

REGISTERED

CENTRAL ADMINISTRATIVE TRIBUNAL

BANGALORE BENCH

* * * * *

Commercial Complex (BDA)
Indiranagar
Bangalore - 560 038

Dated : 6 JUN 1988

APPLICATION NOS. 314, 351 & 352 / 88 (F)

W.P. NO. _____

Applicant

Shri S.M. Byanna

v/s

The Secretary, M/o Agriculture, New Delhi
& 2 Ors

To

1. Shri S.M. Byanna
Dairy Technology Section
National Dairy Research Institute
Adugodi Post
Bangalore - 560 030

4. The Director
National Dairy Research Institute
Karnal - 132 001
Haryana

2. Shri M.S. Anandaramu
Advocate
128, Cubbonpet Main Road
Bangalore - 560 002

5. The Head
National Dairy Research Institute
Southern Regional Station
Adugodi
Bangalore - 560 030

3. The Secretary
Ministry of Agriculture
Krishi Bhavan
New Delhi - 110 001

6. Shri M. Vasudeva Rao
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/EXAMINER ORDER
passed by this Tribunal in the above said application on 1-6-88.

dc

For Deputy Registrar
(JUDICIAL)

9/6/88
K. M. S. 6/6/88

Encl : As above

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE

DATED THIS THE 1st DAY OF JUNE, 1988

Present : Hon'ble Justice Sri K.S.Puttaswamy Vice-chairman

Hon'ble Sri P.Srinivasan Member (A)

APPLICATION No. 314/1988, 351 & 352/88(F)

S.M.Byanna,
Dairy Technology Section
National Dairy Research Institute,
Adugodi Post,
Bangalore - 30.

... Applicant

(Shri M.S.Anandramu ... Advocate)

vs.

1. The Union of India
represented by its
Secretary, Ministry
of Agriculture,
New Delhi;

2. The Director, National
Dairy Research Institute,
Karnal - 132 001;

3. The Head, National Dairy
Research Institute,
Southern Ritional Station,
Adugodi, Bangalore - 30. ...

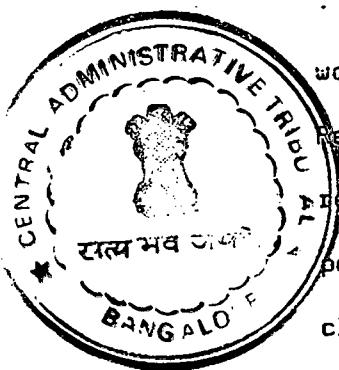
Respondents

(Shri M.Vasudeva Rao ... Advocate)

This application has come up before the Tribunal
today. Hon'ble Sri P.Srinivasan, Member (A) made the following :

ORDER

In these applications, the applicant who is
working as Attender(Literate) Gr. I in the National Dairy
Research Institute, Bangalore (NDRI), has asked for three
reliefs. He was appointed as a skilled labourer on tem-
porary basis on daily wages in NDRI from 1.5.1975. He
claims that his services should have been regularised from
1.5.1975. By letter dated 9.2.1981, the applicant was
offered a temporary post of Attender (Literate)-Gr.I and
he joined the post on 2.3.1981. He was put on probation
for 2 years. The applicant's second grievance is that on



completion of the said period of 2 years, the respondents had not declared him to have completed his probation successfully, and had not done so till now. The next grievance of the applicant is that though he has been performing the duties of Boiler Mechanic from March, 1981 he has not been allowed pay and allowances attached to that post.

2. Sri M.S.Anandaramu, learned counsel for the applicant, and Sri M.Vasudeva Rao, learned counsel for the respondents, have been heard.

3. So far as the first grievance of the applicant is concerned, the applicant claims regular appointment from 1.5.1975. The cause of action in respect of this prayer clearly arose well before 1.11.1982. As held by several Benches of this Tribunal (see ATR 1986 CAT 204 : V.K.MEHRA v. THE SECRETARY, MINISTRY OF INFORMATION & BROADCASTING, NEW DELHI; 1987(4) ATC 329 : SMT.KSHAMA KAPUR v. UNION OF INDIA), no application can be entertained by this Tribunal in respect of a cause of action which arose more than 3 years prior to the date of establishment of this Tribunal, i.e., prior to 1.11.1982. This prayer has to be rejected on that ground itself. We may, however, in passing, refer to the reply of the respondents, which clarifies the position. As per orders of the Government of India dated 21.3.1979, casual labourers, who have worked on daily wages for two continuous years, and have put in a minimum of 240 days in each of the 2 years as on 20.3.1979, are eligible for consideration for regularisation. The respondents say that in accordance with these orders, the applicant was offered regular appointment on 9.2.1981 along with 30 other persons, which he accepted. Thus, even on merits, this



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- 3 -

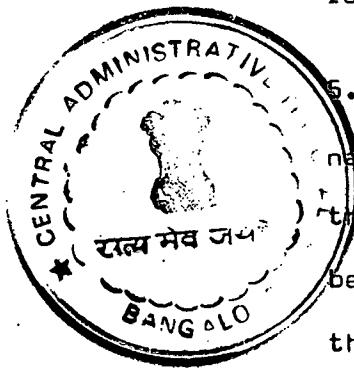
(J)

grievance deserves to be rejected and is hereby rejected.

4. Coming to the second grievance, namely that after completion of 2 years from 1981, the applicant has not been declared to have completed his probation successfully the respondents have given an adequate explanation in their reply to the application. They have repelled the apprehension of the applicant that his services would be terminated, because no formal declaration of successful completion of probation had been issued. They have clarified that no order had been passed extending the period of probation of the applicant. On the other hand, they have conceded that the applicant is entitled to a formal declaration of satisfactory completion of probation in February 1983. "Action to issue formal order to all the 31 persons who had been appointed in 1981", the respondents state, "for having completed the probationary period satisfactorily has been initiated which is also in his favour". Thus the respondents themselves are taking action to declare the period of probation of the applicant as having been satisfactorily completed and to issue formal orders thereon. We, direct them to complete the process of issue of those orders within six months from the date of receipt of this order.

5. So far as the third grievance is concerned, namely, the applicant's claim that he has been carrying on the duties of Boiler Mechanic from March, 1981, he should be paid salary and allowances of that post from that date, this claim is barred by res judicata. The applicant made an application earlier, registered as A.No. 566/87 on the same subject, namely that he should have been promoted as

P. F. - 13 -



Boiler Mechanic w.e.f. March, 1981 and paid salary and allowances from that date on that basis. That application was dismissed after a detailed consideration by a Bench of this Tribunal consisting one of us (PSM) as a party. The same issue between the same parties cannot be raised again, as it is barred by res judicata. This claim has therefore to be rejected and is rejected M

6. In view of what we have stated above, these applications are disposed of on the above terms. Parties to bear their own costs.



Sd/-

YU
VICE-CHAIRMAN 1/6/PD

Sd/-

MEMBER (A)

TRUE COPY

By: [Signature]
DEPUTY REGISTRAR (JDL) *6/6*
CENTRAL ADMINISTRATIVE TRIBUNAL *6/6*
BANGALORE

REGISTERED

CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE BENCH.

Commercial Complex(BDA),
Indiranagar,
Bangalore- 560 038.

Dated: 28-10-87

APPLICATION NO 566 /87 (F)

W.P.No. _____

APPLICANT

Vs.

RESPONDENTS

Shri S.M. Byanna

The Secy, M/o Agriculture & 3 Ors

To

1. Shri S.M. Byanna
Dairy Technology Section
National Dairy Research Institute
Adugodi Post
Bangalore - 560 030
2. Shri M.S. Ananda Ramu
Advocate
128, Cubbonpet Main Road
Bangalore - 560 002
3. The Secretary
Ministry of Agriculture
Krishi Bhawan
New Delhi - 110 001
4. The Director
National Dairy Research Institute
Karnal - 132 001
Haryana

5. The Head
National Dairy Research Institute
Southern Regional Station
Adugodi
Bangalore - 560 030
6. Shri Krishnaiah
Boiler Mechanic
National Dairy Research Institute
Southern Regional Station
Adugodi
Bangalore - 560 030
7. Shri M. Vasudeva Rao
Central Govt. Stng Counsel
High Court Buildings
Bangalore - 560 001

Subject: SENDING COPIES OF ORDER PASSED BY THE BENCH

Please find enclosed herewith the copy of ORDER/STAY/

~~ORDER~~ passed by this Tribunal in the above said application

on 21-10-87.

Encl: as above.

R.V. Venkatesh
DEPUTY REGISTRAR
(JUDICIAL)

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE BENCH: BANGALORE

DATED THIS THE TWENTYFIRST OCTOBER, 1987

Present: Hon'ble Shri P. Srinivasan Member (A)

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

APPLICATION NO. 566/87

Shri S.M. Byanna
S/O. Shri Munimallappa
National Dairy Research Institute
Adugodi Post
Bangalore - 560 030 Applicant
(Shri M.S. Ananda Ramu, Advocate)

Vs.

1. The Union of India
represented by its
Secretary, Ministry of
Agriculture
New Delhi.
2. The Director
National Dairy Research Institute
Karnal - 132001. (Haryana)
3. The Head
National Dairy Research Institute
Southern Regional Station
Adugodi
Bangalore - 560 030.
4. Sri Krishnaiah, working as
Boiler Mechanic
National Dairy Research Institute
Southern Regional Station
Adugodi
Bangalore - 560 030.

(Shri M. Vasudeva Rao, Advocate) Respondents

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

ORDER

In this application the prayer of the applicant
is that respondents 1 to 3 should be directed to issue an



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.... 2/-

order of appointment to him to the post of Technician I (Boiler Mechanic) and to pay him salary and allowance on that basis retrospectively from 1981.

2. Shri M.S. Ananda Ramu, learned counsel for the applicant submits that the applicant who was appointed as a skilled labourer in the National Dairy Research Institute from 1.5.1975 was promoted as Attendant (Literate), Grade I in 1981 and assigned the duties of Boiler Mechanic. The post of Boiler Mechanic carried a higher pay scale than that of Attendant (Literate). On 27.5.1985 in response to an announcement made by the respondent 3, the applicant took a test for the post of Technician - I (Boiler Mechanic). According to Shri Ananda Ramu, the applicant passed the test. Respondent-3 had also submitted statements to the Inspector of Boilers in which the applicant was shown as working as Boiler Attendant. Still he was not given the post of Boiler Mechanic and the pay scale attached to it. On the other hand, one Shri M. Krishnaiah, respondent no.4 had been appointed to that post though he did not have the necessary qualification.

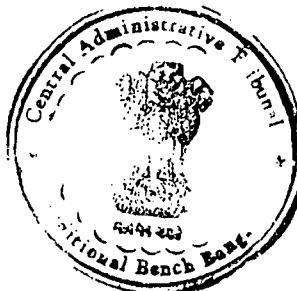
3. Shri M. Vasudeva Rao, learned counsel for respondents 1 to 3 submits that respondent no.4 had the requisite qualification. Both respondent no.4 and the applicant took the test for appointment as



C.A.J.

Boiler Mechanic on 27.5.1985. Respondent no.4, in addition to being senior to the applicant had faired better than the applicant in the test securing a total of 74 marks as against 49 marks obtained by the applicant. That is why respondent no.4 was selected. In the statement given to the Inspector of Boilers, respondent no.4 was shown as Boiler Attendant and the applicant was shown as Reliever since there is only one Boiler in operation. This did not entitle the applicant to the pay of Boiler Mechanic.

4. After hearing counsel on both sides and considering the matter very carefully we are not satisfied that the applicant has a real grievance to agitate. We are not prepared to disbelieve the statement made by respondent 1 to 3 in their reply and reiterated by Shri Vasudeva Rao on their behalf that respondent no.4 had the requisite qualification for the post. We have perused the results of the test which have been signed by 5 senior officials and in which respondent no.4 obtained 74 marks as against 49 marks obtained by the applicant. The copy of the statements submitted to the Inspector of Boilers mentions that there was only one Boiler in operation and the required strength of Boiler Attendant was 2, one being Reliever. The name of respondent no.4 and the applicant are shown in the list. This does not automatically entitle the applicant to be put in the scale of the Boiler Attendant



or Boiler Mechanic. It has been explained on behalf of respondents 1 to 3 that the applicant was acting as Reliever and not as Boiler Attendant.

5. In view of all this we do not find any merit to the application. In the result the application is dismissed. Parties to bear their own cost.



mr.

Sd/-

MEMBER (A)

Sd/-

MEMBER (J)

- True Copy -

R. Venkatesh
DEPUTY REGISTRAR
CENTRAL ADMINISTRATIVE TRIBUNAL
ADDITIONAL BENCH
BANGALORE
28/10/81