

Registered

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

Dated : 29-9-87

APPLICATION NO 320/87 (F) / 1867

W.P. NO

Applicant M. Navakesrthi Vs Chief Personnel Officer, S. Reg.,
Madras and Anr.

To

1. Sri M. Navakesrthi,
Laboratory Superintendent,
(Grade III),
Railway Medical Hospital,
Mysore
2. Sri Ranganatha Jais, Advocate,
Vagdevi, 36, Shankara Park,
Shankarapuram,
Bangalore - 560004.
3. The Chief Personnel Officer,
Headquarters Office,
Southern Railway,
Madras.
4. The Divisional Personnel
Officer,
Southern Railway,
Mysore.
5. Sri A. N. Venugopal,
Advocate,
High Court Building,
Bangalore - 1.

Subject: SENDING COPIES OF ORDER PASSED BY THE BENCH

Please find enclosed herewith the copy of ORDER/STAY/ The copy of
INTERIM ORDER passed by this Tribunal in the above said
application on 18 SEP 87.

Encl : as above

SECTION OFFICER
(JUDICIAL)

RECEIVED

Diary No. 1228/CR/87

Date: 5/10/87

30/9/87

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BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE BENCH, BANGALORE

DATED THIS THE 18TH DAY OF SEPTEMBER 1987.

Present : Hon'ble Shri P.Srinivasan ... Member (A)

Hon'ble Shri Ch. Ramakrishna Rao .. Member (J)

Application No. 320/87.

M. Navakeerthi,
aged about 28 years,
Son of C.Maruthai, working as
Laboratory Superintendent,
Grade III,
Railway Medical Hosipitel,
MYSORE.

..... APPLICANT

(Shri Ranganatha Jois, Advocate)

Vs.

1. The Chief Personnel Officer,
Headquarters Office,
Southern Railway,
MADRAS.
2. The Divisional Personnel Officer,
Southern Railway,
MYSORE.

.... RESPONDENTS

(Shri A.N.Venugopal, Advocate)

The application has come up for hearing before
this Tribunal today. The Member (A) made the following :

O R D E R

The applicant in this case was appointed as
a substitute Laboratory Superintendent Gr. III in
the Railway Medical Hospital at Mysore with effect
from 4.2.1983. After completing 120 days he was

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given temporary status with effect from 4.5.1983. The practice in the Railways is to give temporary status to substitute employees after 120 days, in order to give them the facilities of ^M railway pass and leave of various kinds. Further, as agreed by both sides, the conditions of appointment on being given temporary status are that the appointment is purely ad-hoc and is liable to be terminated at any time and in any case as and when regular appointments are made on the recommendations of the Railway Recruitment Board. The applicant and another person submitted applications to this Tribunal, numbered as A.No's 1424 and 1629 of 86 voicing the grievance that their services should have been regularised in terms of a circular letter of the Railway Board dated 19.12.1984, but the authorities had not taken any steps in this direction. In that application the applicants apprehended that their services might be terminated. While disposing of that application by order dated 18.11.1986, this Tribunal noticed the Railway Board's Circulars dated 19.12.1984 (by typographical error the date has been mentioned as 12.12.1984) and 28.10.1985 and observed that the applications had been filed before the Railway Board had an opportunity to consider the case of the applicants in terms of those circulars. The true nature of these circulars and the rights, if any, of the applicants ^{As is thereunder} ~~there~~ order had not been examined and

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decided by the Railway authorities. In view of this, this Tribunal directed respondent No. 2 in that case i.e., The Divisional Railway Manager (P), Southern Railway, Mysore"to consider the cases of the applicants for regularisation in conformity with law and pass his orders thereto with such expedition as is possible in the circumstances of the case and in any case within three months from the date of receipt of this order". The respondents were also directed not to disturb the applicants from the posts which they were holding till the question of their regularisation was decided. Thereafter the Divisional Personnel Officer, Southern Railway, Mysore, Respondent 2 in the present application issued a letter dated 20.4.87 (Annexure-C) to the present applicant stating that his services would not be required with effect from 21.4.1987, as a regular candidate had reported for duty. The applicant was given pay in lieu of 14 days notice of termination. It is this letter which the applicant is challenging in this application.

2. Shri Ranganatha Jois, learned counsel for the applicant contended that in terms of the order of this Tribunal dated 18.11.1986 in applications Nos.1424 and 1629 of 1986, the respondents should have considered the case of the applicant for regularisation in terms of Railway Board Circular dated 19.12.1984 and without doing so they could not dispense with his services. The said circular of the Railway Board provided that cases of persons who had completed three years as sub-



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stitute employees should be considered for regularisation by a committee whose constitution was also specified therein and, if cleared by that committee they should be regularised. The applicant who had joined service on 4.2.1983 and had been given temporary service in June 1983 had completed more than three years service and his case should have been considered by the committee as contemplated in the Board's letter dated 19.12.1984. This had not been done and so the action of the respondents in terminating the services of the applicant was illegal. That circular, according to Shri Jois, should not be interpreted as if only persons who had completed three years of service on the date of the circular were eligible for regularisation in accordance with the procedure set down therein. Even those who completed three years of service after that date, like the applicant, should have been considered for regularisation according to the procedure laid down in the circular. Merely because the applicant had failed to secure selection through the Railway Recruitment Board, his services could not have been terminated because his case for regularisation was governed by the aforesaid circular 19.12.1984.

3. Shri A.N.Venugopal, learned counsel for the respondent submits that the Railway Board Circular of 19.12.1984 contemplated a one time relaxation of

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the normal rule that regular appointments can be made only through the Railway Recruitment Board. It was intended to regularise the services of persons who had put in three years of substitute service on that date and a committee was constituted only to consider such cases. After considering such cases and recommending regularisation of such of those officials as were found fit the committee constituted under that circular was wound up. It was not the intention to adopt the special procedure laid down in that circular to regularise all substitute employees who would complete three years of service from time to time. Therefore, the applicant who had not completed three years of service on 19.12.1984 could not be regularised in accordance with the procedure of the Board circular of that date. Therefore, after proper consideration of the matter, the respondents decided that the applicant's services could not be regularised in terms of that circular. He had to come through the Railway Recruitment Board (RRB). He had appeared for recruitment through RRB but had failed and so he had to yield place to those who were selected for appointment by RRB.



4. At this point Shri Ranganatha Jois countered that even if the Board circular of 19.12.1984 was designed as a one time measure, all persons who had completed three years of substitute service when the committee constituted in accordance with that circular sat down for selection should have been considered for regularisation. The committee took up regularisation of substitute employees in October 1985.

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1. After careful consideration, we are of the view that this application has to fail. We are inclined to agree with Shri Venugopal that the Railway Board Circular of 19.12.1984 relaxing the normal method of recruitment through the RRB and providing for regularisation of the services of substitute employees through the process of screening by a specially constituted committee was indeed designed to be a one time measure. Otherwise there would be two parallel methods of recruitment, one through the Special Committee constituted for the purpose of the circular and another by the Railway Recruitment Board and this would cause considerable confusion. For the same reason, we are also inclined to agree with Shri Venugopal that the purpose of the circular was to consider only the cases of persons who had completed three years of service as on the date of the circular, i.e. ^{by on} 19.12.1984 and cannot be extended to those substitute employees completing three years of substitute service after that date. We notice that even if we were to accept Shri Jai's contention that persons who had completed three years of substitute service on the date of the meeting of the Special Committee should have been considered for regularisation, the application cannot succeed. The applicant who entered service as a substitute employee on 4.2.1983 did not complete three years in October 1985 when the Special Committee constituted under the circular of 19.12.1984 met. Therefore, the applicant did not have a right to be regularised in terms of the Board's Circular dated 19.12.1984. We may here recall that in the order dated 18.11.1986 in



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applications No. 1424 and 1529 of 1986, this Tribunal expressed no opinion as to the persons to whom the Board Circular of 19.12.1984 would apply because the position had not at that time been examined by the Railway authorities themselves. It was left to the Railway authorities to consider cases of the applicants with reference to that circular and take further action according to law. We find that the respondents have rightly decided that the case of the applicant was not covered by ^{M not} circular. That being so, when a regular appointee selected by the R.R.B. became available, ¹⁹⁷³ the applicant's services had necessary to be terminated to accommodate the regular appointee. Therefore, there is no infirmity in the order terminating the services of the applicant. We may in passing, mention that the other applicant in Applications No. 1424 and 1529 of 1986, was subsequently selected for appointment by R.R.B. and her services were regularised on that basis and not through the procedure set ^{M out} ~~and~~ in the circular of 19.12.1984.

6. The decision of the Supreme Court relied upon by Shri Jois in Ratanlal and others vs. State of Haryana, 1985 SCC (L&S) 938 has no application to the facts of this case. Similarly, the rulings in Olga Tellis's case, AIR 1986 SC 285 and in the Central Inland Water Commissions case, AIR 1986 SC 1571 are also of no assistance here.

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

Sd/-


MEMBER (A) 18/11

Sd/-

MEMBER (J)

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