

REGISTERED

CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE BENCH
.....

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

Dated: **9 MAR 1988**

CONTEMPT OF COURT APPLICATION NO. 56
IN APPLICATION NO. 458/87(T)
W.P.No. _____

APPLICANT

Vs

RESPONDENTS

Shri G. Shankar

The Joint Director of Census Operations
in Karnataka, Bangalore

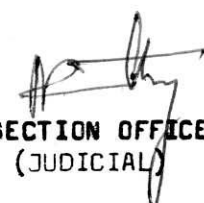
To

1. Shri G. Shankar
410/A, 7th Main
Hanumanthanagar
Bangalore - 560 019
2. Shri H.L. Sridhara Murthy
Advocate
36, 'Vagdevi'
Shankarapuram
Bangalore - 560 004
3. Shri B.S. Narasimhamurthy
Joint Director of Census Operations
in Karnataka
21/1, Mission Road
Bangalore - 560 027
4. Shri M.S. Padmarajaiah
Central Govt. Stng Counsel
High Court Building
Bangalore - 560 001

Subject: SENDING COPIES OF ORDER PASSED BY THE BENCH

Please find enclosed herewith the copy of ORDER/~~xxx~~/
~~xxxxxx~~ Contempt of Court
passed by this Tribunal in the above said application
on 29-2-88.

Encl: as above.


SECTION OFFICER
(JUDICIAL)

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE BENCH: BANGALORE

DATED THIS THE TWENTYNINETH FEBRUARY, 1988

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

CONTEMPT OF COURT APPLICATION NO. 56/1987

Shri G. Shankar
S/o. T.R. Gundappa Sastry
Aged about 29 years
No.410/A, 7th Main
Hanumanthanagar
Bangalore.

... Petitioner

(Shri H.L. Sridhara Murthy, Advocate)

Vs.

Shri B.S. Narasimhamurthy
Director of Census Operations
(Now designated as Joint Director)
in Karnataka
No.21/1, Mission Road
Bangalore-27.

... Contemnor

(Shri M.S. Padmarajaiah, C.G.S.S.C.)

This application has come up for hearing before
this Tribunal today, Hon'ble Shri Ch. Ramakrishna Rao,
Member (A), made the following:

O R D E R

In this Contempt of Court application the
petitioner complains that the Contemnors have not complied
with order dated 21.7.1987 passed by this Tribunal in
A.No.458/87. In that order it was directed as under:

"In the result we pass the following orders:

- (i) The respondents should take the applicant
back into service within two months from
the date of receipt of this order.
- (ii) The applicant will, however, not be
entitled to any back wages till the date
of his fresh appointment."

Purporting to comply with these directions the applicant
was given an appointment at Srinagar by order dated
30.9.1987 passed by the Director of Census Operation,
Jammu & Kashmir. It may here be mentioned that



before the termination of the applicant's services which was held to be bad in our order dated 21.7.1987, the applicant was working as a Coder in the office of the Director of Census Operations, Karnataka, Bangalore.

2. During the pendency of the present contempt application a Bench of this Tribunal of which one of us (Shri P.Srinivasan) was a party passed an order on 10.2.1988 holding that the appointment of the applicant at Srinagar did not constitute proper compliance with our earlier order dated 21.7.1987. In the said order of 10.2.1988 this Tribunal clarified the earlier order of 21.7.1987 to mean that the "petitioner should be reinstated in the office of Director of Census Operations, Karnataka, Bangalore only and not at any other office or place" (emphasis supplied).

3. After the aforesaid order dated 10.2.1988 was passed, the Joint Director of Census Operations, Karnataka, passed an order on 19.2.1988 appointing the applicant as a Compiler on a consolidated salary of Rs.900 in his office. It may here be mentioned that the respondent in the original application No. 458/87 was the Director of Census Operation but that post is now vacant and will be filled up only before the next census. The Joint Director of Census Operations, Karnataka, is now the Head of the office in place of the Director of Census Operations and hence he passed the order dated 19-2-1988 appointing the applicant as a Compiler.

4. Shri Sridhara Murthy, learned counsel for the petitioner contends that even the latest order of



19.2.1988 appointing the applicant as a Compiler in the office of the Joint Director of Census, Bangalore, is not proper compliance with our order dated 21.7.1987 read with the subsequent order passed on 10.2.1988 in these proceedings. He submits that what the Joint Director of Census Operations has done is to give the applicant a fresh appointment and he has not reinstated the applicant as directed by this Tribunal in its clarificatory order dated 10.2.1988. If he were reinstated he would be entitled to certain advantages which are not available to him if he is freshly appointed. He, therefore, submits that the respondents have still not complied with the order of this Tribunal.

5. Shri M.S. Padmarajaiah for the Contemners submits that this Tribunal in both the orders referred to above set aside the order terminating the services of the applicant and directed that he be appointed in the office of the Director of Census Operations, Bangalore. That order has been complied with. The applicant has been offered a post on the same salary as ^{the one} he was holding earlier. Since the earlier post he was holding viz that of Coder does not exist now, the question of reinstatement in that post does not arise. If the applicant wants to claim rights based on his earlier service he should make representation to the respondents which would be considered on its merits. He cannot in this application agitate those rights if any. He, therefore, submits that these contempt proceedings should be dropped.



5. We have considered the rival contentions carefully. We are not prepared to go into the technical distinction between reinstatement and fresh appointment. In substance what we said in our original order dated 21.7.1987 was that the applicant be taken back into service and we later clarified this has to be only in the office of the Director of Census Operations, Bangalore. Respondents have complied with our order. If the applicant seeks to establish certain rights based on his earlier service before its termination he is free to make such representation as he deems fit to the respondents and it is for the respondents to deal with the matter. We do not wish to state anything now affecting such rights if any. As we have earlier pointed out we do not propose to go into the distinction between reinstatement and fresh appointment since we are satisfied that our orders have been substantially complied with by the Respondents.

6. Before parting with this application we must refer to a submission of Shri Sridhara Murthy that the order dated 19.2.1988 appointing the applicant as a Compiler required him to join duty on or before 25.2.1988 failing which it would be presumed that he was not interested in the job. The said order was served on the applicant after 25.2.1988 and, therefore, he has not been able to join. Since the Joint Director of Census Operations is also



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in the Court before us, we direct him to permit the applicant to join the post to which he is appointed within a week from today.

7. In the result the contempt of court proceedings are hereby dropped. Parties to bear their own cost.

sd/-

(P.SRINIVASAN)
MEMBER (A)

sd/-

(CH.RAMAKRISHNA RAO)
MEMBER (J)

TRUE COPY

sb.



P. Thy 9/3/88
SECTION OFFICER
CENTRAL ADMINISTRATIVE TRIBUNAL
ADDITIONAL BENCH
BANGALORE

D.N.. 1958/88/_____/Sec.IVA

SUPREME COURT OF INDIA
NEW DELHI

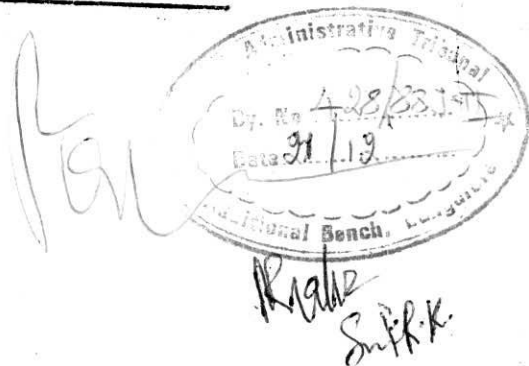
Dated 19th December, 1988

From:

The Additional Registrar,
Supreme Court of India.

To,

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



PETITIONS FOR SPECIAL LEAVE TO APPEAL (CIVIL) NOS. 4798 OF 1988
(Petitions under Article 136 of the Constitution of India for
Special Leave to Appeal to the Supreme Court from the
~~Judgment and Order~~ dated the 21st July, 1987 of the
~~High Court of~~
~~Karnataka/Central Administrative Tribunal, Bangalore~~
in Application No.458 of 1987.)

G.Shankar

.. Petitioner ~~(S)~~

Versus.

The Director of Census Operation in Karnataka... Respondent ~~(S)~~

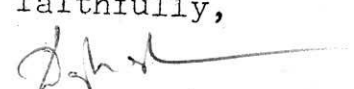
Sir,

I am to inform you that the Petitions above-mentioned for
Special Leave to Appeal to this Court was/~~were~~ filed on behalf
of the Petitioner above-named from the ~~Judgment and Order~~ of the
~~High Court~~

~~Karnataka/Central Administrative Tribunal~~ at Bangalore

noted above and that the same was/~~were~~ dismissed/~~disposed of~~
by this Court on the 7th day of December, 1988.

Yours faithfully,


for Addl.Registrar.