

CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE BENCH

Commercial Complex(BDA)
Indiranagar
Bangalore - 560 038

Dated : 14-1-88

APPLICATION NO

316

/ 87(F)

W.P. NO.

Applicant

Dr K. Krishnan

To

Respondent

V/s

The Chief Personnel Officer, Southern Railway,
Madras & another

1. Dr K. Krishnan
40-B, Railway Quarters
18, Miller Road
Bangalore - 560 046
2. Dr M.S. Nagaraja
Advocate
35 (Above Hotel Swagath)
1st Main, Gandhinagar
Bangalore - 560 009
3. The Chief Personnel Officer
Southern Railway
Park Town
Madras - 3
4. The General Manager (P)
Southern Railway
Park Town
Madras - 3
5. Shri M. Sreerangaiah
Railway Advocate
3, S.P. Building, 10th Cross
Cubbonpet Main Road
Bangalore - 560 002

Dr. K. Krishnan
14/1/88

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 12-1-88.

RECEIVED 3 copies 14-1-88

Diary No. 1683/ch/88

Date: 14-1-88

Encl : As above

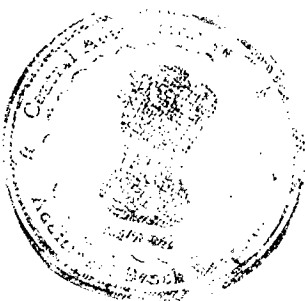
for DEPUTY REGISTRAR
(JUDICIAL)

Received
M. S. Nagaraja
19.1.88
Advocate

Agreed
for
14/1/88

all of them approached the Supreme Court in writ petitions under Article 32 of the Constitution of India challenging their terminations. On 24-9-1987 the Supreme Court had disposed of those writ petitions by a common order, inter alia declaring, that those appointed prior to 1-10-1984 and had a clean record of service from 1-10-1982 were entitled for regularisation in consultation with the UPSC. We should normally make a similar direction in the case of the applicant also. But, for certain extraordinary and compelling circumstances to which we will advert, we consider it proper to depart from the same and declare that the applicant was entitled for regularisation with continuity of service.

11. The first and the foremost factor to be noticed is, that the applicant who is a member of Scheduled Caste, was a permanent employee of the Railways and had secured the degree in medicine while in service and had been appointed at a very late age of 49 years. The second factor to be noticed is that from 9-4-1980 till 30-9-1986 on which day he was actually terminated from service without a cause, he had a satisfactory record of service, as an AMO which fact is recognised by the Railway administration when it allowed him to cross the efficiency bar on 24-9-1986 only a few days before his termination on 30-9-1986. Lastly, the applicant who was born on 14-3-1931 will have hardly another 15 months service to attain superannuation and retire from service, if the present retirement



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Petition Nos. 370 of 1987 and connected cases.


6. As Government did not concede^t his representation, the applicant has approached this Tribunal on 30-4-1987 to quash the order of termination and direct his reinstatement with all consequential benefits.

7. In resisting the application, the respondents have filed their reply.

8. Dr.M.S.Nagaraja, learned counsel for the applicant contends that the termination of the applicant without ~~a~~ cause and without notice was illegal and in any event, he was bound to be reinstated to service with all backwages in the light of the principles enunciated by the Supreme Court in Dr.A.K.JAIN AND OTHERS v. UNION OF INDIA AND OTHERS (Writ Petitions Nos. 1165 of 1986 and connected cases decided on 24-9-1987).

9. Sri M.Sreerangaiah, learned counsel for the respondents refuting the contention of Dr.Nagaraja, contends that this Tribunal can only direct ~~the~~ consideration of the case of the applicant for regularisation in terms of the very order of the Supreme Court and cannot direct his reinstatement with back wages.

10. In the various zones of the Indian Railways several Assistant Medical Officers appointed on ad hoc or temporary basis had been terminated from 30-9-1986 as in the case of the applicant. Almost




Railways. He was later absorbed as a Commercial Clerk.

3. When he was working as a Commercial Clerk, he obtained leave and studied M.B.B.S. in the Bangalore Medical College, Bangalore and obtained that degree in 1973. Even thereafter the applicant continued to serve as a Commercial Clerk securing the promotions due to him in that cadre till 27-3-1980.

4. On 28-3-1980 the Chief Personnel Officer, Southern Railway, Madras (CPO) by his memo No.P(G)562/-VIII/Adhoc of that date (Annexure-A1) offered to appoint the applicant as a Temporary Assistant Medical Officer, Class II (AMO) in the Medical Department of the Southern Railways to which he agreed. On that, an appointment order was issued and the applicant joined service as an AMO on 9-4-1980. From time to time, the services of the applicant as an AMO were continued.

5. On 24-9-1986 the CPO allowed the applicant to cross the efficiency bar in the post of AMO. But, very strangely and as a bolt from the blue, the CPO by his telegram dated 25-9-1986 (Annexure-A4) terminated the services of the applicant with effect from 30-9-1986. On receipt of the same, the applicant made representations before Government to continue him in service as an AMO. But, some of his colleagues who were similarly terminated from the same day, approached the Hon'ble Supreme Court of India in Writ



CENTRAL ADMINISTRATIVE TRIBUNAL: BANGALORE

DATED THIS THE 12TH DAY OF JANUARY, 1988.

PRESENT:

Hon'ble Mr. Justice K.S. Puttaswamy, Vice-Chairman.

And:

Hon'ble Mr. L.H.A. Rego, Member(A).

APPLICATION NUMBER 316 OF 1987.

Dr. K. Krishnan,
S/o K. Kuppaswamy,
residing at No. 40-B,
Railway Quarters,
18 Miller Road,
Bangalore-560 046.

Applicant.

(By Dr. M. S. Nagaraja, Advocate).

v.

1. The Chief Personnel Officer,
Southern Railway,
Park Town,
Madras.
2. The General Manager(P),
Southern Railway,
Park Town,
Madras.

.. Respondents.

(By Sri M. Sreerangaiah, Advocate)

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

O R D E R

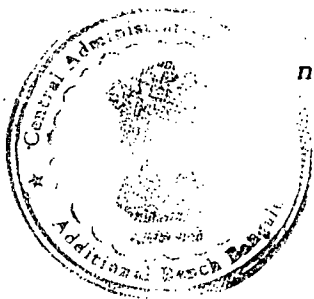
This is an application made by the applicant
under Section 19 of the Administrative Tribunals Act,-
1985 ('the Act').

2. The applicant who is a member of a Scheduled
Caste, initially joined service on 16-4-1951 as a
temporary clerk in the Southern Railway of the Indian

- (3) We direct the respondents to reinstate the applicant to service with all such expedition as is possible in the circumstances of the case and in any event not later than 1-2-1988 and give him an appropriate posting at such place as is found necessary in the public interest.
- (4) But, notwithstanding the above, all back wages due to the applicant from 1-10-1986 to the date he is actually reinstated to service shall be denied to him. We however, direct that the period from 1-10-1986 to the date, the applicant is reinstated to service shall not be treated as break in service and shall be reckoned for all other purposes except for payment of salaries and allowances.

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

16. Let this order be communicated to all the parties forthwith.



np/

Sd/-
VICE-CHAIRMAN

Sd/-
MEMBER (A)

- True copy -

for DEPUTY REGISTRAR
CENTRAL ADMINISTRATIVE TRIBUNAL
ADDITIONAL BENCH
BANGALORE

age is not enhanced which also, is not likely to happen. With due regard to these and all other relevant factors which are not necessary to notice in detail, we are of the view that this is an exceptional case, in which we should hold that the applicants record of service justifies his regularisation with continuity of service.

