

REGISTERED

CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE BENCH
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Commercial Complex(BDA),
Indiranagar,
Bangalore - 560 038

Dated : 13/8/87

APPLICATION NO 385 /87(F)

W.P. NO _____

Applicant

Shri H.R. Nagesh

V/s The Secy, M/o I&B, New Delhi & 3 Ors

To

1. Shri H.R. Nagesh
No. 176, V Block
9th Main, Jayanagar
Bangalore - 560 011
2. Shri M.S. Anandaramu
Advocate
128, Cubbonpet Main Road
Bangalore - 560 002
3. The Secretary
Ministry of Information & Broadcasting
Shastry Bhavan
New Delhi
4. The Chief Producer
Films Division
Ministry of Information & Broadcast
No. 24, Paddar Road
Bombay - 400026
5. The Branch Manager
Films Division
Ministry of Information & Broadcast
11, New Mission Compound
Lalbagh Road, Bangalore - 560 027
6. The Administrative Officer
Films Division, M/o I & B
No. 24, Paddar Road
Bombay - 400026

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 on 29-7-87.

R.V. Venkatesh
DEPUTY REGISTRAR
~~SECTION OFFICER~~
(JUDICIAL)

Encl : as above

7. Shri M. Vasudeva Rao
Central Govt. Sng Counsel
High Court Buildings
Bangalore - 560 001

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE

DATED THIS THE 29th DAY OF JULY, 1987

Present : Hon'ble Sri Ch.Ramakrishna Rao Member(J)
Hon'ble Sri P.Srinivasan Member(A)

Application No.385/87

H.R.Nagash,
r/a No.176, V Block,
9th Main, Jayanagar,
Bangalore - 11.

... Applicant

(Sri Subba Rao ... Advocate)

Vs.

- 1.The Union of India represented by the Secretary, Ministry of Information & Broadcasting, New Delhi.
- 2.The Chief Producer, Films Division, M/o Information and Broadcasting, Government of India, No.24, Peddar Road, Bombay - 26.
- 3.The Branch Manager, Films Division, M/o Information and Broadcasting, No.11, New Mission Compound, Lalbagh Road, Bangalore - 27.
- 4.The Administrative Officer, Films Division, M/o Information and Broadcasting, No.24, Peddar Road, Bombay - 26.

... Respondents

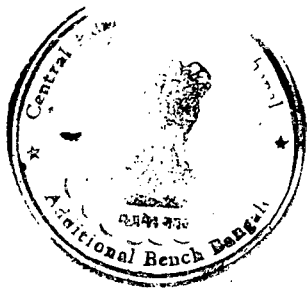
(Sri M.V.Rao ... Advocate)

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

ORDER

This is an application filed u/s 19 of the Administrative Tribunals Act, 1985.

2. This applicant was appointed as a Film Checker ('FC') in the office of the Manager, Films Division, Bangalore w.e.f.



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5.6.78. He was promoted to the higher grade of Film Shipper ('FS') by order dated 11.5.82 on a purely ad hoc basis. It was clarified in the order that the appointment would not confer on him any right for regular appointment. After he had worked in that capacity for some time by an order dated 7.10.85 (Annexure B) he was reverted to his regular post of FC with retrospective effect from 23.9.85, the date on which certain Sri M.M.Ganguli from the Surplus Cell reported for duty as FS.

3. The applicant represented against the reversion. However, the Assistant Administrative Officer, Ministry of Information & Broadcasting, Bombay ('AAO') in a letter dated 10.2.1986 (Annexure G) to the applicant informed him that his earlier appointment as FS was purely ad hoc in the place of one Sri Hardas, who had been appointed as Junior Booker on ad hoc basis. When a clear vacancy of FS arose on 21.3.85 with the appointment, of Sri Hardas as Junior Booker on regular basis, it had to be filled up by direct recruitment. Sri M.M.Ganguly, a candidate from the Surplus Cell, was appointed to that vacancy and so the applicant had to be reverted. ^{Another} letter dated 30.1.86 to the same effect from the AAO appears at Annexure H, followed by another letter dated 16.4.86 (Annexure I).

4. The applicant represented stating that circulars calling for candidates for the test to be held to fill up the promotion quota of FS issued on 10.10.83 and 18.10.85 had not been shown to him and therefore he had not been able to avail the opportunity of taking the test and being promoted on a regular basis to that post. To this the AAO replied by his letter dated 21.5.86 (Annexure M) suggesting that the applicant appear at the next test when held and if he qualified therein, he could be promoted. In this application, the applicant wants us to quash Annexures 'B', 'G', 'H', 'K' & 'M'.

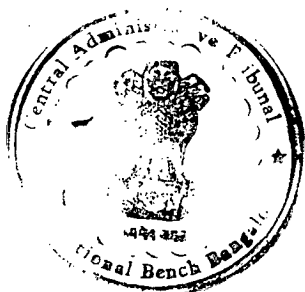


C. J. /

5. Sri M.S. Ananda Ramu, learned counsel for the applicant, pleaded that reverting the applicant after he had held the post of FS for nearly 3½ years was illegal and unfair. Moreover the applicant was also denied the opportunity of appearing for the test for promotion to the post of FS on a regular basis which was announced in two circulars dated 3.10.83 and 18.6.85 because these circulars were not shown to him. Thus he was hit both ways in that he was denied the opportunity of getting regular promotion and had been reverted because direct recruit came to be posted as FS.

6. Sri M. V. Rao, learned counsel for the respondents, while conceding that the two circulars announcing the tests to be held for promotion to the post of FS were not shown to the applicant, submitted that the circulars were not shown because the applicant was already working as FS though on ad hoc basis, it was not deliberately done. Without qualifying in the test held for the purpose, a person cannot be promoted as FS. The post that the applicant held on ad hoc basis had to be vacated by him in order to accommodate a regular appointee from the direct recruit quota.

7. Having heard counsel on both sides, we feel that the applicant deserved some relief. Had he been shown the two circulars issued in 1983 & 85, he could have taken the test and, if successful, he could have become FS on regular basis. Since these circulars were not shown to him, he had been denied the opportunity of getting regular promotion for no fault of his. The post held by him had to be given to a regular appointee in the direct recruitment quota and his reversion was, therefore, unfair.



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8. Taking into account all the facts and circumstances of the case, we feel that the applicant's genuine grievance can be remedied if a special qualifying test is held for the applicant by the respondents within four months from the date of receipt of this order and if he qualifies in the test so held, he should be promoted on a regular basis for the post of FS from the date from which any junior of his may have been so promoted as a result of the test held in 1983-85. If so appointed, the applicant will be given seniority in the post of FS in accordance with such appointment. The period from 23.9.1985 to the date of his promotion, if made in accordance with our directions given above, will be counted for fixing his pay on such promotion and for earning future increments. We make it clear that for the period from 23.9.85 to the date of his promotion, if made, the applicant will be entitled only to his salary as ^H ~~FC~~ FC.

9. The application is partly allowed as indicated above. Parties will bear their own costs.



Sd _____

MEMBER (J)

Sd _____

MEMBER (A)

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Three copies

B. V. Venkatesh
DEPUTY REGISTRAR
CENTRAL ADMINISTRATIVE TRIBUNAL
ADDITIONAL BENCH
BANGALORE

CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE BENCH

Commercial Complex (BDA)
Indiranagar
Bangalore - 560 038

Dated : 3 AUG 1988

REVIEW APPLICATION NO. 67 / 88(F)
IN APPLICATION NO. 385/87(F)
W.P. NO. _____

Applicant(s)

Shri H.R. Nagesh

To

Respondent(s)

V/s

The Secretary, M/o Information & Broadcasting,
New Delhi & 3 Ors

1. Shri H.R. Nagesh
No. 176, 9th Main
V Block, Jayanagar
Bangalore - 560 011
2. Shri B.S. Venkatesh
Advocate
128, 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 ^{Review} application(s) on 28-7-88.

Encl : As above

d/c
DEPUTY REGISTRAR
(JUDICIAL)

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE BENCH: BANGALORE

DATED THIS THE TWENTYEIGHTH DAY OF JULY, 1988

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

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

REVIEW APPLICATION NO.67/1988

Shri H.R. Nagesh
S/O. Shri H.S. Rangaswamy
Films Checker
Films Division
No.11, New Mission Compound
Lalbagh Road
Bangalore - 560 027.

.. Applicant

(Shri B.S. Venkatesh, Advocate)

Vs.

1. The Union of India
represented by the Secretary
Ministry of Information and
Broadcasting, New Delhi.

2. The Chief Producer
Films Division
Ministry of Information and
Broadcasting, Govt. of India
No.24, Peddar Road
Bombay - 26.

3. The Branch Manager
Films Division
Ministry of Information and
Broadcasting
No.11, New Mission Compound
Lalbagh Road
Bangalore - 560 027.

4. The Administrative Officer
Films Division
Ministry of Information and
Broadcasting,
No.24, Peddar Road
Bombay - 26.

.. Respondents.

This application has come up for ^{admission} ~~hearing~~ H

before the Tribunal today, Hon'ble Shri Ch. Ramakrishna Rao
Member (J), made the following:


ORDER

By this review application, the applicant
wants us to review our order dated 29.7.1987 passed in



application no.385/1987. In that order, we had noted that two circulars issued by the respondents in 1983 and 1985 regarding tests to be held for promotion to the posts of Film Shipper (FS) had not been shown to the applicant and that therefore he could not take the test during those years. If he had taken the test in either of these years and had passed the same, he could have been appointed FS on a regular basis, but that did not happen. We, therefore, directed the respondents to remedy the grievance of the applicant by holding a special qualifying test for promotion to the post of FS within a period of four months from the date of receipt of that order. We also directed that "if he qualifies in the test so held, he should be promoted on a regular basis for the post of FS from the date from which any junior of his may have been so promoted as a result of the test held in 1983-1985. If so appointed, the applicant will be given seniority in the post of FS in accordance with such appointment".

2. In this application, it is submitted by the applicant that though the qualifying test was held and the applicant passed the same and was also promoted on that basis as FS, he had been treated as having been promoted regularly only from 1985, while, according to him, he should have been given seniority from 1983. The applicant also contends that this Tribunal should have in its order directed the respondents to restore the seniority of the applicant with effect from 1983.



3. Shri B.S. Venkatesh, learned counsel for the applicant, has been heard. It will be seen from the narration above, that what the applicant seeks is a change in the terms of our order. This would not be permissible by way of review. If he is aggrieved with the action of the respondents, he has to file a fresh application. We, therefore, reject this application for review at the admission stage itself.



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Sd/-
MEMBER (A)

Sd/-
MEMBER (J)

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TRUE COPY

[Signature]
DEPUTY REGISTRAR (JDL)
CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE