

REGISTERED

CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE BENCH
.....

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

Dated: 9-11-87

APPLICATION NO 674 /8 7(F)

W.P.No. _____

APPLICANT

Vs

RESPONDENTS

Shri K. Udaya Kumar
To

The Ex-Officio Addl Secy, Dept of
Telecommunication & 2 Ors

1. Shri K. Udaya Kumar
S/o Shri K. Narasimha Shetty
Jappina Mogaru
Thondalige
Mangalore

2. Shri Ganapathi Hegde
Advocate
C/o Shri V. Gopala Gowda
Advocate
No. 181, Kilari Road
Bangalore - 560 053

3. The Ex-Officio Additional Secretary
to Govt. of India
Telecommunications Board
Dept. of Telecommunications
Sanchar Bhavan
No. 20, Ashoka Road
New Delhi - 110 001

4. The General Manager (Telecom)
Maruthi Complex
Gandhinagar
Bangalore - 560 009

5. The Assistant Engineer
(Cables)
Mangalore - 575 001

6. Shri M. Vasudeva Rao
Central Govt. Stng Counse
High Court Buildings
Bangalore - 560 001

Subject: SENDING COPIES OF ORDER PASSED BY THE BENCH

Please find enclosed herewith the copy of ORDER ~~XXXX~~

~~XXXXXX~~ passed by this Tribunal in the above said application
on 2-11-87

RECEIVED 6 Copies 10/11/87

Diary No. 1389/CR/87

Issued Date: 10.11.87

Encl: as above.

[Signature]
Section Officer
(JUDICIAL)

CENTRAL ADMINISTRATIVE TRIBUNAL

BANGALORE

DATED THIS THE 2ND DAY OF NOVEMBER, 1987

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

APPLICATION NO. 674/1987

Shri K. Udaya Kumar,
S/o K. Narasimha Shetty,
aged about 20 years,
Residing at Jaopina Mogaru,
Thondalige,
Mangalore.

.... Applicant.

(Shri Ganapath Hegde, Advocate)

v.

1. Ex-officio Additional Secretary
to the Government of India,
Telecommunications Board,
Department of Telecommunications,
Sanchar Bhavan,
No.20, Ashoka Road,
New Delhi.

2. The General Manager (Telecom),
Maruthi Complex,
Gandhinagar,
Bangalore.

3. Assistant Engineer (Cables),
Mangalore.

.... Respondents.

(Shri M. Vasudeva Rao, CGASC)

This application having come up for hearing to-day,
Shri P. Srinivasan, Hon'ble Member(A) made the following:

O R D E R

This case was posted for hearing to-day. When the
matter was called up in the morning neither the applicant
nor his counsel were present. We waited till the lunch
break when still nobody appeared. After lunch the case
was again called, but, again the applicant and his counsel



P. Srinivasan

were absent. We find that though the applicant's counsel was present on 6.10.1987 when the case was adjourned to 27.10.1987, nobody appeared on 27.10.1987 or on 29.10.1987 to which date the case was adjourned from 27.10.1987. As already stated the case was adjourned to to-day and the position remains the same. In these circumstances, we have no alternative but to proceed with the matter with the assistance of Sri. M. Vasudeva Rao, learned Additional Central Government Standing Counsel appearing for the respondents.

2. The applicant was appointed as a casual Mazdoor in the office of the Assistant Engineer (Cables) Mangalore ('AE') in the Department of telecommunications with effect from 1.12.1985. There was no formal appointment order as such, as it was a case of casual employment and the understanding was that the employment was terminable with a month's notice. On 22.4.1987 the Member (personnel), Telecommunications Board, Delhi issued a D.O. to all General Managers conveying the decision of Government to stop fresh recruitment of casual labourers and also directing that action be taken to dispense with the services of casual workers taken on rolls after 30.3.1985 'after observing all necessary formalities such as notice period, compensation etc.". In pursuance of this D.O. letter, the AE issued an order on 29.6.1987 to the applicant drawing his attention to the ban on fresh recruitment and informing him that his services would be terminated with effect from 1.8.1987. It is



P. J. - k

against the D.O. letter of the Member (Personnel) Telecommunications Board dated 30.3.1935 (Annexure-A) and the order dated 29.6.1937 giving notice of termination of his services (Annexure-B) that the applicant has come to this Tribunal.

3. Sri M. Vasudeva Rao reiterates that the nature of the applicant's employment was purely 'casual' and his services were terminable with a month's notice at any time. The respondents had to terminate his services in view of the ban on recruitment of casual Mazdoors imposed by Government of India and the orders of Government that the services of those recruited as 'casual labourers' after 30.3.1935 be dispensed with. The applicant acquired no right to continue in employment as the nature of his appointment was itself 'casual' and no specific tenure was assured to him. In view of this, the respondents were right in terminating the services of the applicant and this Tribunal should not interfere with this action.

4. After careful consideration, we are satisfied that there is no legal infirmity in the orders impugned in this application. We are satisfied that the applicant didnot acquire a right for continuous employment when he was engaged as a casual Mazdoor. Government has the power to formulate policies in regard to the engagement

P. S. - 12



of casual workers and we are not in a position to interfere with that power. In the circumstances, we have no alternative but to dismiss this application.

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



Sd/-
Vice-Chairman
2/4/85

Sd/-
Member (A) "1"

bsv/Mrv.

"True copy"

Jaei
SECTION OFFICER 9/4
CENTRAL ADMINISTRATIVE TRIBUNAL
ADDITIONAL BENCH
BANGALORE

REGISTERED

CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE BENCH

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

Dated: 07-12-87

REVIEW APPLICATION NO 121 /87 ()

W.P.No. _____

APPLICANT

Vs

RESPONDENTS

Shri K. Udaya Kumar

To

The Ex-Officio Addl Secy to the Govt. of India,
Telecom Board & 2 Ors

1. Shri K. Udaya Kumar
S/o Shri K. Narasimha Shetty
Jeppinamogaru
Thondalige
Mangalore - 574192
2. Shri G.S. Hegde
Advocate
No. 181, Kilarri Road
Bangalore - 560 053

Subject: SENDING COPIES OF ORDER PASSED BY THE BENCH

Please find enclosed herewith the copy of ORDER/~~STAY~~/
~~INTERIM ORDER~~ Review
passed by this Tribunal in the above said application
on 2-12-87.

Encl: as above.


DEPUTY REGISTRAR
(JUDICIAL)

CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE BENCH; BANGALORE

DATED THIS THE 2ND DAY OF DECEMBER, 1987.

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

REVIEW APPLICATION NO. 121/87

K. Udaya Kumar,
S/o K. Naresimha Shetty,
r/o Jappinamogaru,
Thondalige,
Mangalore-584192.

... Applicant.

(G.S. Hedge, Advocate)

Vs

1. Ex-officio Additional Secretary
to the Government of India,
Telecommunications Board,
Department of Telecommunications,
Sanchar Bhavan,
20, Ashoka Road,
New Delhi-110 001.
2. The General Manager,
(Telecom)
Maruthi Complex,
Gandhinagar,
Bangalore-9.
3. Assistant Engineer(Cables)
Mangalore-575001.

... Respondents

This application having come up for Admission, Hon'ble Member
Shri P. Srinivasan, made the following:

O R D E R

By this review application, the applicant wants us to review
our order dated 2.11.1987 passed in A.No.674/87(F).

2. The applicant contends in his application that some grounds
raised in the application have not been considered by us in our order
and that, therefore, our order suffers from an error apparent on the
face of the record.

...2/-



3. We are unable to agree with the contention that our order suffers from an error apparent on the face of the record. We have examined the applicant's claim in detail and have observed that his appointment as a casual labourer did not give him a right to continue in service. His services were terminated because of a policy decision taken by the P & T Department not to make casual appointments and to dispense with the services of persons who were given casual appointments after 30.3.1985. In the circumstances, we held that there was no legal infirmity in the action of the respondents and dismissed the application. If the applicant feels that our decision is wrong, the remedy open to him is an appeal and not a review. We cannot sit in judgement over our own order and come to a different decision.

5. In view of the above, the review application is rejected in limine.

Sd/-
VICE-CHAIRMAN

2/12/87

Sd/-
MEMBER(A)

- True copy -



[Signature]
DEPUTY REGISTRAR
CENTRAL ADMINISTRATIVE TRIBUNAL
ADDITIONAL BENCH
BANGALORE

REGISTERED

CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE BENCH
.....

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

Dated: 14 Dec 87

IN
1A. No. I APPLICATION NO 674 /87(F)

W.P.No. -

APPLICANT

Vs

RESPONDENTS

K. Udaya Kumar
To

Ex-Officio Additional Secretary to
Govt. of India, Telecommunications
Board, New Delhi and 2 Ors.

1. Shri K. Udaya Kumar,
S/o Shri K. Narasimha Shetty,
Residing at Jappa Nagar,
Thondalige,
Mangalore - 574 192

2. Shri Ganapathi S. Hegde,
Advocate,
No. 181, Kilaru Road,
Bangalore - 53.

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 2 copies 14/12/87

Diary No. 1524/C2/87

Date: 16.12.87 AB

Encl: as above.

B. V. Venkatarao
DEPUTY REGISTRAR
(JUDICIAL)

JK

**In the Central Administrative
Tribunal Bangalore Bench,
Bangalore**

ORDER SHEET

Application No. 674 of 1987 (F)

Applicant

K. Velaya Kumar

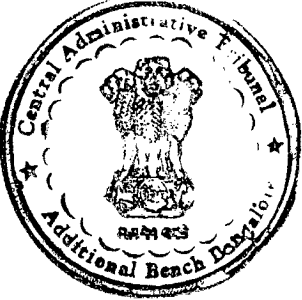
Advocate for Applicant

Ganapathi S. Hegde

Respondent

v/s

Ex. Officio. Addl Secy, Telecommuni-
cations Board & 2 crm
Advocate for Respondent

Date	Office Notes	Orders of Tribunal
2.12.1987.		<p>KSPVC/PSM(A) 2.12.1987.</p> <p><u>Order on I.A. No.1 (Applica- tion for recalling our order dated 2.11.1987):-</u></p> <p>In this application, the applicant wants us to recall our order dated 2.11.1987. This I.A. is purported to have been made U/s 22(3)(h) of the Administrative Tribunals Act, 1985 ('Act'). The said clause (h) of sub-section (3) of Section 22 of the Act speaks of "setting aside any order of dismissal of any representation for default or any order passed by it <u>ex-parte</u>". Reading sub-section (3) of which this is a clause, we find that the Tribunal has, for the purpose of discharging its functions under the Act, the same power as vested in a civil court under the Code of Civil Procedure ('CPC') while trying a suit. We, therefore, understand the scope of the said Section 22(3)(h) to be the same as that of Rules 9 and 13 of Order IX of the CPC.</p> <p>Rule 9 of O.IX refers to an order passed under Rule 8 thereof dismissing a plaint for default of the plaintiff. Rule 13 talks of a decree passed for the default of the defendant.</p> <p>In this case, our order dated 2.11.1987, though passed in the absence of the applicant and his counsel, is an order on merits since we have discussed the questions raised in the application, and the facts relevant thereto, and have come to the conclusion that there was no merit in that application. That being so, the subject of the present I.A. does not fall within the purview of Sec.22(3)(h) of the Act, r/w the relevant provisions of CPC.</p> <p>In the above view, we reject I.A.No.1.</p> <p><u>V. S. Ramesh</u> VICE CHAIRMAN</p> <p><u>P. S. Ramesh</u> MEMBER(A)</p>

- True Copy -

P. S. Ramesh
DEPUTY REGISTRAR
CENTRAL ADMINISTRATIVE TRIBUNAL
ADDITIONAL BENCH
BANGALORE