

CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE BENCHAPPLICATION No. 75/87(F)

(WP.NO. —)

COMMERCIAL COMPLEX, (BDA)
INDIRANAGAR,
BANGALORE-560 038.

DATED: 14/10/87

APPLICANT

Vs

RESPONDENTSK. Dhanaraj
TODivisional Railway Manager,
S. P. Bldg, Bangalore.1. Sri K. Dhanaraj,
No. 279/B, D.G. Colony,
Bangalore City - 560023.2. Sri D. Lakshminarayana,
Advocate,
40 No. 1, II Floor,
S. B. Mitt Buildings,
Bangalore - 9.3. The Divisional Railway
Manager,
Southern Railway,
Bangalore City,
Bangalore.4. Sri M. Srinangiah,
Advocate,
3, S. P. Building,
10th Cross, Cubbonpet,
Bangalore - 2.SUBJECT: SENDING COPIES OF ORDER PASSED BY THE
BENCH IN APPLICATION NO. 75/87(F)

....

Please find enclosed herewith the copy of the Order
passed by this Tribunal in the above said Application on23 ~~24~~ Sep 87.ENCL: As above.for DEPUTY REGISTRAR
(JUDICIAL)

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE BENCH BANGALORE

DATED THIS THE 23RD SEPTEMBER, 1987

Present : Hon'ble Shri P. Srinivasan Member (A)
Hon'ble Shri Ch. Ramakrishna Rao Member (J)

APPLICATION NO. 75/87(F)

K. DHANARAJ
s/o K. Krishnaswamy,
Age about 25 years,
Residing at No. 279/B,
M.G. Colony, Bangalore
City - 560 023.

APPLICANT

(Shri A. Lakshminarayana.....Advocate)

The Divisional Railway
Manager, Southern Railway,
Bangalore City, Bangalore.

RESPONDENT

(Shri M. Srirangaiah.....Advocate)

This application has come up for hearing
before this Tribunal to-day, Hon'ble Member (A)
made the following :

O R D E R

In this application the applicant
prays for a direction from this Tribunal to
the Respondent^H, the Divisional Railway Manager,
Southern Railway, Bangalore, to absorb the
applicant in the Traffic, Mechanical or
Electrical Department of the Southern Railway,
Bangalore City, pursuant to an appointment
order dated 25.9.1982 said to have been issued
to him and medical fitness certificate dated
9.10.1982.

2. Shri A. Lakshminarayana, learned
counsel for the applicant, submits that the
applicant's father was a Railway servant

P. Lakshminarayana



working as Sanitary Maistry in the Southern Railway at Bangalore. His father retired from service in June 1983. While in service, the applicant's father had made a request to the authorities to consider the case of the applicant for appointment in a suitable post in the Railways. The Railway authorities approved the case of the applicant for appointment as a substitute casual worker. By letter dated 31.8.1982 the Divisional Personnel Officer (DPO), Bangalore, wrote to the Yard Master, Baiappanahalli Railway Yard as follows:

"The following employees may be appointed as substitute against the existing vacancies stopping the unapproved candidates, if any, if there are no vacancies their names may be registered for future vacancies". The letter listed six persons including the applicant. Shri Lakshminarayana's case is that while all the other five were given appointments, the applicant was not appointed. It would appear that thereafter, the office of the DPO, Bangalore, wrote to the Station Supdt., Bangalore City Railway Station on 25.9.1982 recommending the engagement of the applicant who was an approved candidate as substitute against existing Class IV vacancies. This letter was written because there were no vacancies in Baiappanahalli in which the applicant could be appointed. After this letter was written, the applicant was asked to undergo a medical test. A fitness certificate dated 9.10.1982 was issued to him by the Divisional Medical Officer, Bangalore City. But in spite of the letter dated



25.9.1982 the applicant was not given any appointed^{ment} on the ground that there was no vacancy with the Station Supdt., Bangalore City. In view of the letter dated 25.9.1982 which appears in the prayer and the medical fitness certificate, Shri Lakshminarayana contends, the applicant was entitled for an appointment particularly since his father had retired as a Railway servant.

3. Shri M. Srirangaiah on behalf of the respondents submits that the applicant acquired no right for appointment. Merely being on the approved list of candidates does not give a right of appointment. It is true that the name of the applicant, along with those of 5 others, was recommended for appointment in the letter dated 31.8.1982 addressed by the DPO, Bangalore, to the Yard Master, Biappanahalli Railway Yard, but there were no vacancies available there. Thereafter by letter dated 25.9.1982 the case of the applicant was referred by the DPO, Bangalore City, but even there, there was no vacancies. In any case, Shri Srirangaiah contends that the grievance of the applicant, if any, arose in September 1982 when he failed to obtain appointment. That being so the grievance having arisen well before 1.11.1982 this Tribunal had no jurisdiction to entertain the present application in view of a line of decisions rendered by several Benches of this Tribunal.

4. Shri Lakshminarayana, countering the argument of Shri Srirangaiah that we have



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no jurisdiction, contends that the applicant was making representations from time to time and so the cause of action is a continuing one and that, therefore, this Tribunal was competent to dispose of this application.

5. Having perused the records produced by Shri Srirangaiah and having heard both counsel we are of the view that this application has no merits whatsoever. The mere approval of the applicant's name ⁰¹ for appointment did not confer any right of appointment in his favour. The so called appointment order dated 25.9.1982 relied upon by the applicant was not an order of appointment, but a recommendation to the Station Superintendent Bangalore City to appoint him if there was a vacancy. We have no reason to disbelieve the contention of the respondents that there were no vacancies in which the applicant could be absorbed. We are satisfied that there was no appointment order and no right arising therefrom. We see no merit in the contention that out of six persons recommended for appointment five others were appointed but not the applicant. As we have stated earlier the names were sent only by way of recommendation on the basis of their being on the approved list and none of the persons including the applicant thereby acquired a right of appointment. We are, therefore, of the opinion that the application deserves to be dismissed even apart from Shri Srirangaiah's

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contention that the grievance, if any, arose well before 1.11.1982. The applicant at no stage acquired any right, the denial of which could give right to a cause of action.

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

Sd/-

MEMBER (A) 23.

Sd/-

MEMBER (J) 23.9.87.



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True Copy

SECTION OFFICER
CENTRAL ADMINISTRATIVE TRIBUNAL
ADDITIONAL BENCH
BANGALORE

REGISTERED

CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE BENCH

Commercial Complex (BDA)
Indiranagar
Bangalore - 560 038

Dated : 8 AUG 1988

APPLICATION NO.

890

/87(F)

W.P. NO.

Applicant(s)

Shri Hanuman Singh

To

Respondent(s)

V/s

The Divisional Personnel Officer, Southern Ry,
Bangalore Division, Bangalore & 2 Ors

1. Shri Hanuman Singh
Amitha Nilaya
No. 20, 'A' Cross
Byatarayanapura
A.K. Colony
Mysore Road
Bangalore - 560 026

2. Shri P.T. Srinivasa Reddy
Advocate
No. 24, Pirgal Mansion
Kilari Road
Bangalore - 560 053

3. The Divisional Personnel Officer
Southern Railway
Bangalore Division
Bangalore - 560 023

4. The Divisional Railway Manager
Southern Railway
Bangalore Division
Bangalore - 560 023

5. The General Manager
Southern Railway
Park Town
Madras - 600 003

6. Shri M. Sreerangaiah
Railway Advocate
3, S.P. Building, 10th Cross
Cubbonpet Main 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(s) on 2-8-88.

928/88
K. M. V.
8-8-88
Encl : As above

d/c
DEPUTY REGISTRAR
(JUDICIAL)

CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE

DATED THIS THE 2ND DAY OF AUGUST, 1988

Present: Hon'ble Shri Justice K.S. Puttaswamy, Vice-Chairman
and
Hon'ble Shri P. Srinivasan, Member (A)
APPLICATION NO. 890/1987

Shri Hanuman Singh,
s/o Krishnasingh,
aged about 24 years,
No.20'A' Cross,
Byatarayanapura,
Amitha Nilaya,
Mysore Road, Bangalore.

... Applicant.

(Shri P.T. Srinivasa Reddy, Advocate.)

v.

1. The Divisional Personnel Officer,
Southern Railway,
Divisional Office, Bangalore.
2. The Divisional Railway Manager,
Southern Railway Divl. Office,
Bangalore.
3. The General Manager,
Southern Railway,
Madras.

... Respondents.

(Shri M. Sreerangaiah, Advocate)

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

O R D E R

In this application, the applicant who sought
appointment as substitute khalsi in the Railways but
was not so appointed wants a direction from us to the
respondents to appoint him as a Class IV employee, and
to pay him arrears of salary and other allowances
thereof from 7.10.1982.

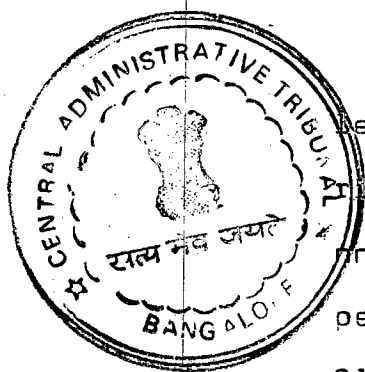


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P. Srinivasan

2. Shri M. Sreerangaiah, learned counsel for the respondents, raised a preliminary objection that the applicant's grievance arises out of a letter dated 7.10.1982 said to have been issued by the Divisional Personnel Officer, Bangalore City (DPO), and as such, the grievance arose before 1.11.1982. Relying on several decisions rendered by different Benches of this Tribunal to the effect that where ~~a~~^{is} a cause of action arose prior to 1.11.1982, this Tribunal has no jurisdiction to entertain an application in respect thereof, Shri Sreerangaiah submitted that this application should be dismissed in limine as incompetent.

3. Shri P.T. Srinivasa Reddy, learned counsel for the applicant, submitted that after the letter dated 7.10.1982 was issued, the applicant has been making representations to the Railway authorities to give him appointment and therefore, the cause of action should be deemed to have arisen much after the date of that letter. The applicant has also filed an application for condonation of delay, if any.



4. We have considered the matter carefully. By letter dated 7.10.1982 addressed to various authorities of the Southern Railway, the Divisional Personnel Officer, Southern Railway ^{H ed} suggesting that six persons named therein be appointed as Substitute Class IV employees, the applicant being one of the six persons so named. Thereafter, some time would no doubt be required for processing the matter and

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to make appointments. We understand that two of the persons whose names were mentioned ^M in that ^M said letter, were given appointment in 1984, i.e., within 3 years prior to the establishment of this Tribunal. That being so, we hold that the cause of action for the applicant arose in 1984, within three years prior to the establishment of this Tribunal. As a result the request of the applicant for condonation of delay in terms of Section 21(3) of the Administrative Tribunals Act, 1985 requires to be considered. In the peculiar circumstances of this case we feel that the delay in filing this application deserves to be condoned. We therefore condone the delay and proceed to examine the matter on merits.

5. As already indicated, in a letter dated 7.10.1932, the DPO wrote as follows to various authorities of the Southern Railway at Bangalore:

"The following candidates may be appointed as substitute Class IV against the existing vacancies duly stopping the unapproved candidates, if any.

If there are no vacancies, their names may be registered for future vacancy.

1. xxxxxx
2. Hanuman Singh
3. xxxxxx
4. xxxxxx
5. xxxxxx

This has the approval of the DRM/SBC."

P. D. [Signature]



The applicant alleges that except himself, all the other four have been given appointments pursuant to that letter. He claims he is also entitled to be appointed on the strength of the above letter. On the other hand, the respondents state that only two persons out of the five mentioned in the said letter were given appointment, and the rest have not been given appointment, for want of vacancies. According to the respondents, the letter dated 7.10.1982 did not confer any right of appointment on the applicant.

6. A Bench of this Tribunal to which one of us was a party (Shri P. Srinivasan) had to deal with a similar claim based on practically identical facts in Application No.75/87, (K. DHANARAJ v. DRM, SOUTHERN RAILWAY.). There also, the names of six persons were recommended for appointment to various authorities by a letter dated 25.9.1982. Some of them were appointed, but others were not. Those who were not appointed, approached this Tribunal claiming appointment as of right. The respondents, there, as in this case, pleaded that, to the extent vacancies were available, appointments had been made, and the rest were not appointed. This is what we wrote in our order dated 23.9.1987, disposing of that application:

"Having perused the records produced by Shri Srirangaiah and having heard both counsel, we are of the view that this application has no merits whatsoever. The mere approval of the applicant's name for appointment did not confer



P. Srinivasan

any right of appointment in his favour. The so called appointment order dated 25.9.1982 relied upon by the applicant was not an order of appointment, but a recommendation to the Station Superintendent, Bangalore City to appoint him if there was a vacancy. We have no reason to disbelieve the contention of the respondents that there were no vacancies in which the applicant could be absorbed. We are satisfied that there was no appointment order and no right arising therefrom. We see no merit in the contention that out of six persons recommended for appointment, five others were appointed but not the applicant. As we have stated earlier, the names were sent only by way of recommendation on the basis of their being on the approved list and none of the persons including the applicant thereby acquired a right of appointment. We are, therefore, of the opinion that the application deserves to be dismissed....."

As we have already mentioned, the facts of this case are in all respects, in pari materia with those in Dhanaraj's case decided by us on 23.9.1987.



7. For the reasons stated in our order in A.No.75/87 we are of the view that this application also deserves to be dismissed.

8. Shri Srinivasa Reddy submitted that in view of the fact that the applicant's name was recommended for appointment as early as in 1982, that he is the son of a retired

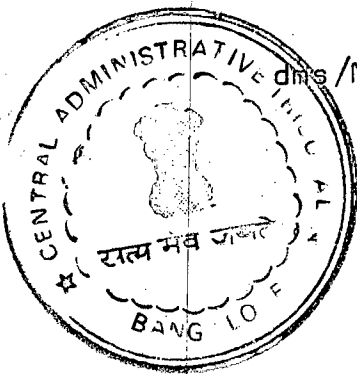
P. S. Reddy

railway employee, and that he has remained without employment so far, the respondents should consider his case sympathetically for appointment as substitute Class IV employee even now. We can only hope the respondents will do so.

9. We, therefore, dismiss the application, with no order as to costs.

Sd/-
VICE-CHAIRMAN 20/1-

Sd/-
MEMBER (A)



dms/Mrv.

TRUE COPY

[Signature]
DEPUTY REGISTRAR (JDL)
CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE
8/8/87