

CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE BENCH

Commercial Complex.(BDA)
Indiranagar
Bangalore - 560 038

Dated :

9 SEP 1988

APPLICATION NO.

94

/ 88(F)

W.P. NO.

Applicant(s)

Shri B.K. Sakatlal
To

Respondent(s)

V/s The Joint Director(E)(W) Railway Board,
New Delhi & another

1. Shri B.K. Sakatlal
2530, Main Madar Street
Mysore - 4

4. The Divisional Railway Manager
Southern Railway
Mysore Division
Mysore

2. Shri M. Madhusudan
Advocate
1074-1075, Banashankari I Stage
Sreenivasanagar II Phase
Bangalore - 560 050

5. Shri K.V. Lakshmanachar
Railway Advocate
No. 4, 5th Block
Briand Square Police Quarters
Mysore Road
Bangalore - 560 002

3. The Joint Director
Establishment (W)
Railway Board
Rail Bhavan
New Delhi - 110 001

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 31-8-88.

9-9-88
U. N. R. R.
9-9-88

Encl : As above

R. Venkatesh
DEPUTY REGISTRAR
(JUDICIAL)

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE BENCH: BANGALORE

DATED THIS THE THIRTY FIRST DAY OF AUGUST, 1988

PRESENT: HON'BLE SHRI JUSTICE K.S. PUTTASWAMY... VICE-CHAIRMAN
HON'BLE SHRI L.H.A. REGO ... MEMBER (A)

APPLICATION NO. 94 OF 1988

B.K. Sakatlal,
S/o Sri Balakrishnalal,
Major, Resident of
No.2530, Main Medar Street,
Mysore - 4.

Applicant

(Shri M. Madhusudan.....Advocate)

Vs.

1. The Joint Director,
Establishment (W),
Railway Board,
New Delhi.
2. The Divisional Railway Manager,
Southern Railways,
Mysore Division,
Mysore.

Respondents

(Shri K.V. Laxmanachar.....Advocate)

This application having come up for hearing
before this Tribunal to-day, Hon'ble Shri Justice K.S.
Puttaswamy, Vice-Chairman, made the following :-

O R D E R

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



2. The applicant, who had a chequered career, the details of which are not necessary to notice, has voluntarily retired from service from 27.6.1987. But notwithstanding the same and the grant of pension admissible thereto, the applicant has claimed that the two breaks in his service from 4.8.1961 to 23.5.1962 and from 2.9.1962 to 22.6.1963 be condoned and a direction issued to the respondents to modify the pension on that basis.

3. In their reply, the respondents have asserted that the very claim of the applicant had been negatived by the authorities and the same had been upheld by the High Court of Karnataka in Writ Appeal No. 600 of 1978 decided on 31.8.1982.

4. Shri M. Madhusudan, learned counsel for the applicant, contends that the order made by the High Court in Writ Appeal No. 600/78 only related to condonation of break in service for purposes of seniority and promotion only and not for purposes of pension, and that a similar relief had been granted by the authorities on 22.5.1984 (Annexure-B) to others and on that very grant the applicant should be extended that very relief.

Shri K.V. Laxmanachar, learned counsel for the respondents, contends that the claim is barred by res-judicata and cannot re-opened before this Tribunal.

6. On more than one occasion, the applicant claimed before the authorities for condonation of

the two breaks in service noticed earlier, which was rejected by them. On such rejection, the applicant approached the High Court in Writ Petition No.6898/78, which was dismissed by a learned Single Judge of the Court. Aggrieved by the order of the learned Single Judge, the applicant filed W.A.No. 600/78, which was dismissed by a Division Bench on 31.8.1982, inter-alia observing thus:

"3. Though Sri Venkataranga Iyengar, learned counsel for the appellant, submitted that the appellant was not reappointed, but reinstated in service, we find from paragraph 5 in Writ Petition that the appellant has stated that he was re-appointed in Mysore Division with effect from 23.3.1963 and from that date, he has been holding the said post on the strength of that reappointment order. It is therefore too late in the day to go back and say that he was re-appointed in the year 1963. If the appellant was re-appointed in the year 1963 and if in law, he was entitled as a matter of fact to reinstatement and condonation of break in service which privileges were denied to him, it is obvious that he was required to approach this Court for appropriate relief expeditiously. That having not been done, the learned Single Judge was fully justified in taking the view that the Writ Petition having been presented nearly seventeen years after the order of dismissal there was inordinate delay and laches on the part of the appellant. It is not possible to take a different view of the matter on the facts of the case."

We are of the view that this order completely concludes the controversy and the present claim is barred by res-judicata. We cannot therefore re-open the same.

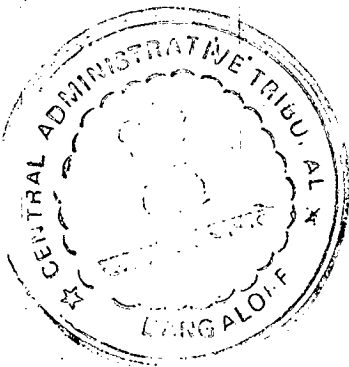
7. We are unable to say whether the case of the applicant is analogous to the case of three persons referred to in the order dated 22.5.1984. (Annexure-B). We will however assume that in favour of the applicant. Even then, the applicant



cannot get that relief as the same is barred by res-judicata.

8. On the view we have taken, the other questions does not call for our examination. We therefore decline to examine them.

9. In the light of our above discussion, we hold that 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/-
(K.S. PUTTASWAMY)
VICE-CHAIRMAN

Sd/-
(L.H.A. REGO)
MEMBER (A)

TRUE COPY

[Signature]
DEPUTY REGISTRAR (JULY 1999)
CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE