Vice-chairman

Hon'ble Sri R. Srinivasan Member (A)

APPLICATION No.72/87(F)

S.T.Ramesh, IPS,  
Superintendent of Police,  
No.5, Millers Road,  
Bangalore - 52.

... Applicant

( Sri N.B.Bhat ... Advocate )

Vs.

1. State of Karnataka,  
By Chief Secretary to Government,  
DPAR (Service-I),  
Vidhana Soudha,  
Bangalore - 1.

2. Sri J.N.Choubey, IAS,  
Director,  
Prime Minister's Secretariat,  
Race Course Road,  
New Delhi.

... Respondents

( Sri S.M.Babu  
Sri M.Vasudeva Rao ... Advocate )

This application has come up before the court today.

Hon'ble Sri P.Srinivasan, Member (A) made the following :

ORDER

In this application made under Section 19 of the Administrative Tribunals Act, 1985, the applicant, an IPS Officer, working in the grade of Superintendent of Police Senior Scale in the Karnataka Cadre objects to the adverse remarks recorded in his annual confidential report for 1983-84 (Annexure A) and also wants us to quash the rejection by the Government of Karnataka of his representation against the said adverse remarks (Annexure C).

P. Srinivasan



2. Reply has been filed on behalf of both the respondents refuting the contentions in the application. Sri N.B.Bhat, learned counsel for the applicant, Sri S.M.Babu, learned counsel for Respondent 1 and Sri M.V.Rao, learned counsel for Respondent 2 have been heard.

3. During the year 1983-84 the applicant was working as Supdt. of Police, Bijapur District. Respondent 2 was the Deputy Commissioner, Bijapur during the period. The impugned confidential report has been written by the said Respondent 2 in respect of the applicant's performance during 1983-84. For the purpose of this application the remarks in the Confidential Report can be divided into two parts. The first part which is entirely complimentary and is in superlative terms reads as follows :

- "a) "He is industrious, willing to take responsibility and capable of taking quick and sober decisions. His relations with subordinates and colleagues is excellent. He is an outstanding officer.
- b) A smart, hard-working and capable officer. Knowledge of work very good. He is capable of facing any problem and finding easy solution. Power of expression on paper and in discussions very good. He has sound judgement. Cares for details. Industrious and conscientious. Disposal is speedy. Willing to accept responsibility. Relations with subordinates, colleagues and public very cordial."

The next part of the confidential report which contains the adverse remarks complained against reads as follows :

"However, he could have produced much better results had he taken District Magistrate into confidence in a few serious law and order situations. He could have also given a better image of himself as a professional had he anticipated situations better, led the subordinates rather than left matters to them, and the Sub-Divisional Magistrates. In all, he has potential of a good professional but that needs to be developed further."

The contention of the applicant reiterated by Sri Bhat before us is that there was no justification for the adverse remarks

*P. S. Rao*



cited above. The Respondents in their reply and learned counsel before us have attempted to justify the adverse remarks.


4. On a scrutiny of the remarks above it will be clear that the adverse remarks are strikingly inconsistent with what has gone before. After referring to the applicant as an outstanding officer which is the highest grading a Government official can hope for, the confidential report goes on to say that he could have produced better results if he had done certain things. The total effect of the remarks is that even though the applicant was outstanding he could have done better. For that matter any human being however well he may perform in his field of activity can conceivably do better but what is important in Government service is that an official puts forward the best possible effort in performing his work. If in the process his performance is better than that of his peers, he is considered outstanding. The complimentary remarks quoted above indicate that the applicant was indeed an outstanding officer in every way, and the reporting officer says so in so many words. The qualities extolled therein, viz., Knowledge, ability, industry, conscientiousness, capacity to take sound and quick decisions, meticulousness, capacity to face and solve any problem, willingness to take responsibility, leave nothing to be desired. There is also clear indication that the applicant's performance was of a high order, since he took responsibility, found quick and sound solutions to all problems, was quick in disposal and maintained excellent relations with colleagues and subordinates. Having said so much, the reporting officer contradicts himself when he says that the applicant could have anticipated situations better and should have led his subordinates and not left matters to them:

P. S. [Signature]





that suggests he was not prepared to take responsibility himself and was not industrious, in direct contradiction with the earlier remarks. That the applicant could have taken the District Magistrate into confidence in a few law and order situations and produced better results thereby, is at best a speculative proposition and in any case this must have been considered earlier when describing the applicant as an outstanding officer. There could be an occasional deficiency which is overlooked in an overall assessment of an officer's capacity and, what is more, there could be an honest difference of opinion between a Superintendent of Police and the Deputy Commissioner as to whether it was necessary to consult the latter <sup>in</sup> ~~on~~ a specific situation. The applicant has suggested in the application that the complimentary remarks were made by the DIG of Police and the adverse remarks by Respondent 2 who was the Deputy Commissioner. In their reply respondents No 1 have asserted that the applicant had no access to the records to <sup>who</sup> ~~how~~ made the favourable remarks and who the unfavourable. We are also not concerned with that question, but as we have observed the adverse remarks cannot be upheld in this case as they are in direct contradiction with the earlier remarks. A confidential report is written on an overall consideration of all facts. If the performance of an officer is found to be on the whole very good and he has all the qualities required of a very good officer, the report is favourable, overlooking a deficiency here or a deficiency there. There can be no person without a deficiency. In that background the earlier favourable remarks have to be taken to represent an overall assessment of the work and ability of the applicant in arriving at which an occasional deficiency has consciously been disregarded. Having done so, there is no place for adverse remarks

P. S. 



of the type given to the applicant in the second part of the report so as to detract from the overall assessment made earlier. It is an unspoken assumption in every case that a person could better his performance, however good it may have been, but this is another matter. We have therefore no hesitation in striking down the adverse remarks in this case. We must also observe that in Annexure C rejecting the applicant's representation against the adverse remarks, there is no discussion whatsoever as to how the authorities decided to reject the representation and particularly to reconcile the striking contradiction between the two parts of the confidential report. It is not a speaking order by any stretch of imagination. We have, therefore, to strike down Annexure C also.

5. In the result the adverse remarks communicated in the lower part of the letter dated 22.11.1984 from the Chief Secretary to the Government of Karnataka to the applicant are quashed. Similarly the order dated 7.3.1986 at Annexure C by which the Government of Karnataka rejected the representation of the applicant is also hereby quashed.

6. In the result the application is allowed. Parties to bear their own costs.



Sd---

Sd---

VICE-CHAIRMAN

MEMBER (A)

an.

3/9/87

'True copy'

By *[Signature]*  
DEPUTY REGISTRAR  
CENTRAL ADMINISTRATIVE TRIBUNAL  
ADDITIONAL BENCH  
BANGALORE



Forwarding letters with copies of judgments  
marked for reporting as listed are placed below.

Copy to.

	cooler dt.
1. A. No. 1005 / 86 CT)	20-3-87
2. 1227 to 1230 / 86 CT)	21-4-87
3. 480 & 506 / 86 CT)	11-9-87
4. 523 / 86 CF)	16-1-87
5. 1649 / 86 CT)	5-11-86
6. 694 to 708 / 86 CT)	14-11-86
7. 1504 to 1506 / 86 CT)	26-2-87
& 1523 to 1528 / 86 CT)	2-12-86
8. 1017 / 86 CT)	16-6-87
9. 1436 / 86 CT)	23-1-87
10. 725 / 86 CT)	23-10-86
11. 1668 / 86 CF)	10-8-87
12. 473 & 474 / 87 CF)	4-8-87
13. 102, 115 to 128, 661 to 667 / 87 CF)	3-9-87
✓ 14. 72 / 87 CF)	3-8-87
15. 2051 / 86 CF)	24-8-87
16. 1988 / 86 CF)	7-8-87
17. 51 / 87 CF)	30-3-87
18. 126, 1537, 1605 to 1607 & 1626 / 86	10-4-8
19. 650 / 86 CF)	

2.

20. 1883 / 86 (T)	20.8.87
21. 1628 / 86 & 47 / 87	31.5.87
22. 693 / 86 (T)	13.11.86

The above letters <sup>dt: 9/10/87</sup> with enclosures may please be issued to The Editor, Administrative Tribunal Law Times, Delhi Law Times office, 5335, Jawahar Nagar (Kohapur Road), Delhi-110007.

# *thy*  
9/10/87

Sri. Srinivas, C.R. Section.

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**RECEIVED** (22) *cris*  
9/10/87  
Diary No. 1254 / CR / 87  
Date: 9-10-87 *8*

Central Administrative Tribunal  
Dy. No. 302/88-2  
Date 21/9/88

D.No. 219/88/Section-IV-A  
SUPREME COURT OF INDIA  
NEW DELHI.

Dated 15th September, 1988

From: The Additional Registrar,  
Supreme Court of India.

To

The Registrar,  
Central Administrative Tribunal,  
B.D.A. Commercial Complex,  
Indira Nagar, Bangalore-560 038.

PETITION FOR SPECIAL LEAVE TO APPEAL (CIVIL) NO. 332 OF 1988.

Petition under Article 136 of the Constitution of India for  
Special Leave to Appeal to the Supreme Court from the ~~Judgment~~  
~~Order~~ dated 3-9-1987 of the ~~High Court~~  
Central Administrative Tribunal, Bangalore. in Application  
No. 72/87(F)

Chief Secretary, to Government DPAR (Services-I)

....Petitioner

Vs.

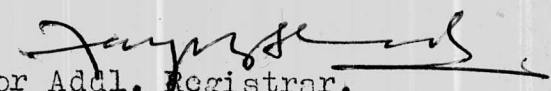
S.T. Ramesh IPS & Others.

...Respondents.

Sir,

I am to inform you that the petition above -mentioned  
for Special Leave to Appeal to this Court was filed on behalf  
of the Petitioner above-named from the ~~Judgment and Order~~  
Central Administrative Tribunal, Bangalore  
of the ~~High Court~~ / noted above and that the same was/were  
dismissed by this Court on the 14th day of September,  
1988.

Yours faithfully,

  
for Adl. Registrar.

AS/  
Sec- IV-A.

SO (V)  
File  
Bul  
21/9

R  
21/9  
S.K.K.