

CENTRAL ADMINISTRATIVE TRIBUNAL

BANGALORE BENCH

Commercial Complex (BDA)
Indiranagar
Bangalore - 560 038

Dated : 16 JUN 1988

APPLICATION NO. 507 /88(F)

W.P. NO. _____

Applicant(s)

Shri V.K. Narasimhan

To

Respondent(s)

V/s The Secretary, M/o Defence, New Delhi & 2 Ors

- | | |
|--|---|
| <p>1. Shri V.K. Narasimhan
15, 7th Cross
Prasantha Nagar
Bangalore - 560 079</p> <p>2. Shri Vishnu Bhat
Advocate
No. 166, Post Office Road
M.C. Layout
Vijayanagar
Bangalore - 560 040</p> <p>3. The Secretary
Ministry of Defence
South Block
New Delhi - 110 011</p> | <p>4. The Air Officer-in-Charge Administration
(Personnel Civilians)
Air Headquarters
Vayu Bhavan
New Delhi - 110 011</p> <p>5. The Officer Commanding
No. 26, Equipment Depot, Air Force
C/o H A L
Bangalore - 560 017</p> <p>6. Shri M. Vasudeva Rao
Central Govt. Stng Counsel
High Court Building
Bangalore - 560 001</p> |
|--|---|

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 10-6-88.

Encl : As above

d/c
[Signature]
DEPUTY REGISTRAR
(JUDICIAL)

48/100
K. M. [Signature]
16-6-88

CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE

DATED THIS THE 10TH DAY OF JUNE, 1988

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

APPLICATION NO. 507/1988

Shri V.K. Narasimhan,
aged about 51 years,
r/o No.15, 7th Cross,
Prasantha Nagar,
Bangalore-79.

.... Applicant

(Shri Visnnu Bhat, Advocate)

v.

1. Secretary to Government of India,
Ministry of Defence,
New Delhi.
2. The AirOfficer-in-charge,
Administration, (Personnel civilian),
Air Head-quarters,
Vayu sena Bhavan,
New Delhi.
3. The Officer commanding,
No.26, Equipment Depot,
Air force, HAL,
Bangalore. Respondents

(Shri M. Vasudeva Rao, C.G.A.S.C.)

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. Shri V.K. Narasimhan, the applicant before us,
who was initially appointed as a Civilian Store Keeper
Grade IV (CSK) was promoted as a CSK Grade III on
1.1.1965 by the Air Head-Quarters, New Delhi.



3. From 1965 and onwards the applicant has been working in the office of the Group Captain, Commanding Officer, 26 Air Force, Bangalore (GC). When working in that office, the GC initiated disciplinary proceedings against the applicant under the Central Civil Services (Classification, Control and Appeal) Rules, 1965, (Rules) in his different Memorandums on more than one charge appended to his Memorandums, which were denied by him. In that view, the Inquiry Officer (IO) appointed by the GC under the rules held a regular inquiry and submitted his report thereon. On an examination of the report of the IO and the records, the GC by his order dated 21.9.1987 (Annexure-E) had inflicted on the applicant the penalty of compulsory retirement from service. Aggrieved by this order, the applicant filed an appeal on 29.10.1987 before the Air Officer-in-charge (Administration), New Delhi, who by his order dated 5.12.1987 had returned the same on the ground that the appeal should have been lodged before the proper appellate authority. Hence this application.

4. The applicant has challenged the orders on various grounds. In justification of the impugned orders, the respondents have filed their reply and have produced their records.

5. Shri Vishnu Bhat, learned counsel for the applicant contends, that his client had been removed by the GC who was not the appointing authority of the applicant but was lower to him and the same was in contravention of Article 311 of the Constitution and rule 12(4) of the Rules. In support of his contention Shri Bhat strongly relies on a ruling rendered by this Tribunal in A.No.331/86 D.D. Prasad v. Air Officer.



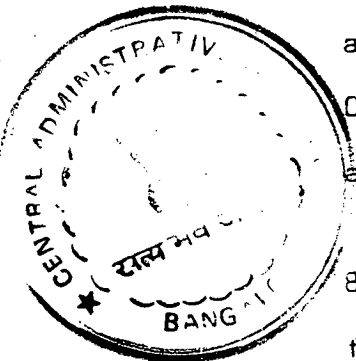
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6. Shri M. Vasudeva Rao, learned additional standing counsel sought to support the order of the GC, on the very grounds the removal of Prasad was supported before this Tribunal.

7. In Prasad's case on very similar facts, as in this case, we had occasion to examine this very question. On a detailed examination we have held that the GC who had inflicted the penalty of compulsory retirement from service on the applicant which results in removal from service, was by an authority who was lower in rank to the appointing authority of the applicant and the same was violative of Article 311 and Rule 12(4) of the Rules and was therefore illegal and impermissible. We are of the view that the ratio in Prasad's case, which ~~is~~ on all fours governs the question in this case also. From this it follows that we have no alternative but to quash the impugned orders and direct the reinstatement of the applicant with liberty reserved to the appointing or his higher authority to re-do the matter in accordance with law. On this view, we decline to examine all other questions and leave them open.

8. In the light of our above discussion we make the following orders and directions:

We quash Order No.26ED/C3625/
16429/GC dated 21.9.1987
(Annexure-E) of the GC. But
this order does not prevent
the appointing authority of
the applicant or any other
authority higher to him to



[Handwritten signature]

pass orders on the disciplinary proceedings instituted and completed against the applicant by the GC in accordance with law.

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

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VICE-CHAIRMAN *10/6/88*

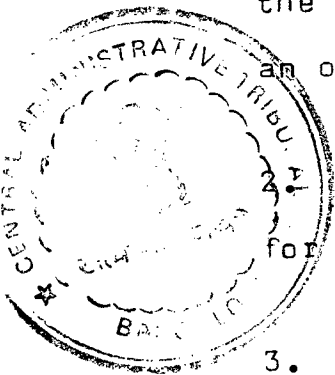
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MEMBER (A) *10-6-88*

ORDERS ON THE ORAL APPLICATION OF THE RESPONDENTS FOR STAY

After we dictated the order allowing the application of the applicant which necessarily results in his reinstatement to service, Shri Vasudeva Rao makes an oral application for stay of the operation of our order for a period of three months from this day, to enable the respondents to obtain a certified copy of our order, move the Supreme Court in special leave petition and obtain an order of stay of our order from that court.

Shri Vishnu Bhat opposes the prayer of Shri Rao for grant of stay.

3. When the Respondents propose to challenge our order before the Supreme Court and move for stay, it is reasonable and necessary to stay the operation of our order for a reasonable time. We consider it proper to stay the operation of our order for a period of two months from this day. We, therefore, stay the operation of our order for a period of two months from this day.

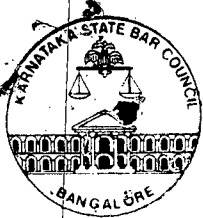


TRUE COPY

[Signature]
DEPUTY REGISTRAR (JDL) *10/6/88*
CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE

sdl-
VICE-CHAIRMAN *10/6/88*

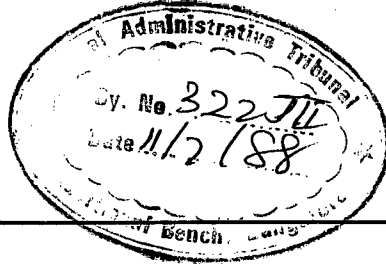
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MEMBER (A) *10-6-88*



507/88
DD 10/6/88

TEL : Off. : 28712
Res. : 351523

KARNATAKA STATE BAR COUNCIL



B. PRAKASH, B.A., B.L.,
Secretary

To ~~Shri~~. The Registrar,
Central Administrative
Tribunal, B.D.A. Complex,
Indiranagar, BANGALORE-

No. KBC/Enr/88
Encl.

Old K. G. I. D. Building
BANGALORE-560 001

Date : 29.06.1988

Sir,

Sub: Enrolment as an advocate of Shri.V.K.
Narasimhan.

I am directed by the Enrolment Committee of the Bar Council to inform you that one Shri. V.K. Narasimhan, "Sarasvathi Nilaya", No.15, VIIth Cross, Prasanthanagar, Near Magadi Road Housing Board Colony, Bangalore-560 079, has been enrolled as an advocate on 15.06.1988 on his filing two affidavits (xerox copies enclosed). It is stated by him in the affidavit, that he has filed an application before Central Administrative Tribunal under No.A.507/88 challenging the order of Compulsory Retirement passed by his employer.

As such I am hereby notifying to you the above information and the fact of his enrolment as an advocate which may kindly be brought to the notice of the Tribunal for purpose of determination and computation of monetary benefits while disposing of the pending application.

Thanking you,

Yours faithfully,


(B. PRAKASH).
SECRETARY.

by hand
S/O J
8/8/88

BY HAND
Wg Cdr

No. 25 Equipment Depot
Air Force
Bangalore 17

25ED/C 325/16429/8/PC

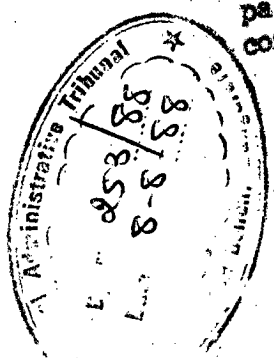
08 Aug 88

Sri VK Narasimhan
PX-SSK, PA NO 16429
'Saraswathi Nilaya'
No.15, VIIth Cross
Pragathi Nagar
Bangalore 560 079

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8/8
K-B

GAT JUDGEMENT ON APPLICATION
NUMBER 507/1988 (F)

1. Reference Central Administrative Tribunal Bangalore Bench, Bangalore Judgment Order dated 10 Jun 88.
2. You are directed to report to this Depot immediately for necessary re-instatement action. But, this order does not prevent the appointing authority or any other authority higher to him to pass orders on the disciplinary proceedings instituted and completed by the CG in accordance with law.



[Signature]
(S Narasimhan)
Wg Cdr
Commanding Officer

Copy to : Hqrs MG, IAF : With reference to you - Hqrs
Signal No. PC/316 dated 01 Aug 88

N.O.O.

Copy to : The Registrar
Central Administrative Tribunal
BDA Complex, Indiranagar
Bangalore - 560 038 ✓

Sri BS Hegde
Additional Legal Adviser
Govt of India Min of Law & Justice
Department of Legal Affairs
Branch Secretariate, Bangalore
240, 4th Main Road, Sadashivanagar
Bangalore 560 080