12. While Dr. Nagaraja seriously urges for payment of backwages till the applicant is reinstated to service for which purpose we propose to give a reasonable time till 31-1-1988, Sri Sreerangaiah urges that applying the salutary principle of denying backwages to those who have not worked, we should deny the backwages to the applicant in the cadre of AMO and also in the cadre of Commercial Clerk.

13. We have consistently denied backwages to persons who have not actually discharged public duties. We see no justification to depart from that salutary principle in the case of the applicant. We consider it proper to deny all backwages due to the applicant till 31-1-1988 or he is reinstated to service, whichever is earlier.

14. In the light of the above discussion, we make the following orders and directions:

- (1) We quash the order of termination dated 25-9-1986 (Annexure-A4).
- (2) We declare that the applicant is entitled for regularisation as AMO in terms of the very order of the Supreme Court, but without consulting the UPSC.



Recd. as Regd. letter 16.7.95
B 2/8/95

Enter in SLP Register, Main Register,
add to file & note. Thereafter O.T.
with a copy of O.A. order as per

SECTION IV A

R. 143 of RoP '93.

D.NO. 2693/88/IVA
SUPREME COURT OF INDIA
NEW DELHI
DATED: 28.7.1995

From:

The Additional Registrar
Supreme Court of India
New Delhi.

The Registrar,
Central Administrative Tribunal
Bangalore.

PETITION FOR SPECIAL LEAVE TO APPEAL (CIVIL) NO. 7139 OF 1988
(Petition under Article 136 of the Constitution of India,
for Special Leave to Appeal to the Supreme Court from
the Judgment and Order dated 12.1.1988 of the Central Adm.

~~Tribunal at Bangalore Bench at Bangalore in Appn. no. 316/87)~~
...Petitioner-s

Union of India & Anr.

--Versus--

...Respondent-s

Sir, Dr. K. Krishnan

I am to inform you that the Petition above-mentioned
for Special leave to Appeal to this Court was/were filed on
behalf of the Petitioners above-named from the Order
of the ~~High Court~~ Tribunal noted above and that
the same was/were dismissed/~~dismissed~~ by this
Court on the 14th day of July, 1995

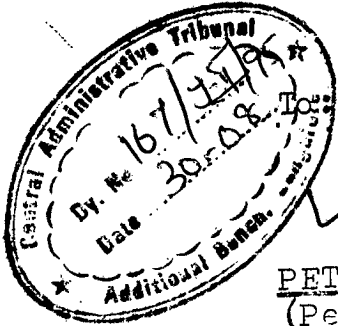
A Certified copy of this Court's Proceedings dated
14th July, 1995 is enclosed herewith for your
information and necessary action.

Yours faithfully,

FOR ADDITIONAL REGISTRAR

ASSISTANT REGISTRAR

Corrulated



SUPREME COURT OF INDIA

RECORD OF PROCEEDINGS

Petition (s) for Special Leave to Appeal (Civil / Cr.) No. (s) 7139/88

(From the Judgement and order dated 12.1.88
CAT, Bangalore in Appln. No. 316/87)

of the High Court of

Union of India & Anr.

Petitioner (s)

Versus

7116

Dr K. Krishnan

(with applns. for stay of execution of order of the respondent)

Respondent (s)

Date: 14.7.95

This / these Petition (s) was / were called on for hearing today.

CORAM :

Hon'ble Mr. Justice NF Singh
Hon'ble Mr. Justice Faizan Uddin
Hon'ble Mr. JusticeFor the petitioner (s) Dr RR Misra, Sr. Adv.
Mr TC Sharma, Adv.

For the respondent (s)

UPON hearing counsel the Court made the following
ORDER

From the office report dated 13.7.95 it appears that on the address given by the petitioner there was no such person as stated in the S.L.P.

We are informed that the respondent has already retired from service. According to us no useful purpose will be served by pursuing this S.L.P. Accordingly it is dismissed. However, we make it clear that we are not approving the impugned order of the Tribunal.

V.K. Nigam
(V.K. Nigam)
AR-cum-PS

P. Marwah
(P. Marwah)
C.M.

Send 42
15/7