

CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE BENCH
* * * * *

Commercial Complex (BDA)
Indiranagar
Bangalore - 560 038

Dated : 19 JUL 1988

APPLICATION NO.

1

/88(F)

W.P. NO.

Applicant(s)

Shri M. Ganapathy

To

1. Shri M. Ganapathy
Gang-Mate (L.T.I. No. 77)
Office of the Permanent Way Inspector
(Doubling)
Southern Railway
Bangalore Cantonment
Bangalore - 560 046

2. Shri R.S. Hegde
Advocate
No. 231 (Upstair)
Laxmi Nivas
Subedar Chathram Road
Anand Rao Circle
Bangalore - 560 009

3. The Executive Engineer(Construction)
Southern Railway
Bangalore Cantonment
Bangalore - 560 046

V/s

Respondent(s)

The Executive Engineer (Construction),
Southern Railway, Cantonment, Bangalore & 2 Ors

4. The Assistant Engineer
Southern Railways
Bangalore Cantonment
Bangalore - 560 046

5. The Permanent Way-Inspector (Doubling)
Southern Railways
Bangalore - 560 046

6. Shri M. Srerangaiah
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 12-7-88.

*Received two copy.
M. Ganapathy*

Encl : As above

(M. Ganapathy)
Applicant
19-7-88

RE - B. Venkatesh
DEPUTY REGISTRAR
(JUDICIAL)

CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE

DATED THIS THE 12TH DAY OF JULY, 1988

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

APPLICATION NO. 1/88

Shri M. Ganapathy,
s/o Muniyounder,
Gang-Mate,
O/o the Permanent Way Inspector
(Doubling), Southern Railways,
Cantonment, Bangalore-46. ... Applicant.
(Shri R.S. Hegde, Advocate)

v.

1. The Executive Engineer/DC/BNG,
(Construction), Southern Railways,
Bangalore Cantonment, Bangalore.
2. The Assistant Engineer/C/SBC,
Southern Railways, Bangalore
Cantonment, Bangalore.
3. The Permanent Way-Inspector
(Doubling), Southern Railways,
Bangalore-46. ... Respondents.

(Shri M. Sreerangaiah, Advocate)

This application having come up for hearing to-day,

Vice-Chairman made the following:

ORDER

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

2. On 11.5.1976 the applicant joined service in the Railways as a Gangman/casual labourer, which was converted into temporary status in 1982. From 1.4.1983, he was promoted as a 'Gangmate' in the construction unit in the



then time scale of pay allowed to that post. In due course his name was empanelled in the category of 'temporary Gangmen' in the 'Openline' and by an order made on 25.9.1987 (Annexure-C) he was called upon to express his willingness to be appointed in that capacity. On receipt of this order, the applicant made a representation to continue him only as a 'Gangmate' in the Openline, which the authority has declined on 21.9.1987. The applicant has challenged the order dated 21.9.1987 and 25.9.1987 (Annexures B and C) on diverse grounds.

3. In their reply, the respondents have set out in detail the circumstances in which the applicant had been empanelled as a Gangman in the Openline.

4. Shri R.S. Hegde, learned counsel for the applicant contends that his client who had been earlier promoted to a higher post of Gangmate cannot be appointed to a lower post of Gangman and the impugned orders which result in such a situation are illegal.

5. Shri M. Sreerangaiah, learned counsel for the respondents sought to support the impugned orders.

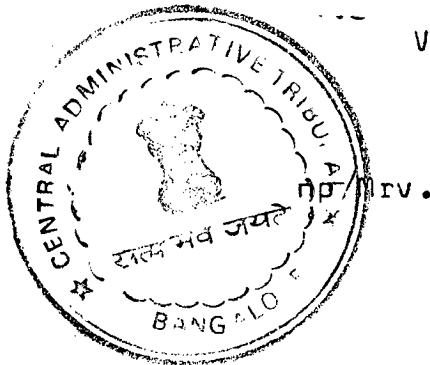
6. In their reply, the respondents have pointed as to how the empanelment and appointment thereto as a 'temporary Gangman' in the 'Openline' was in the interest of the applicant himself and that it is open to him to exercise his option and choose a regular appointment in the Openline. After obtaining instructions

from the applicant who was present in Court, Shri Hegde submits that the applicant is not willing to be appointed as a temporary Ganyman in the Openline in pursuance of the same. When the applicant is unwilling to be appointed as a Ganyman the Railway administration cannot force him to accept the same. Shri Sreerangaian also does not dispute this. We are of the view that this observation, is enough to safeguard the interests of both sides. On this as to how long the applicant can or cannot be continued as a 'Ganyman' in the construction unit is a matter which does not call for our examination and a decision at this stage. We, leave that open. With these observations only, we dispose of this application without granting any specific relief to the applicant. But, in the circumstances of the case, we direct the parties to bear their own costs.

SD/-
VICE-CHAIRMAN 10/11/1988

SD/-
MEMBER (A) 10/11/1988

TRUE COPY



R. V. Venkateshwaran
DEPUTY REGISTRAR (JUNIOR)
CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE