

CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE BENCH

Commercial Complex(BDA)
Indiranagar
Bangalore - 560 038

Dated : 21 SEP 1988

APPLICATION NOS. 956 to 963 & 1031 to 1033/88(F)

Applicants

Shri N.S. Ramesh & 10 Ors

v/s

The Secretary, M/o Defence, New Delhi & 9 Ors

To

1. Shri N.S. Ramesh
No. 7 'C' Street
Dobbaspet, Yasanthanagar
Bangalore - 560 052
2. Shri Navichander
No. 5, Yellammen Koil Street
1st Cross, Ulsoor
Bangalore - 560 008
3. Shri Venkataschala
77, Manchamma Compound
Opp : K.P.G. Stores
3rd Main Road
Gangeshalli
Bangalore - 560 032
4. Shri P. Deyalan
No. 10, 'G' Street
16th Cross, Ulsoor
Bangalore - 560 008
5. Shri Leganathan
C/o Shri M. Shanmugam
39, Mahalakshmi Layout
Rajajinagar
Bangalore - 560 010
6. Shri A. Soleman
985, Chikkananjundappa Cross
R.S. Palyam, M.S. Nagar Post
Kamanahalli, Bangalore
7. Shri K. Gopinathan
No. 1, 5th Cross, Gupta Layout
Ulsoor
Bangalore - 560 008

Respondents

8. Shri D. Rajan
Site No. 7, Survey No. 138/3,
Income Tax Layout
Arabic College Post
Kadugundanahalli, Bangalore - 560 045
9. Shri Irudaya Selvam
T/64, Meenue Line
M.E.G. & Centre
Bangalore - 560 042
10. Shri Ravi Kumar
No. 15, Rayappa Road
Frazer Town
Bangalore - 560 005
11. Shri Elumalai
Jayanthi Building
Verna, Bangalore - 560 033
12. Shri M.S. Anandaramu
Advocate
128, Cubbonpet Main Road
Bangalore - 560 002
13. The Secretary
Ministry of Defence
South Block
New Delhi - 110 011
14. The Chief Engineer
Military Engineering Service
Madras Zone
Islands Ground
Madras - 600 009

15. The Commander Works Engineer
Military Engineering Service
Dickenson Road
Bangalore - 560 042

16. The Barrack Stores Officer
Office of the B.S.O. (South)
No. 158, Richmond Road
Bangalore - 560 025

17. Shri V. Subramaniam
Mazdoor
Office of the Garrison Engineer (South)
B.S.O. (South)
Bangalore - 560 042

18. Shri Gopalakrishna
Mazdoor
Office of the Garrison Engineer (South)
Bangalore - 560 045

19. The Garrison Engineer (North)
T/61, Meanes Line
Bangalore - 560 042

20. Shri M. Jaye Kumar
Chowkidar
Office of the Garrison Engineer
(North)
Bangalore - 560 042

21. Shri Shankarappa
Chowkidar
Office of the Garrison Engineer
(North)
Bangalore - 560 042

22. Shri B. Muniraj
Chowkidar
Office of the Garrison Engineer
(North)
Bangalore - 560 042

23. Shri M. Vasudeva Rao
Central Govt. Stng Counsel
High Court Building
Bangalore - 560 001

.....

Subject : SENDING COPIES OF ORDER PASSED BY THE BENCH

Please find herewith enclosed copy of ORDER passed by this Tribunal in the
above said applications on 13-9-88.

J. D. S.
for DEPUTY REGISTRAR
(JUDICIAL)

Encl : As above

CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE.

DATED THIS THE 13TH DAY OF SEPTEMBER, 1988

Present:

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

APPLICATION NOS. 956 TO 963 AND 1031 TO 1033/88

1. Shri N.S. Ramesh,
S/o Shri N. Subramaniam,
Aged about 32 years.

2. Shri Navichander,
S/o Shri M. Govindaraj,
Aged about 24 years,

3. Shri Venkatachala,
S/o Shri V. Venkatappa,
Aged about 28 years.

4. Shri P. Dayalan,
S/o Shri Ponnurangam K,
Aged about 29 years.

5. Shri Loganathan,
S/o Shri Magalingam,
Aged about 29 years.

6. Shri A. Solomon,
S/o Shri A. Anthony,
Aged about 22 years.

7. Shri K. Gopinathan,
S/o Shri Krishnan Nair, K,
Aged about 31 years.

8. Shri D. Rajan,
S/o Shri S.C. Dass,
Aged about 28 years.

.... Applicants in
A. Nos. 956 to
963/88

(All the above mentioned applicants
are working as Chowkidars, in the
O/o the Garrison Engineer (South),
Bangalore.)

Shri Irudaya Selvam,
S/o Shri A. Savari Muthu,
major.

10. Shri Ravi Kumar,
S/o Shri Sundar Rajan,
Aged about 24 years.

BANGALORE
ADMINISTRATIVE TRIBUNAL
Shri Elumalai,
S/o Shri Chinna,
Aged about 26 years.

Applicants in
A. Nos. 1031 to
1033/1988

(Applicants in Sl.No.9 to 11 are working
as Chowkidars in the O/o the Garrison
Engineer, (North), Bangalore)

(Shri M.S. Ananda Ramu, Advocate)

1. The Union of India
rep. by the Secretary,
M/o Defence, New Delhi.
2. The Chief Engineer,
Madras Zone, Islands Ground,
Madras.
3. The Commander, Works Engineer,
Military Engineering Services,
Dickenson Road, Bangalore.
4. The Barrack Stores Officer,
O/o the B.S.O. (South)
No.58, Richmond Road,
Bangalore.
5. Shri V. Subramaniam,
Mazdoor, O/o the B.S.O. (South),
Garrison Engineer (South),
Bangalore.
6. Shri Gopalakrishna,
Mazdoor, B/R Central,
Garrison Engineer (South)
Bangalore.
7. The Major,
Garrison Engineer (North),
T/61, Meanee Line,
Bangalore.
8. Shri M. Jaya Kumar,
Major, Chowkidar,
O/o the Garrison Engineer (North),
Bangalore.
9. Shri Shankarappa, major,
Chowkidar, O/o the Garrison-
Engineer (North), Bangalore.
10. Shri B. Muniraj, major,
Chowkidar, O/o the Garrison-
Engineer (North), Bangalore.

.... Common Respondents

.... Sl. Nos. 4 to 6
are Respondents
in A. Nos. 956 to
963/88.

.... Sl. no. 7 to 10 are
Res. No. 4 to 7 in
A. Nos. 1031 to 1033/
1988.

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

These applications having come up for hearing to-day,
Vice-Chairman made the following:

O R D E R

As the questions that arise for determination in these
cases are common, we propose to dispose of them by a common
order.

2. In these applications made under Section 19 of the Administrative Tribunals Act, 1985 ('the Act') the applicants have sought for a direction to the Union of India and its subordinate authorities to be hereinafter referred to as the respondents, to regularise their Services from the respective dates they were initially appointed as Chowkidars C/o Vacant Building ('Chowkidars') with all consequential benefits flowing from the same.

3. From different dates however with monthly breaks, the applicants had been appointed as Chowkidars in one or the other Defence Establishments of the Union of India, as set out by the authorities in their separate replies. But, on and from 10.6.1988 they have not been given such casual engagement/appointment. Hence, these applications, which in reality challenge the terminations of the applicants and pray for regularisation of their services.

4. In support of their principal claim for regularisation, the applicants have strongly relied on O.M. No.49014/18/84-Estt.(C) dated 7.5.1985, a copy of which is produced with some additions as Annexure-A67 in Applications Nos. 956 to 963 of 1983. In their replies, the respondents have not denied this OM relied on by the applicants. But, still they have urged that the applicants were not entitled to the benefits of that OM issued by Government.

5. Shri M.S. Ananda Ramu, learned counsel for the applicants, contends that on the terms of the Order/OM issued by Government on 7.5.1985 and all other previous orders referred to therein, the respondents were bound to consider the cases



of the applicants for regularisation and pass appropriate orders as the circumstances so justify in each case.

6. Shri M. Vasudeva Rao, learned Additional Central Government Standing Counsel appearing for the respondents contends that the applicants were not entitled to regularisation in terms of the Order/OM of the Government made on 7.5.1985.

7. On 7.5.1985 the Government had issued an Order/OM directing its subordinates to regularise the service of those working as on that date, and the same, which is material reads thus:-

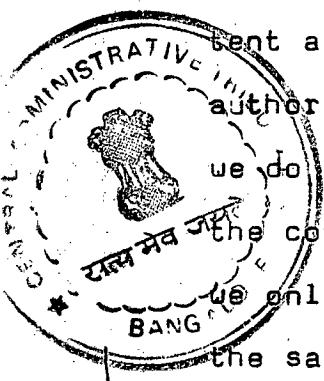
"The undersigned is directed to say that services of casual workers may be regularised in Group 'D' posts in various Ministries Departments etc. Subject to certain conditions, in terms of the general instructions issued by this Department. One of these conditions is that the casual workers concerned should have been recruited through the employment exchange, sponsored by the employment exchange being a basic and essential conditions for recruitment under the Govt. It has repeatedly been brought to the notice of the various administrative authorities that recruitment of casual workers should always be made through the employment exchange. It has, however, come to the notice of the Department that in certain cases these instructions were contra casual workers were recruited otherwise than through the employment exchange. Though these persons, may have been continued as casual workers for number of years, they are not eligible for regular appointment and their services may be terminated anytime.

Having regard to the fact that casual workers belong to the weaker section of the society and termination of their services will cause undue hardship to them, it has been decided, as a one time measure, in consultation with DGE&T that casual workers recruitment before the issue of these instructions may be considered for regular appointment in Group 'D' posts in terms of the general instructions, even if they were recruited otherwise than than through employment exchange, provided they are eligible for regular appointment in all other respects.

2. It is once again reiterated that no appointment of casual workers should be made in future otherwise than through the employment exchange. If any deviation in this regard is committed, responsibility should be fixed and appropriate departmental action taken against the official concerned."

While the applicants claim that they fall within the parameters of this OM, the respondents claim that they do not.

3. But, the respondents do not dispute that so far the competent authority in the case of the applicants had not examined their cases with reference to the same with due regard to the facts and circumstances of each case and had not made his orders one way or the other at all. We need hardly say that this must first be done by the competent authority. Without that being done by the competent authority, we cannot embark on that inquiry. Even otherwise, we do not consider it proper to do so, without insisting on the competent authority first doing the same. On this view, we only consider it proper to insist on the authority to do the same first leaving open all other questions.

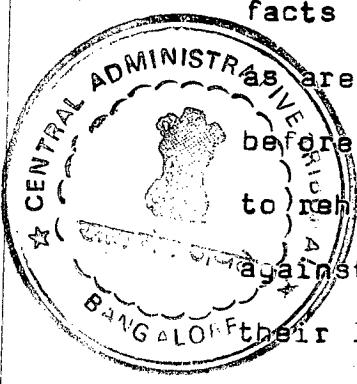


-6-

9. Some of the applicants had been working off and on from 1982 and onwards. We have earlier noticed that all the applicants had been terminated from 10.6.1988. Before the competent authority considers the cases of the applicants for regularisation, we do not consider it proper to take exception to their terminations or grant them any backwages or any other reliefs.

10. Whether there are vacancies against which all or any of the applicants can be accommodated or not, has necessarily to be examined and decided by the authorities themselves. But, if there are vacancies then, it is for the authorities to examine the same with due regard to the length of service of the applicants and accommodate all or any of them even before considering their cases for regularisation. We do hope and trust that they will do so.

11. In the light of our above discussion, we direct the Union of India and its subordinate officers to consider the cases of the applicants for regularisation in terms of Order/OM dated 7.5.1985 of the Government of India and all other orders referred to therein with due regard to the facts and circumstances of each case and pass such orders as are found necessary in each case with expedition. But, before that also, the authorities shall make all efforts to rehabilitate all or any of them on any ad hoc basis against vacancies that exist or arise (with due regard to their length of service).



TRUE COPY

12. Applications are disposed of in the above terms. But, in the circumstances of the cases, we direct the parties to bear their own costs.

[Signature]
SECTION OFFICER 2115
CENTRAL ADMINISTRATIVE TRIBUNAL
ADDITIONAL BENCH
BANGALORE/MRV

Sd/-
VICE-CHAIRMAN 12/9/88

Sd/-
MEMBER (A) 13.12.1988

CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE BENCH

Commercial Complex (BDA)
Indiranagar
Bangalore - 560 038

Dated : 8 JUN 1989

CONTEMPT

PETITION (CIVIL) APPLICATION NO (S) 16 to 26 / 89
IN A.NOS. 956 to 963 & 1031 to 1033/88(F)
W.P. NO (S)

Applicant (s)

Shri N.S. Ramesh & 10 Ors

To

1. Shri N.S. Ramesh
2. Shri Navichander
3. Shri Venkateshala
4. Shri P. Dayalan
5. Shri Loganathan
6. Shri A. Solomon
7. Shri K. Gopinathan
8. Shri D. Rajan
9. Shri Irudaya Selvam
10. Shri Ravi Kumar
11. Shri Elumalai

(Sl Nos. 1 to 11 -

C/o Shri M.S. Anandaramu
Advocate
128, Cubbonpet Main Road
Bangalore - 560 002)

Respondent (s)

V/s The Secretary, M/o Defence, New Delhi & 3 Ors

12. Shri M.S. Anandaramu
Advocate
128, Cubbonpet Main Road
Bangalore - 560 002
13. The Secretary
Ministry of Defence
New Delhi - 110 011
14. The Chief Engineer
Military Engineering Service
Madras Zone
Islands Ground
Madras - 600 009
15. The Commander Works Engineer
Military Engineering Service
Dickenson Road
Bangalore - 560 042
16. The Barrack Stores Officer
Office of the B.S.O. (South)
No. 58, Richmond Road
Bangalore - 560 025
17. Shri M. Vasudeva Rao
Central Govt. Stng Counsel
High Court Building
Bangalore - 560 001

Subject : SENDING COPIES OF ORDER PASSED BY THE BENCH

Please find enclosed herewith a copy of ORDER/STAY/INTERIM ORDER
passed by this Tribunal in the above said application(s) on 1-6-89.

Avv. Venkatesh
DEPUTY REGISTRAR
(JUDICIAL)

CENTRAL ADMINISTRATIVE TRIBUNAL:BANGALORE.

DATED THIS THE 1st DAY OF JUNE,1989.

PRESENT:

Hon'ble Mr.Justice K.S.Puttaswamy,

.. Vice-Chairman.

And

Hon'ble Mr.L.H.A.Rego,

.. Member(A).

CONTEMPT PETITION NOS.16 TO 26 OF 1989

in

APPLICATION NOS.956 TO 963 AND 1031 TO 1033 OF 1988

1. N.S.Ramesh,
S/o N.Subramaniam,
Aged about 32 years.
2. Navichander,
S/o M.Govindaraj,
Aged about 24 years,
3. Venkatachala,
S/o V.Venkatappa,
Aged about 28 years,
4. P.Dayalan,
S/o Ponnurangam,K.
Aged about 29 years.
5. Loganathan,
S/o Shri Magalingam,
Aged about 29 years,
6. A.Soloman,
S/o A.Anthony,
Aged about 22 years.
7. K.Gopinathan,
S/o Sri Krishna Nair,K.
Aged about 31 years.
8. D.Rajan,
S/o Shri S.C.Dass,
Aged about 28 years,
Sl.Nos.1 to 8 are working as
Chowkidars in the office of the
Garrison Engineer (South)Bangalore.
9. Irudaya Selvam,
S/o A.Savari Muthu,
Major.
10. Ravi Kumar,
S/o Sundar Rajan,
Aged about 24 years.
11. Elumalai,
S/o Chinna,
Aged about 26 years.
Sl.Nos. 9 to 11 are working
as Chowkidars in the office of the
Garrison Engineer(North) Bangalore.

.. Petitioners.

(By Sri M.S.Anandaramu,Advocate)

1. The Union of India, represented by the Secretary, M/o Defence, New Delhi.

2. The Chief Engineer, Madras Zone, Islands Ground, Madras.

3. The Commander, Works Engineer, Military Engineering Services, Dickenson Road, Bangalore.

4. The Barrack Stores Officer, O/o the B.S.O (South), No.58, Richmond Road, Bangalore. .. Respondents.

(By Sri M. Vasudeva Rao, Additional Central Govt. Standing Counsel).

These petitions having come up for hearing this day, Hon'ble Vice-Chairman made the following:

O R D E R

Petitioners by Sri M.S. Anandaramu. Respondents by Sri M. Vasudeva Rao, Additional Central Government Standing Counsel.

2. In these petitions made under Section 17 of the Administrative Tribunals Act, 1985 and the Contempt of Courts Act, 1971, the petitioners have moved us to punish the respondents for non-implementation of an order made by us on 13-9-1988 in Application Nos. 956 to 963 and 1031 to 1033 of 1988.

3. In our order we directed the respondents to consider the cases of the applicants/petitioners for regularisation in terms of Order/OM dated 7-5-1985 of Government of India. Sri Rao has placed before us separate but identical orders ~~excess~~ made by the competent authority on 26-5-1989 in favour of each of the petitioner appointing him on regular basis. On the basis of this order Sri Rao urges that the respondents have complied with our order in letter and spirit and therefore, these contempt of court proceedings be dropped. Sri Anandaramu who has perused the orders made by the competent authority does not rightly dispute this position. From this it is clear that the respondents have complied with our order in letter and spirit.

If that is so, then these contempt of court proceedings are liable to be dropped. We, therefore, drop these contempt of court proceedings. But, in the circumstances of the cases, we direct the parties to bear their own costs.

Sd/-

VICE-CHAIRMAN

1-b-1989

Sd/-

MEMBER (A)



TRUE COPY

• *D. V. Venkatesh Rao*
DEPUTY REGISTRAR (JD) 18/10
CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE

16-29