

REGISTERED

CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE BENCH
.....

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

Dated: 8-12-87

APPLICATION NO 1714 /86 (F)

W.P.No. _____

APPLICANT

Vs

RESPONDENTS

Shri C.K. Angadi .
To

The Commissioner of Income-Tax, Karnataka II,
Bangalore & another

1. Shri C.K. Angadi
S/o Smt. M.K. Angadi
R/o Tippaiahkoppa
Masur Post
Hirekerur Taluk
Dharwad District
2. Shri Basavaraj V. Sabared
Advocate
No. 895, 16th Main, 3rd Block
Rajajinagar
Bangalore - 560 010
3. The Commissioner of Income-Tax
Karnataka II
Bangalore
4. The Inspecting Assistant Commissioner
of Income-Tax
Hubli Range, Vidya Nagar
Hubli
5. 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/~~STAY~~

~~INTERIM ORDER~~ passed by this Tribunal in the above said application

on 2-12-87

RECEIVED

Diary No. 14.84.12.18

Date: 10-12-87

Encl: as above.

DEPUTY REGISTRAR
(JUDICIAL)

CENTRAL ADMINISTRATIVE TRIBUNAL

BANGALORE

DATED THIS THE 2ND DAY OF DECEMBER, 1987

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

APPLICATION NO. 1714/86

Shri C.K. Angadi,
S/o. Smt. M.K. Angadi,
major, R/o. Tippalahkeppa,
Masur Post,
Hirekerur Taluk,
Dharwad District. Applicant
(Shri Basavaraj V. Sabarad, Advocate)

v.

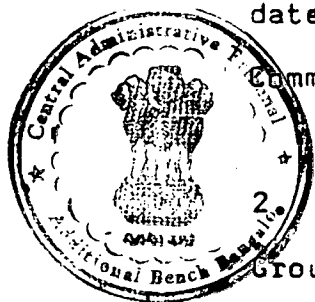
1. The Commissioner of Income-tax
Karnataka II,
Bangalore.
2. The Inspecting Assistant Commissioner,
Hubli Range, Vidya Nagar,
Hubli.

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

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

O R D E R

In this application made under Section 19 of the
Administrative Tribunals Act, 1985 ('the Act'), the applicant
has challenged order No.34/Vig/CKA/81/CII II dated 20.9.85
(Exhibit F) of the Commissioner of Income Tax, Karnataka II,
Bangalore ('Commissioner') and order No. DP/SO/CKA/1980-81
dated 16.1.1984 (Exhibit D) of the Inspecting Assistant
Commissioner of Income Tax Hubli Range, Hubli ('IAC').



At the material time, the applicant was working as a
Group 'D' employee in the office of the IAC. When he was

working in that office a complaint was filed before the police by the Department to the effect that he had stolen two table fans of the office. On that complaint, the State of Karnataka prosecuted the applicant in C.C.No.589/82 in the court of J.M.F.C. II, Hubli for offences under Section 381 and 414 of the Indian Penal Code ('IPC'). On an examination of the evidence placed in that case, the learned magistrate on 24.12.82 (Exhibit A) acquitted the applicant of the charge levelled against him.

3. But notwithstanding the said acquittal, the IAC initiated disciplinary proceedings against the applicant under Rule 14 of the Central Civil Services (Classification, Control and Appeal) Rules, 1965 ('Rules') on the very same charge, which he denied. In that view, the IAC appointed one Sri B.S. Venkaranarasaiah as the Inquiry Officer ('IO') under the Rules to inquire into the truth or otherwise of the charge levelled against him and submit his report. Accordingly the IO held a regular inquiry and submitted his report on 7.11.1983 ('Exhibit C') recording that the applicant was guilty of the charge levelled against him. On an examination of the report of the IO and the records and concurring with the findings of the IO, the IAC on 16.1.1984 (Exhibit B) imposed on the applicant the penalty of removal from service. Aggrieved by this order, the applicant filed an appeal before the Commissioner, who on 20.9.85 (Exhibit F) had dismissed the same. Hence this application.

4. The applicant, has challenged the orders on a number of grounds and we will notice and deal with them in due course.

5. In justification of the orders, the respondents have filed their reply and have produced their records.

6. Sri. B.V. Sabarad, learned Counsel for the applicant contends that it was not open to the IAC to remove the applicant from service as he had been appointed by the Commissioner, who was superior to him.

7. Sri. M.S. Padmarajaiah, learned Senior Central Government Standing Counsel appearing for the respondents contends that the applicant had been appointed only by the IAC and not by the Commissioner and his removal by the IAC was authorised and legal.

8. Before the IAC and the Commissioner, the applicant had not urged this plea and the same is urged for the first time before us. We should normally decline to examine this plea on this ground itself. But we do not propose to do so and proceed to examine the same on merits.

9. While the applicant asserts that he had been appointed by the Commissioner, the respondents have asserted that he had been appointed by the IAC and not by the Commissioner. On these pleadings the burden of establishing his plea, is squarely on the applicant and not on the respondents.



10. In proof of his plea the applicant has not produced any documentary evidence. On this score itself we must reject this plea of the applicant.

11. In a memo filed before us, the applicant had called upon the respondents to produce the records relating to his appointment. In answer to the same the respondents have stated that those records were not traceable. We have no reason to disbelieve this statement of the respondents and we accept its correctness.

12. In an affidavit filed today the applicant had reiterated his bald assertion in his application. We are of the view that the bald assertion in the affidavit, does not in any way advance the case of the applicant.

13. In the service book of the applicant maintained in the usual course of official business there is an entry to the effect that the applicant had been appointed to the post on an order made by the IAC. We are of the view that this entry really clinches the issue. On this entry there cannot be an iota of doubt on the fact that the applicant had been appointed only by the IAC and not by the Commissioner.

14. On the foregoing discussions we hold that the applicant had been appointed by the IAC and not by the Commissioner. If that is so, then the legal contention urged by Sri Sabard is without any merit. We, therefore reject this contention.

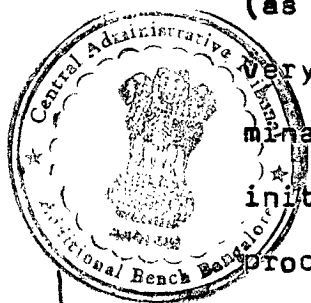


15. Sri Sabarad next contends that the Honourable acquittal of the applicant by the Criminal Court on the very same charge and evidence barred the initiation of disciplinary proceedings and imposition of any penalty thereto on him under the Rules. In support of his contention, Sri Sabarad relies on the ruling of the Supreme Court in *Corporation of the City of Nagpur v. R.G. Modak* (AIR 1984 SC 262 (8)) and a ruling of this Tribunal in *KANWAR LAL SABHARWAL v. THE GENERAL MANAGER, NORTHERN RAILWAY, NEW DELHI AND OTHERS* (A.T.R. 1987(1) C.A.T.148).

16. Sri Padmarajaiah in refuting the contention of Sri Sabarad and contending to the contrary strongly relies on the ruling of the Supreme Court in *S.A.VENKATARAMAN v. UNION OF INDIA* (AIR 1954 SC 375) and a Full Bench ruling of the Karnataka High Court in *T.V.GOWDA v. STATE OF KARNATAKA* (Writ Petition No.693 of 1977 decided on 13-2-1973).

17. The question raised is no longer res integra and is concluded by the Supreme Court. Hence, a detailed examination of the legal position is unnecessary.

18. In Venkataraman's case, a Constitution Bench of the Supreme Court speaking through B.K.Mukerjee, J. (as his Lordship then was) on an examination of the very question had ruled that the acquittal by a Criminal Court on the very same charge was no bar for initiation and imposition of penalty in disciplinary proceedings under the Rules. In Gowda's case, a Full



Full Bench of the Karnataka High Court speaking through E.S.Venkataramiah, J (as His Lordship then was) had examined this very question on similar facts and had rejected the same. On these direct rulings, this contention of Sri Sabarad has no merit.

19. In Modak's case, the Supreme Court had not departed from the principles enunciated in Venkataraman's case. In Kanwar Lal Sabharwal's case also, ~~the Joint Bench of~~ this Tribunal had not laid down a different principle. We are of the view that these rulings do not really bear on the question.

20. On the foregoing discussion, we find no merit in this contention of Sri Sabarad and we reject the same.

21. Sri Sabarad contends that the applicant was not afforded a reasonable opportunity before the IO and the same vitiates the orders.

22. Sri Padmarajaiah contends to the contrary.

23. We find that the IO had afforded every reasonable opportunity to the applicant in the inquiry held against him. We see no merit in this contention of Sabarad and we reject the same.

24. Sri Sabarad next contends that the findings of all the authorities were based on 'no evidence' and illegal.



25. Sri Padmarajaiah contends to the contrary.

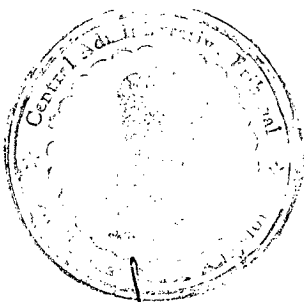
26. Before the IO the department had placed oral and documentary evidence. On a consideration of the same, the IO had found the applicant guilty of the charge levelled against him with which the IAC and the Commissioner had concurred. In these circumstances it is impossible to hold that the findings of the authorities are based on 'no evidence'.

27. Even otherwise, we find that the evidence on record justified the conclusions reached by the authorities.

28. On the foregoing discussion, we no merit in this contention of Sri Sabarad and we reject the same.

29. Sri Sabarad lastly contends that with due regard to the age of the applicant, large family to maintain the punishment of removal from service was grossly disproportionate to the gravity of the charge levelled and proved and only calls for imposition of a minor penalty under the Rules.

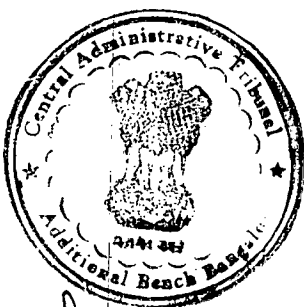
30. The punishment of removal from service legally does not bar a fresh appointment. But as a rule a person removed from service, that too when he had crossed the maximum age prescribed for entry to Government service as in the case of the applicant, will not be able to secure a fresh appointment at all. An order of removal also disentitles the applicant for any pension.



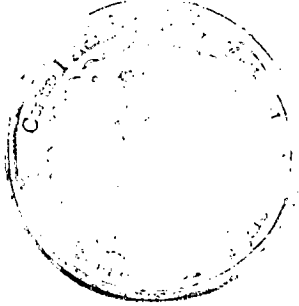
31. When the applicant cannot be appointed to any other post and is not granted any pension, it would be extremely difficult for him to maintain himself and the large family consisting of his aged mother and three daughters. On all these facts we are of the view that the ends of justice will be met by converting the punishment of removal from service to one of compulsory retirement from service with appropriate directions thereto.

32. In the light of our above discussions, we make the following orders and directions:

- (i) We dismiss this application in so far as the same challenges the findings of guilt recorded by the authorities.
- (ii) We allow this application in part and modify the punishment of removal from service imposed on the applicant to one of 'compulsory retirement from service from 21.1.1984.
- (iii) We direct the respondents to compute the pension and other terminal benefits admissible to the applicant on the basis of the order made by us and extend to him all such monetary benefits to which he is entitled to in law with all such expedition as is possible in the circumstances of the case and in any event within three months from the date of receipt of this order.



33. Application is disposed of in the above terms.
But in the circumstances of the case, we direct the
parties to bear their own costs.



Sd/-
Vice-Chairman

2/12/1981

Sd/-
Member (A)

- True copy -

bsg/Mrv.

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

REGISTERED

CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE BENCH

Commercial Complex (BDA)
Indiranagar
Bangalore - 560 038

Dated : 7 NOV 1988

CONTEMPT

PETITION(CIVIL) APPLICATION NO.

IN APPLICATION NO.
W.P. NO.

68

/88

1714/86(F)

Applicant(s)

Shri C.K. Angadi

To

Respondent(s)

V/s

The Commissioner of Income-Tax, Karnataka - II,
Bangalore & another

1. Shri C.K. Angadi
S/o Smt M.K. Angadi
R/o Tippalahkeppa
Masur Post
Hirekerur Taluk
Dharwad District
2. Shri Basavaraj V. Sabarad
Advocate
No. 895, 16th Main,
3rd Block, Rajajinagar
Bangalore - 560 010
3. The Commissioner of Income-Tax
Karnataka - II
Central Revenue Building
Queens Road
Bangalore - 560 001

4. The Inspecting Assistant Commissioner
of Income-Tax
Hubli Range
Vidyanagar
Hubli
5. 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/~~STAY/INTERIM ORDER~~
passed by this Tribunal in the above said C.P.(Civil) application(*) on 31-10-88

P. Thy
SECTION OFFICER

DEPUTY REGISTRAR

(JUDICIAL)

Encl : As above

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE BENCH: BANGALORE

DATED THIS THE 31ST DAY OF OCTOBER, 1988

PRESENT: HON'BLE SHRI JUSTICE K.S. PUTTASWAMY... VICE-CHAIRMAN

HON'BLE SHRI L.H.A. REGO

... MEMBER (A)

CONTEMPT PETITION (CIVIL) A.NO.68/88

Sri C.K. Angadi,
Major, R/O Thippaiahkoppa
Masur Post
Hirekerur Taluk,
Dharwad District

Petitioner

Vs.

- 1, The Commissioner of Income - Tax
Karnataka II,
Bangalore.
2. The Inspecting Asst. Commissioner of
Income - Tax,
Hubli Range, Vidya Nagar,
Hubli.

Contemptnor

(Shri M.S. Padmarajaiah.....Advocate)

This application having come up for hearing
before this Tribunal to-day, Hon'ble Shri Justice K.S.
Puttaswamy, made the following :

O R D E R

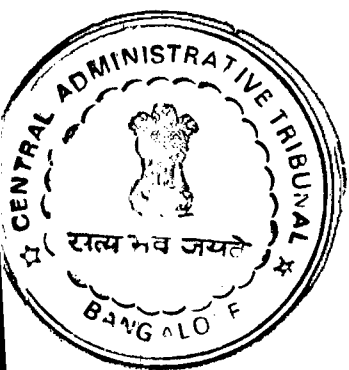
Case called on more than one occasion in
the pre-lunch session and again in the post-lunch
session. On every occasion, the petitioner and his
learned counsel were absent. On the last date of
hearing also, the petitioner and his counsel were



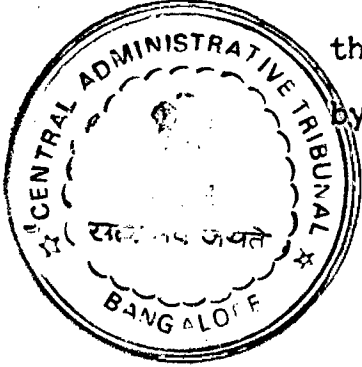
absent. We see no justification to adjourn this case any further. We have therefore perused the records and heard Sri M.S. Padmarajaiah, Senior Standing Counsel for Central Government, appearing for respondents.

2. In this application made under Sec. 17 of the Administrative Tribunals Act, 1985(Act) and the Contempt of Courts Act, 1971, the petitioner has complained that the order made by a Division Bench of this Bench in his favour in Application 1714/86 (Ann.A) on 2nd December 1987, has not been implemented in letter and spirit.

3. In their reply, the respondents have asserted that the order of this Tribunal had been implemented in letter and spirit. In elaboration of the same, the respondents have pointed out that deducting the inadmissible periods, the petitioner was not entitled for pension and therefore an order to that effect had been made and communicated to the petitioner and the admissible amount of gratuity had been paid to him. We have no reason to disbelieve these statements. Even otherwise, the records produced before us establish these submissions of the respondents. From this it follows that the respondents have complied with the order made by us. On this view, these proceedings are liable to be dropped reserving liberty to the petitioner to challenge the consequential orders in separate legal proceedings.



4. In the light of above discussion, we hold that these Contempt of Court Proceedings are liable to be dropped. We therefore drop the Contempt of Court Proceedings. But, this order does not prevent the petitioner from challenging the later orders made by the respondents in appropriate legal proceedings.



Sd/-
VICE-CHAIRMAN 21/10/88

Sd/-
MEMBER (A) 21.10.88

TRUE COPY

AP-11/11/88
SECTION OFFICE
CENTRAL ADMINISTRATIVE TRIBUNAL
ADDITIONAL BENCH
BANGALORE

Section 194
JUDICIAL OFFICE
NEW DELHI.
DATED: 15/06/95

23/8/95

From:

The Registrar
Supreme Court of India.
NEW DELHI.

To
The Registrar
~~High Court of KARNATAKA~~
KARNATAKA.

Central Administrative Tribunal at Bangalore

Recd. Hono KAT.
R
13/9/95

Enter in SLP Register, main Register, add
to file & note. Recd not located as the Hon'ble

PETITION FOR SPECIAL LEAVE TO APPEAL CIVIL NO. 6062

138 Hon'ble members who made the
order have retired

(Petition under Article 135(1) of the constitution of India from

15/9/95

the Judgment and Order dated 02/12/87

of the ~~high court of judicature at KARNATAKA~~

Central Administrative Tribunal at Bangalore

TO THE HONORABLE JUSTICE OF THE PEACE ...

15/5/95

... 1995 ...

You are directed to inform you that the petition above mentioned
... in the Supreme Court ...
by the court on 31/03/95

1
12/5

Yours faithfully
[Signature]
[Name]

TO THE HONORABLE JUSTICE OF THE PEACE ...

Send air to CAC
lc
13/5/95

12/5 3
12/5/95 HSE 12/5