

REGISTERED

CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE BENCH

Commercial Complex (BDA)
Indiranagar
Bangalore - 560 038

Dated : 3 OCT 1988

APPLICATION NO. 1145 / 88(T)
W.P. NO. 20304 / 84

Applicant(s)

Shri K. Jayarajan
To

Respondent(s)

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

1. Shri K. Jayarajan
Chargeman Grade - II
Electronics & Radar Development
Establishment (LRDE)
Bangalore - 560 001
2. Shri Z.A. Qureshi
Advocate
C/o Shri G.S. Ullal
Advocate
No. 10, 12th Main Road
Vasanthnagar
Bangalore - 560 052
3. The Secretary
Ministry of Defence
South Block
New Delhi - 110 011

4. The Director
Electronics & Radar Development
Establishment (LRDE)
Bangalore - 560 001
5. Shri R.O. Dwarkanath
Chargeman Grade - II
Electronics & Radar Development
Establishment (LRDE)
Bangalore - 560 001
6. Shri M.S. Padmarajaiah
Central Govt. Sing Counsel
High Court Building
Bangalore - 560 001

Subject : SENDING COPIES OF ORDER PASSED BY THE BENCH

Please find enclosed herewith the copy of ORDER/~~SPN~~/ ~~INTERIM ORDER~~
passed by this Tribunal in the above said application(s) on 20-9-88.

Encl : As above

DEPUTY REGISTRAR
(JUDICIAL)

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE BENCH: BANGALORE

DATED THIS THE TWENTIETH DAY OF SEPTEMBER, 1988

PRESENT: HON'BLE SHRI JUSTICE K.S. PUTTASWAMY ...VICE-CHAIRMAN

HON'BLE SHRI P. SRINIVASAN ... MEMBER (A)

APPLICATION NO. 1145/88(T)

K. Jayarajan, aged 40 years
Chargeman Grade II,
L.R.D.E.
BANGALORE-1.

Applicant

(Shri Z.A. Qureishi.....Advocate)

1. The Union of India represented
by the Secretary to Government
Ministry of Defence,
New Delhi.

2. Director,
L.R.D.E.
BANGALORE-1

3. B.O. Dwarkanath, and 40 years
Chargeman Grade II,
L.R.D.E.
BANGALORE-1.

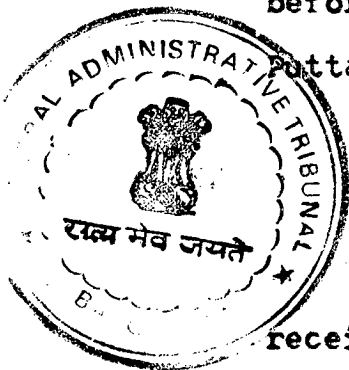
Respondents

(Shri M.S. Padmarajaiah.....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 :-

ORDER

This is a transferred application and is
received from the High Court of Karnataka under Section
29 of the Administrative Tribunals Act, 1985 (Act).



2. Shri K. Jayarajan, the applicant before us was working as an Aircraftsman from 7.11.1958 to 1.2.1971, in the Indian Air Force (IAF). On 1.2.1971 he was discharged from the IAF at his own request.

3. On 6.4.1973, the applicant joined the Electronic and Radar Development Establishment (LRDE) as Telecom Mechanic Mate and is working ever since then in that department naturally making advances in his career, the details of which we are not concerned in this case.

4. On the basis of executive orders or circular instructions issued by Government, the applicant claimed that the service rendered by him in IAF from 7.11.1958 to 1.2.1971 should also be reckoned for seniority in the LRDE, which was not acceded to by the respondents. In that view, the applicant approached the High Court on 14.12.1984 in W.P. No.20304/84 for appropriate reliefs, which on transfer on 10.8.1988, has been registered as Application No.1145/88(T).

5. In their reply, respondent Nos. 1 and 2, have asserted that the applicant who voluntarily resigned from the IAF, was not eligible to count his previous service as decided by Government itself on 10.6.1968 (Annexure R-1).

6. Shri Z.A. Qureishi, learned counsel for the applicant, contends that the previous service rendered by his client in the IAF had to be reckoned in the LRDE as in the case of Shri Ch. Srinivasan v. Union of India W.P. No.12660/79 decided on 1.4.1982 (Annexure-C) by Rama Jois J of Karnataka High Court.

7. Shri M.S. Padmarajaiah, learned Senior Standing Counsel appearing for respondent Nos. 1 and 2 contends to the contrary.

8. Respondent No.3, who has been duly served has remained absent and is unrepresented.

9. In their reply, respondents 1 and 2, have asserted that the applicant had voluntarily resigned from the IAF and then only joined the LRDE as a new entrant and this assertion is established by the certificate of verification of military service issued by the Air Force Record Office.

10. While regulating concessions in counting previous service rendered in the Army, Air Force and Navy, Government on 10.1.1968 had stated thus:-

"No.10(1)66/D(Appts)
Government of India
Ministry of Defence
New Delhi, the 10th January 1968

MEMORANDUM

Subject:- SENIORITY

Ex-Servicemen discharged on compassionate grounds should be deemed to have resigned from service and were not to be given the benefit of previous combatant service for purpose of seniority on their subsequent re-employment in the civil posts. It has been decided that in cases where such service has been counted for purpose of seniority on appointment to civil posts, the unintended benefit of seniority should be withdrawn and the seniority lists revised accordingly.

2. Where ex-servicemen discharged at their own request had been given the benefit of combatant service for purpose of seniority in civil posts and as a result thereof, have been promoted to higher appointment, the details of such cases as asked for vide this Ministry's Memorandum of even number dated 27th November 1967 may be forwarded to this Ministry.

sd/-

(NV SWAMINATHAN)

Under Secretary to the Government of India"

In this Order, Government had stated that those who voluntarily leave the Army, Air Force and Navy were not entitled to count the benefit of their previous service in the new office. On the very terms of this order made by Government, the applicant cannot claim the benefit of his previous service rendered in the IAF.

11. In Srinivasan's case, the court was not dealing with the case of a person who had voluntarily left the service as in the present case. Hence the ratio in Srinivasan's case does not bear on the question that arises in this case.

....5/-

12. 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/-
VICE-CHAIRMAN 22/9/92

Sd/-
MEMBER (A)

TRUE COPY

[Signature]
SECTION OFFICER 3/6
CENTRAL ADMINISTRATIVE TRIBUNAL
ADDITIONAL BENCH
BANGALORE