

REGISTERED

CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE BENCH
* * * * *

Commercial Complex (BDA)
Indiranagar
Bangalore - 560 038

Dated : 12 SEP 1988

APPLICATION NO.

1504

88(F)

W.P. NO.

Applicant(s)

Shri C. Ramaswamy

To

1. Shri C. Ramaswamy
435, 5th Cross
Gandhinagar
Mysore - 7
2. Shri M. Madhusudan
Advocate
1074-1075, Banashankari I Stage
Sreenivasanagar II Phase
Bangalore - 560 050
3. The Superintendent
R.M.S. 'Q' Division
Bangalore - 560 026

Respondent(s)

V/s The Supdt, RMS 'Q' Divn. Bangalore & another

4. The Sub-Record Officer
(LSG), R.M.S. 'Q' Division
Mysore
5. Shri M.S. Padmarajaiah
Central Govt. Stng Counsel
High Court Building
Bangalore - 560 001

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 2-9-88.

Encl : As above

*for DEPUTY REGISTRAR
(JUDICIAL)*

*Encl : As above
12/9/88*

CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE

DATED THIS THE 2ND DAY OF SEPTEMBER, 1988

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

APPLICATION NO. 1504/1988

Shri C. Ramaswamy,
D.No.435, 5th Cross,
Gandhinagar,
Mysore.

.... Applicant.

(Shri Madhusudan, Advocate)

v.

1. The Superintendent,
R.M.S. ('Q' Division),
Bangalore.

2. Sub-Record Officer,
(LSG), R.M.S. 'Q' Division,
Mysore.

.... Respondents.

(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 19 of the
Administrative Tribunals Act, 1985, the applicant has
challenged Order No. C3/1425 dated 29.9.1988 (Annexure-8)
of the Sub-Record Officer, LSG, RMS 'Q' Division,
Mysore (SRO).

2. Shri C. Ramaswamy, the applicant before us, was
initially engaged as a part time badli casual labourer,
on which basis, he continued off and on. From 24.12.1985,
he was appointed as part time Mazdoor on which basis he
is continuing. In the impugned order, the SRO had termi-
nated the services of the applicant with effect from
5.9.1988. Hence the application.



3. When this case came up for admission yesterday, we informally requested Shri M.S. Padmarajaiah, learned Senior Central Government Standing Counsel to take notice for the respondents, and produce the relevant records. In response to the same, he has entered appearance for the respondents and has produced the records.

4. Shri M. Madhusudan, learned counsel for the applicant, strenuously contends that the termination of his client from 5.9.1988 without reasons, and the reason disclosed before us, was illegal, unjust and improper. In support of his contention, Shri Madhusudan has relied on a large number of rulings and in particular, on the rulings of the Supreme Court in U.P. INCOME TAX DEPT. C.P.S.W.A. v. UNION OF INDIA AND OTHERS (1988 (I) LLJ p. 396), DAILY RATED CASUAL LABOUR EMPLOYED UNDER P&T, THROUGH BHARATIYA DAK TAR MAZDOOR MANCH v. UNION OF INDIA & OTHERS (1998 LLJ (I) p.370), and THE GENERAL SECRETARY, BIHAR STATE ROAD TRANSPORT CORPORATION, PATNA v. THE PRESIDING OFFICER, INDUSTRIAL TRIBUNAL, PATNA & OTHERS (1988 LLJ (II) page 109).

5. Shri Padmarajaiah contends that the termination of the applicant, which had been delayed, due to the pendency of Application No. 493/88 since decided on 14.7.1988, was in compliance with the order of Government conveyed in letter No. 49014/1884/Estt. 'C' dated 25.8.1985 and the selection of another person on a regular basis was justified and legal.

6. We have carefully examined the records placed before us. We are satisfied on the correctness of the submissions made by Shri Padmarajaiah. If that is so, then the applicant who had been appointed on a part time basis, and is not selected to the post, cannot claim to continue in service, to the prejudice of the person regularly selected for the post. We are of the view that the rulings relied on by Shri Madhusudan do not bear on the point. On this short ground the challenge of the applicant is liable to be rejected.

7. Shri Madhusudan next contends that two of the juniors of the applicant are continued without adhering to the principle of 'Last Come First Go' and on that view, the termination of the applicant is unjustified and illegal.

8. Shri Padmarajaiah informs us that no one who is junior to the applicant is continued. We have no reason to disbelieve this statement of the respondents. If that is so, then the contention urged for the applicant has no merit.

9. We will even assume that a junior of the applicant is continued as stated by Shri Madhusudan and examine this contention on that basis also.

10. In cases of part time employees, it is difficult to say as to who is senior and who is junior. We cannot legitimately apply the principle of seniority to such employees. We see no merit in this contention of Shri Madhusudan.



11. We have noticed that the applicant who was in service on a part time basis from 15.12.1984 and his services has been terminated on administrative grounds and not on any personal misconduct. In these circumstances, it is only fit and proper for the respondents to make every effort to rehabilitate the applicant in such office or place as is possible. We do hope and trust that they will do so.

12. As all the contentions urged for the applicant fail, 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.

Sd/-

MR. VICE-CHAIRMAN 2/9/88

Sd/-

MEMBER (A) 2.1.1988

TRUE COPY

dms/Mrv.

Hall 129
for DEPUTY REGISTRAR (JDL)
GENERAL ADMINISTRATIVE TRIBUNAL
BANGALORE

