

CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE BENCH

Commercial Complex(BDA)
Indiranagar
Bangalore - 560 038

Dated : 12 FEB 1988

CONTEMPT OF COURT APPLICATION NO
IN APPLICATION NO. 458/87(T)
W.P. NO.

56 / 87

Applicant

Respondent

Shri G. Shanker
To

V/s

The Joint Director of Census Operations in
Karnataka, Bangalore

1. Shri G. Shanker
410/A, 7th Main
Hanumanthanagar
Bangalore - 560 019

Received
Shankar 12/2/88
(G. SHANKAR)

2. Shri H.L. Sridhara Murthy
Advocate
36, 'Vagdevi'
Shankarapuram
Bangalore - 560 004

3. Shri B.S. Narasimhamurthy
Joint Director of Census Operations
in Karnataka
21/1, Mission Road
Bangalore - 560 027

Received
Shri B.S. Narasimhamurthy
12 12 88

4. Shri M.S. Padmarajaiah
Central Govt. Stng Counsel
High Court Buildings
Bangalore - 560 001

(SHANTA HALLAPPA) sent A/c
for Respondent.

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 Contempt of Court application on 10-2-88.

RECEIVED 2 Copies 12/2/88

Diary No. 1704/22/88

Date: 12-2-88

Encl : As above

o/c for DEPUTY REGISTRAR
(JUDICIAL)

CENTRAL ADMINISTRATIVE TRIBUNAL

BANGALORE

DATED THIS THE 10TH DAY OF FEBRUARY, 1988

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

CONTEMPT OF COURT APPLICATION NO.56/1987

Sri G. Shankar,
S/o T.R. Gundappa Sastry,
Aged about 29 years,
No.410/A, 7th Main,
Hanumanthanagar,
Bangalore.

... Petitioner.

(Shri H.L. Sridhara Murthy, Advocate)

v.

Sri B.S. Narasimhamurthy,
Director of Census Operations,
(Now designated as Joint Director),
in Karnataka, No.21/1, Mission Road,
Bangalore - 27.

... Contemnor .

(Shri M.S. Padmarajaiah, C.G.S.S.C.)

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

O R D E R

In this application made under Section 17 of the
Administrative Tribunals Act, 1985 ('the AT Act') and
the Contempt of Court Act, 1971 ('the CC Act'), the
petitioner has moved this Tribunal to punish the
accused for non-implementation/disobedience of the
order made in his favour by a Division Bench of this
Tribunal consisting of one of us ('Hon'ble Shri P.
Srinivasan) and Hon'ble Shri Ch.Ramakrishna Rao, on
21.7.1987 in Application No.458/87.

2. In application No.458/87, which was a transferred
application received from the High Court of Karnataka,



3. The order made by the Director ('J&K'), which is claimed to have been made in compliance with the directions of this Tribunal reads thus:-

GOVERNMENT OF INDIA
MINISTRY OF HOME AFFAIRS
DIRECTORATE OF CENSUS OPERATIONS, J&K, SRINAGAR

O R D E R

Regd A.D.

Ref:- Registrar General India's telegram dated
29th September, 1987.

...

Mr. G. Shankar, 410/A, 7th Main, Hanumantha Nagar Bangalore 560019 is hereby appointed as Compiler on a consolidated salary of Rs.900/- (Rupees Nine hundred only) per month from the date of his joining upto the end of February, 1988 or upto the date as may be ordered whichever is earlier. The appointment shall also be subject to the following conditions:-

- i) The appointment is on purely temporary and ad-hoc basis. It will only be a short term and temporary employment and it will not be possible to offer any alternative or regular employment at the end of the period in question.
- ii) The appointment is on a purely provisional basis and subject to satisfactory verification of character and antecedents through competent district authorities according to the prescribed procedure.
- iii) The above appointment is of the casual nature and the appointee will have no claim for absorption in the regular establishment of this Directorate.
- iv) In case the candidate is willing to accept the appointment offered to him he may send in his acceptance of the offer in writing by the date stipulated in sub para (v) below:
- v) The appointee will report for duty in the Tabulation office, Khayam Hotel, Bishember Nagar, Srinagar by or before 20.10.1987. In case he fails to report by the stipulated date, it will be concluded that he is not interested in the job and his appointment order will be treated to have been cancelled automatically on the expiry of the said stipulated date.
- vi) The appointment will be governed by service conditions prescribed by the competent authority.

- vii) The appointment shall be liable to be terminated at one month's notice from either side or one month's emoluments in lieu thereof, in case of a person who has already joined the post.

2. The above appointment is further subject to production in original, within one week of joining service, the following documents:-

- a) Academic qualification certificates/Matriculation or its equivalent for verification of date of birth.
- b) Scheduled caste certificate issued by the Tahasildar concerned as prescribed under rules in respect of candidates belonging to this category.

The expenditure involved is debitable to the Account Head D1(3)(2)-Abstraction & Compilation and D1(3)(2) (1) Salaries for the year 1987-88.

Sd:

(NA KAMILI)
IAS

Director of Census Operations
Jammu & Kashmir

No. Cen.510/87

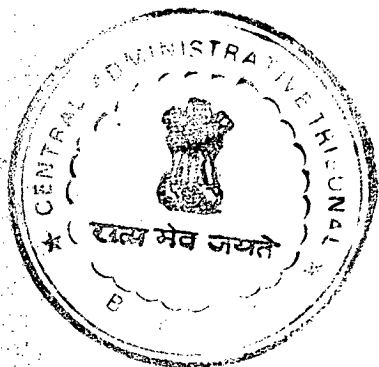
Dated 30.9.1987

Copy to:-

- 1) Mr. G. Shankar, 410/A, 7th Main, Hanumanth Nagar, Bangalore-560 019.
- 2) Shri Narasimhamurthy, Joint Director of Census Operations, Karnataka, Bangalore with a spare copy of the order for delivering to Shri G. Shankar, 410/A, 7th Main, Hanumanth Nagar, Bangalore-560 019 to avoid any chance of non receipt by him of the original copy.
- 3) Registrar General, India, New Delhi. This is with reference to his telegram dated 29.9.87 & in continuation of this office telegrams dated both 30.9.1987.
- 4) Assistant Director(T), Tabulation Office, Khayam Building, Srinagar, with the remark that he should verify the documents as shown in the above order and furnish a certificate accordingly along with joining report of the appointee duly authenticated .
- 5) Bill Clerk.
- 6) Office order file "

.....

The petitioner contends that on the terms of the order made by this Tribunal, the contemnor or the Director of



Census Operations, Karnataka, Bangalore was bound to re-instate him at Bangalore only where he was working before his termination and not at any other place and the order of appointment made by the Director (J&K) was no compliance with the order made in his favour and was really a case of disobeying and defeating the order of this Tribunal.

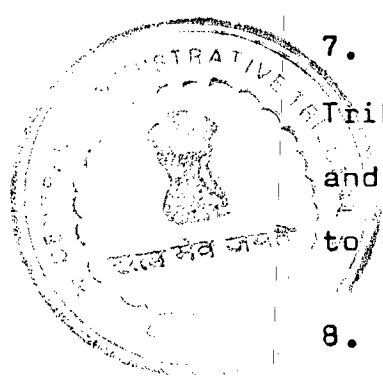
4. In justification of the compliance of the order made by this Tribunal, the contemnor has filed his reply. Shri B.S. Narasimha Murthy, who is now working as Joint Director of Census Operations, Karnataka, Bangalore and is looking after the duties of Director is present.

5. Shri H.L. Sridhar Murthy, learned counsel for the petitioner, contends that the contemnor had not faithfully implemented the order made by this Tribunal in favour of his client and had violated the same and the same justifies us to proceed against the contemnor under the CC Act.

6. Shri M.S. Padmarajaiah, learned Senior Standing Counsel for the contemnor, contends that the contemnor had implemented the order of this Tribunal in letter and spirit and there is no justification whatsoever to proceed against the contemnor under the CC Act.

7. We have reproduced the directions issued by this Tribunal, the reasons on which those directions were issued and the order made by the Director (J&K) which is claimed to be in compliance with same.

8. We are of the view that the order, made by this Tribunal reserving liberty referred to at para 4 of the



order, directs the Director to reinstate the petitioner either to the post he was holding on the date of his termination or to some other post as was feasible in the very office in which he was previously working, namely, the office of the Director of Census Operations, Karnataka, Bangalore. The order of this Tribunal had not reserved liberty to the contemnor on any other authority, high or low to appoint or reinstate the petitioner in any other office of the Directorate/Government as is erroneously understood by the contemnor and others also. This is the real intent and effect of the order of this Tribunal. We have, therefore, no hesitation in holding that the offer of appointment to the petitioner at the office of the Director ('J&K') located at Srinagar was no compliance of the order made by this Tribunal.

9. Every one of the justifications pleaded by the contemnor or other authorities to whom he is subordinate, with which we are not really concerned, are not sound and have necessarily to be rejected by us. From this it follows that the contemnor was bound to reinstate the petitioner at the very office of the Director only. We need hardly say that for such compliance, the Director himself should correspond with his higher authorities and obtain all such orders as are necessary for him to comply with the order of this Tribunal. But as to how he should do and what all he should do for the same are not matters with which we are concerned. They are all matters to be sorted out by the contemnor himself.



10. Shri Padmarajaiah prays for one month's time from this date to comply with what we have now held. Shri Sridhar Murthy opposes the grant of any time for the same.

11. We are of the view that it is reasonable to grant atleast another fifteen days' time from this day to the contemnor to do what he is now required to do and report compliance in the first instance.

12. In the light of our above discussion, we make the following orders:-

(1) We declare that the petitioner should be reinstated ~~in~~ in the office of the Director of Census Operations in Karnataka, Bangalore only and not at any other office or place.

(2) We grant 15 days' time from this date to the contemnor to comply with this order and report its compliance.

13. Let copies of this order be furnished to both sides immediately.

14. Call this case on 29.2.1988 for reporting compliance of the order of this Tribunal.



Sd/-
Vice-Chairman 12/2/1988
TRUE COPY Member (A)
Sd/-

gr/Mrv.

12/2/88
SECTION OFFICER
CENTRAL ADMINISTRATIVE TRIBUNAL
ADDITIONAL BENCH
BANGALORE

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE BENCH: BANGALORE

DATED THIS THE TWENTYNINETH FEBRUARY, 1988

Present: Hon'ble Shri P. Srinivasan.

... Member (A)

Hon'ble Shri Ch. Ramakrishna Rao

... Member (J)

CONTEMPT OF COURT APPLICATION NO. 56/1987

Shri G. Shankar
S/o. T.R. Gundappa Sastry
Aged about 29 years
No.410/A, 7th Main
Hanumanthanagar
Bangalore.

... Petitioner

(Shri H.L. Sridhara Murthy, Advocate)

Vs.

Shri B.S. Narasimhamurthy
Director of Census Operations
(Now designated as Joint Director)
in Karnataka
No.21/1, Mission Road
Bangalore-27.

... Contemnor

(Shri M.S. Padmarajaiah, C.G.S.S.C.)

This application has come up for hearing before this Tribunal today, Hon'ble Shri Ch. Ramakrishna Rao, Member (A), made the following:


O R D E R

In this Contempt of Court application the petitioner complains that the Contemnors have not complied with order dated 21.7.1987 passed by this Tribunal in A.No.458/87. In that order it was directed as under:

"In the result we pass the following orders:

- (i) The respondents should take the applicant back into service within two months from the date of receipt of this order.
- (ii) The applicant will, however, not be entitled to any back wages till the date of his fresh appointment."

Purporting to comply with these directions the applicant was given an appointment at Srinagar by order dated 30.9.1987 passed by the Director of Census Operation, Jammu & Kashmir. It may here be mentioned that

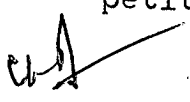


before the termination of the applicant's services which was held to be bad in our order dated 21.7.1987, the applicant was working as a Coder in the office of the Director of Census Operations, Karnataka, Bangalore.

2. During the pendency of the present contempt application a Bench of this Tribunal of which one of us (Shri P.Srinivasan) was a party passed an order on 10.2.1988 holding that the appointment of the applicant at Srinagar did not constitute proper compliance with our earlier order dated 21.7.1987. In the said order of 10.2.1988 this Tribunal clarified the earlier order of 21.7.1987 to mean that the "petitioner should be reinstated in the office of Director of Census Operations, Karnataka, Bangalore only and not at any other office or place"(emphasis supplied).

3. After the aforesaid order dated 10.2.1988 was passed, the Joint Director of Census Operations, Karnataka, passed an order on 19.2.1988 appointing the applicant as a Compiler on a consolidated salary of Rs.900 in his office. It may here be mentioned that the respondent in the original application No. 458/87 was the Director of Census Operation but that post is now vacant and will be filled up only before the next census. The Joint Director of Census Operations, Karnataka, is now the Head of the office in place of the Director of Census Operations and hence he passed the order dated 19-2-1988 appointing the applicant as a Compiler.

4. Shri Sridhara Murthy, learned counsel for the petitioner contends that even the latest order of



19.2.1988 appointing the applicant as a Compiler in the office of the Joint Director of Census, Bangalore, is not proper compliance with our order dated 21.7.1987 read with the subsequent order passed on 10.2.1988 in these proceedings. He submits that what the Joint Director of Census Operations has done is to give the applicant a fresh appointment and he has not reinstated the applicant as directed by this Tribunal in its clarificatory order dated 10.2.1988. If he were reinstated he would be entitled to certain advantages which are not available to him if he is freshly appointed. He, therefore, submits that the respondents have still not complied with the order of this Tribunal.

5. Shri M.S. Padmarajaiah for the Contemners submits that this Tribunal in both the orders referred to above set aside the order terminating the services of the applicant and directed that he be appointed in the office of the Director of Census Operations, Bangalore. That order has been complied with. The applicant has been offered a post on the same salary as ^{the one} he was holding earlier. Since the earlier post he was holding viz that of Coder does not exist now, the question of reinstatement in that post does not arise. If the applicant wants to claim rights based on his earlier service he should make representation to the respondents which would be considered on its merits. He cannot in this application agitate those rights if any. He, therefore, submits that these contempt proceedings should be dropped.

5. We have considered the rival contentions carefully. We are not prepared to go into the technical distinction between reinstatement and fresh appointment. In substance what we said in our original order dated 21.7.1987 was that the applicant be taken back into service and we later clarified this has to be only in the office of the Director of Census Operations, Bangalore. Respondents have complied with our order. If the applicant seeks to establish certain rights based on his earlier service before its termination he is free to make such representation as he deems fit to the respondents and it is for the respondents to deal with the matter. We do not wish to state anything now affecting such rights if any. As we have earlier pointed out we do not propose to go into the distinction between reinstatement and fresh appointment since we are satisfied that our orders have been substantially complied with by the Respondents.

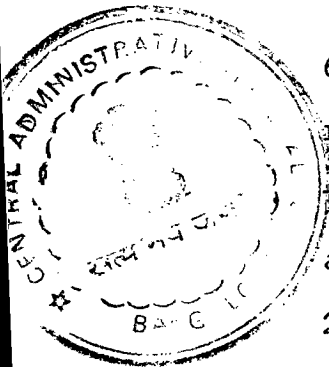
6. Before parting with this application we must refer to a submission of Shri Sridhara Murthy that the order dated 19.2.1988 appointing the applicant as a Compiler required him to join duty on or before 25.2.1988 failing which it would be presumed that he was not interested in the job. The said order was served on the applicant after 25.2.1988 and, therefore, he has not been able to join. Since the Joint Director of Census Operations is also

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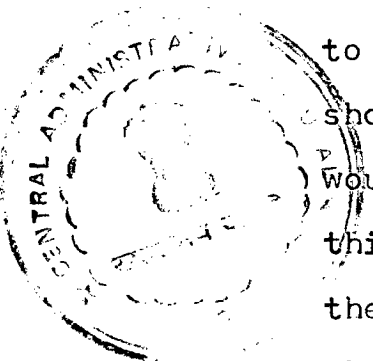
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Hon'ble Shri Ch. Ramakrishna Rao ... Member (J)

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(Shri H.L. Sridhara Murthy, Advocate)

Vs.

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REGISTERED

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BANGALORE BENCH

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Dated: **9 MAR 1988**

CONTEMPT OF COURT APPLICATION NO. 56 /87 ()
IN APPLICATION NO. 458/87(T)
W.P.No. _____

APPLICANT

Vs

RESPONDENTS

Shri G. Shankar

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in Karnataka, Bangalore

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1. Shri G. Shankar
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4. Shri M.S. Padmarajaiah
Central Govt. Sng Counsel
High Court Building
Bangalore - 560 001

*Received a copy
Shankar 9/3/88*

Subject: SENDING COPIES OF ORDER PASSED BY THE BENCH

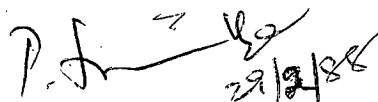
Please find enclosed herewith the copy of ORDER/~~xxx~~/
~~xxxxxx~~ ORDER passed by this Tribunal in the above said Contempt of Court
application
on 29-2-88.


*1280
10 5 88*
Encl: as above.

AS
SECTION OFFICER
(JUDICIAL)

in the Court before us, we direct him to permit the applicant to join the post to which he is appointed within a week from today.

7. In the result the contempt of court proceedings are hereby dropped. Parties to bear their own cost.


(P. SRINIVASAN)
MEMBER (A)


(CH. RAMAKRISHNA RAO)
MEMBER (J)

sb.

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(P.SRINIVASAN)
MEMBER (A)

sd/-

(CH.RAMAKRISHNA RAO)
MEMBER (J)

TRUE COPY

sb.



PP 9/3/88
SECTION OFFICER
CENTRAL ADMINISTRATIVE TRIBUNAL
ADDITIONAL CLERK
BANGALORE