

CENTRAL ADMINISTRATIVE TRIBUNAL  
BANGALORE BENCH  
\*\*\*\*\*

Commercial Complex(BDA)  
Indiranagar  
Bangalore - 560 038

Dated : 19 APR 1988

APPLICATION NO 101 / 87(F)

W.P. NO.

Applicant

Dr C.S. Hiremath  
To

Respondent

V/s The Divisional Railway Manager, South Central  
Railway, Hubli & 2 Ore

1. Dr C.S. Hiremath  
No. 20, K.H.B. Colony  
Channapet  
Hubli - 580 024  
Dharwad District

2. Dr M.S. Nagaraja  
Advocate  
35 (Above Hotel Swagath)  
1st Main, Gandhinagar  
Bangalore - 560 009

3. The Divisional Railway Manager  
South Central Railway  
Hubli  
Dharwad District

4. The General Manager  
Personnel Branch  
South Central Railway  
Secunderabad (A.P.)

5. The Secretary  
Ministry of Railways  
Rail Bhavan  
New Delhi - 110 001

6. Shri M. Sreerangaiah  
Railway Advocate  
3, S.P. Building  
10th Cross, Cubbonpet  
Bangalore - 560 002

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 5-4-88.

DEPUTY REGISTRAR  
(JUDICIAL)

Encl : As above

CENTRAL ADMINISTRATIVE TRIBUNAL

BANGALORE

DATED THIS THE 5TH DAY OF APRIL, 1988

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

APPLICATION NO. 101/1987

Dr. C.S. Hiremath,  
aged 50 years,  
S/o. late S.R. Hiremath,  
Asst. Divisional Medical Officer (Retd),  
No.20, K.H.B. Colony,  
Channapet, Hubli.

.... Applicant.

(Dr. M.S. Nagaraja, Advocate)

v.

1. The Divisional Railway Manager,  
South Central Railway,  
Hubli.

2. The General Manager,  
Personnel Branch  
South Central Railway,  
Secunderabad.

3. The Secretary,  
Ministry of Transport,  
Department of Railways,  
Railways Board,  
New Delhi.

.... Respondents.

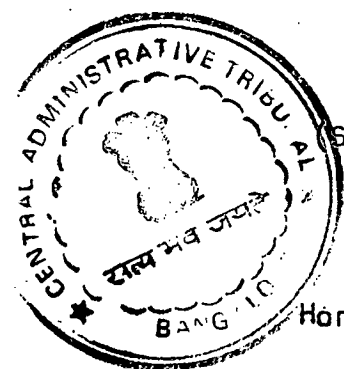
(Shri M. Sreerangaiah, Advocate)

This application having come up for hearing to-day,

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

ORDER

In this application filed under Section 19 of the Administrative Tribunals Act, 1985, the applicant has challenged the order of punishment dated 20.3.1986 (Annexure-G) passed by the Disciplinary Authority ('DA' for short), by which the applicant, who was then working as Assistant Divisional Medical Officer, was compulsorily retired from service with effect 4.4.1986. The charge levelled against



P. Srinivasan

the applicant was that he had conducted himself in a manner unbecoming of a responsible Railway Officer contravening Rule 3(1)(ii) of the Railway Services (Conduct) Rules, 1966. It was alleged that the applicant, who proceeded on 13 days leave from 14.5.1979, instead of re-joining at the end of the said leave, absented himself from duty from 27.5.1979 to 6.6.1982 without sanction of leave. It was also alleged that the applicant had left India to visit foreign countries without proper sanction, during the said period of absence even though his request for grant of extraordinary leave for this purpose had been rejected. Further, while away on his visit abroad, he had left only his local address but not his foreign address to which communications could be addressed.

2. Various grounds have been urged in the application as originally filed. At the time of hearing, by an interlocutory application, the applicant urged the following additional ground:

"Non-supply of copy of the enquiry report before the Disciplinary Authority decided on the findings, has resulted in denial of opportunity to have his say on the Enquiry Report. This has resulted in effective denial of opportunity being violative of Article 311(2) of the Constitution of India."



We have, by a separate order, allowed the amendment to the application to include this additional ground.

3. Dr. M.S. Nagaraja, learned Counsel for the applicant relying on a decision of a Full Bench of this Tribunal at

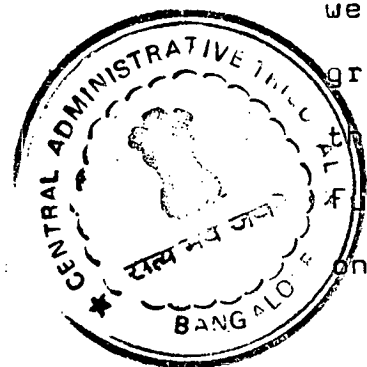
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Bombay in PREMATH K. SHARMA vs. UNION OF INDIA & ORS., (Transfer Application No.2 of 1986) submitted that a copy of the Enquiry Report had not been furnished to the applicant and the applicant had not been given an opportunity to contradict the findings in that report before the DA passed the order of punishment. That being so, the order of the DA was bad in law and was liable to be set aside.

4. Shri M. Srirangaiah, learned Counsel for the respondents, opposed the submissions of Dr. M.S. Nagaraja. The decision of the Full Bench referred to above, Shri Srirangaiah contended, flew in the face of the decisions of the Supreme Court in RAM CHANDER vs. UNION OF INDIA & ORS (SLR 1986 (2), 608) and UNION OF INDIA vs. TULSIRAM PATEL (1985 (3) SCC, 398) and therefore submitted that we should not follow that decision. On the other hand, Shri Srirangaiah submitted, we should follow the said decisions of the Supreme Court which clearly went against the submissions made by Dr. M.S. Nagaraja. After careful consideration, we are of the view that the applicant should succeed on the ground extracted above. We are bound by the decision of the Full Bench in P.K. Sharma's case. This is what the Full Bench speaking through MADHAVA REDDY, J., had to say on matter:

"For the aforesaid reasons, we hold that the findings of the Disciplinary Authority are bad in law because the applicant was not given a copy of the report of the Enquiry Officer and was not heard (given an opportunity of making his

*P. S. Reddy*



- 4 -

representation) before arriving at the finding."

In arriving at this decision, the Full Bench also took into account the decision of the Supreme Court in Union of India vs. Tulsiram Patel as well as Ram Chander's case. We cannot, therefore, take a different view based on the same decisions. We have, therefore, no alternative but to quash the order dated 20.3.1986 (Annexure-G) of the DA with a direction to the said authority to proceed with the Departmental Enquiry from the point of submission of the Enquiry report. Since the copy of the Enquiry Report has already been furnished to the applicant along with the order of the DA which we have set aside, the DA will give the applicant an opportunity of stating his case thereon, not necessarily by an oral hearing as held by the Full Bench and after considering the objections of the applicant pass a fresh order in accordance with law.

5. In the view we have taken above, it is not necessary to go into the other grounds urged by the applicant in the application.

6. In the result, we quash the impugned order of the DA dated 20.3.1986 (Annexure-G) with the directions given above, and dispose of the application accordingly. Parties will bear their own costs.

Sd/-

VICE-CHAIRMAN

Sd/-

MEMBER (A)

ORDERS ON ORAL APPLICATION  
FOR STAY

After the above order was dictated in Court, Shri Srirangaiah, learned Counsel for the respondents,



submitted that the respondents propose to take up the matter to the Supreme Court by a Special Leave Application and prayed that the operation of our order may be stayed till 90 days from to-day.

We, accordingly, stay the operation of the above order for a period of 90 days from to-day or till an order is passed by the Supreme Court on the subject, whichever is earlier.

sd/-

VICE-CHAIRMAN

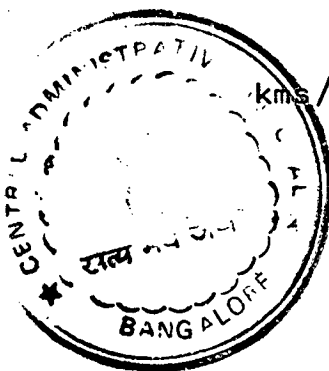
5/4/88

sd/-

MEMBER (A)

5/4/88

TRUE COPY



*R. V. Venkatesh*  
DEPUTY REGISTRAR (JDL)  
CENTRAL ADMINISTRATIVE TRIBUNAL  
BANGALORE  
19/4/88

REGISTERED

CENTRAL ADMINISTRATIVE TRIBUNAL  
BANGALORE BENCH  
\*\*\*\*\*

Commercial Complex (BDA)  
Indiranagar  
Bangalore - 560 038

Dated : 7 OCT 1988

IA I IN APPLICATION NO.

101

/87(F)

W.P. NO.

Applicant(s)

Dr C.S. Hiremath  
To

Respondent(s)

V/s

The Divisional Railway Manager,  
South Central Railway, Hubli & 2 Ors

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35 (Above Hotel Swagath)  
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Railway Advocate  
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10th Cross, Cubbonpet  
Bangalore - 560 002

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(s) on 26-9-88.

*Issued*  
*K. N. Nair*  
*7-10-88*  
*o/c*  
SECTION OFFICER  
~~DEPUTY REGISTRAR~~  
(JUDICIAL)

Encl : As above

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

**ORDER SHEET**

Application No. 101 of 1987(F)

Applicant

Respondent

**Dr C.S. Hiremath**  
Advocate for Applicant  
**S.K. Srinivasan**

**V/s**

**The Divisional Railway Manager,  
South Central Railway, Hubli & 2 Ors**  
Advocate for Respondent

**M. Sreerangaiah**

Date	Office Notes	Orders of Tribunal
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(KSP)VC/(LIAR)M(A)

SEPTEMBER 26, 1988.

Applicant by Sri S.K.Srinivasan.

Respondents by Sri M.Sreerangaiah.

ORDER ON I.A.I FOR EXTENSION OF TIME

I.A.No.I is not pressed. Hence  
dismissed. No costs.



**Sd/-**  
VICE CHAIRMAN.

**Sd/-**  
MEMBER(A)

**TRUE COPY**

**SECTION OFFICER**  
CENTRAL ADMINISTRATIVE TRIBUNAL  
BANGALORE