

CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE BENCH

Commercial Complex(BDA)
Indiranagar
Bangalore - 560 038

Dated : 3 JUN 1988

APPLICATION NO 835 / 87(F)

W.P. NO.

Applicant

Shri K.A. Muniyappa
To

Respondent

V/s The Works Manager, Southern Railway, Mysore
& another

1. Shri K.A. Muniyappa
Skilled Worker
Saw Mill Shop
Southern Railway Workshop
Mysore South
Mysore - 8

2. Shri Ravivarma Kumar
Advocate
No. 11, Jeevan Building
Kumara Park East
Bangalore - 560 001

3. The Works Manager
Southern Railway Workshop
Mysore South
- Mysore - 8

4. The Chief Personnel Officer
Southern Railway
Park Town
Madras - 600 003

5. Shri K.V. Lakshmanachar
Railway Advocate
No. 4, 5th Block
Briand Square Police Quarters
Mysore Road
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 27-5-88.

Encl : As above

jc
R. V. Lakshmanachar
DEPUTY REGISTRAR
(JUDICIAL)

CENTRAL ADMINISTRATIVE TRIBUNAL: BANGALORE

DATED THIS THE 27TH DAY OF MAY, 1988

PRESENT:

Hon'ble Mr. Justice K.S. Puttaswamy,

.. Vice-Chairman.

And:

Hon'ble Mr. L.H.A. Rego,

.. Member(A).

APPLICATION NO. 835 OF 1987

K.A. Muniyappa,
S/o Anjanappa, 41 years,
Skilled Worker, MYSS, T.No. 4110,
Saw Mill Shop, Southern Railway
Workshop, Mysore South, MYSORE.

.. Applicant.

(By Sri Ravivarma Kumar, Advocate)

v.

1. The Works Manager,
Southern Railway Workshop,
Mysore South, Mysore-8.

2. Chief Personnel Officer,
Southern Railway,
Park Town, Madras.

.. Respondents.

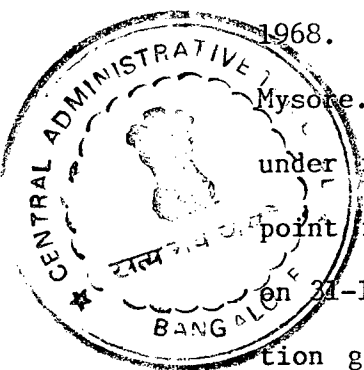
(By Sri K.V. Lakshmanachar, Advocate)

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

O R D E R

This is an application made by the applicant under Section 19 of the Administrative Tribunals Act, 1985 ('the Act').

2. The applicant who claims to be a member of a Scheduled Tribe (ST) called 'Gowdalu' initially started his career as a Gangman in 1968. He was appointed as a Khalasi in 1973 in the Railway Workshop, Mysore. On the basis that he is a member of a ST, he claims that under reservation orders made by Government popularly called as '40 point roster' he should have been promoted to the next higher post on 31-12-1974, against the quota reserved to STs instead of the promotion given to one Sri T. Kempaiah on that date, from the unreserved category. In other words, the applicant claims ^{for} retrospective promotion from 31-12-1974 with all consequential benefits flowing from the same which has not been acceded to, by the authorities.



3. While the aforesaid claim was pending, the applicant was removed from service on 17-9-1983 and that removal was taken exception to by this Tribunal in Application No.784 of 1986(T) decided on 28th November,1986 (Annexure-A2) and in pursuance of the said order, he has been reinstated to service from 15-4-1987 from which date he is now working in the higher promotional post secured by him in 1978 in his own turn.

4. This application is made before us on 29-9-1986. The respondents have filed their reply resisting this application.

5. Sri Ravivarma Kumar, learned counsel for the applicant contends that the applicant as a member of ST was entitled for promotion as a skilled Artisan from 31-12-1974 to the post reserved to STs as on that day and that had been illegally denied to him by making promotion of one Sri T.Kempaiah from the unreserved category and that grievance being a continuing grievance calls for our acceptance and issue of appropriate directions to the respondents.

6. Sri K.V.Lakshmanachar, learned counsel for the respondents, refuting the contention of Sri Kumar contends that the grievance of the applicant, if any, which was not also well-founded arose prior to 1-11-1982 and, therefore, this Tribunal has no jurisdiction to adjudicate the same as ruled by this Tribunal in V.K.MEHRA v. THE SECRETARY, MINISTRY OF INFORMATION AND BROADCASTING, NEW DELHI (ATR 1986 CAT 203) and also in DR.(SMT.)KSHAMA KAPUR v. UNION OF INDIA [(1987) 4 ATC 329].

7. We have earlier noticed that the claim of the applicant for retrospective promotion arose on 31-12-1974. We are not concerned with the action or inaction of the applicant or the authorities on this matter. Without any doubt, the grievance of the applicant, the correctness of which we do not propose to examine, arose prior to 1-11-1982.



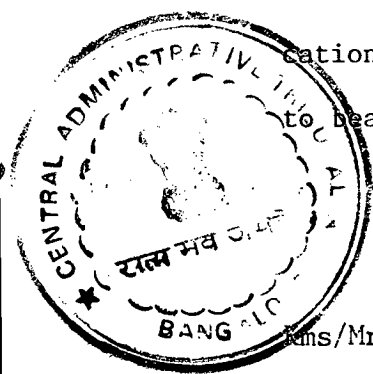
8. Whether a grievance which arose prior to 1-11-1982 can be adjudicated by this Tribunal or not is no longer res integra. On this aspect, a Division Bench of this Tribunal, speaking through Hon'ble Mr. Justice Madhava Reddy, Chairman in Mehra's case had ruled thus:

"The Act does not vest any power or authority in the Tribunal to take cognizance of a grievance arising out of an order made prior to 1-11-1982. In such a case there is no question of condoning the delay in filing the petition but it is a question of the Tribunal having jurisdiction to entertain a petition in respect of grievance arising prior to 1-11-1982. The limited power that is vested to condone the delay is filing the application within the period prescribed is under Section 21 provided the grievance is in respect of an order made within 3 years of the constitution of the Tribunal. The Tribunal has jurisdiction under sub-section (2) of Section 21 to entertain an application in respect of 'any order' made between 1-11-1982 and 1-11-85".

In Kshamakapur's case and other cases, this Tribunal had reiterated this very principle.

8. On the ratio of the rulings in Mehra's and Kshama Kapur's cases, we have no jurisdiction to entertain and adjudicate the grievance of the applicant. If that is so, then the question of our examining the merits of the claim does not arise. We, therefore, decline to examine the merits.

9. In the light of our above discussion, we hold that this application is liable to be dismissed. We, therefore, dismiss this application. But, in the circumstances of the case, we direct the parties to bear their own costs.



Rms/Mrv/np

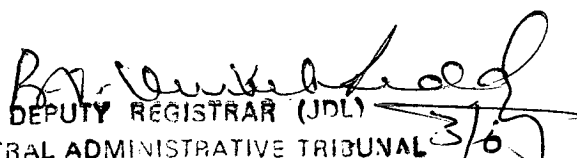
Sd/-
VICE-CHAIRMAN

27/5/82

Sd/-
MEMBER (A)

27.5.82

TRUE COPY

By 
DEPUTY REGISTRAR (JDL)
CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE