

CENTRAL ADMINISTRATIVE TRIBUNAL

BANGALORE BENCH

Commercial Complex(BDA)
Indiranagar
Bangalore - 560 038

Dated : 14 APR 1988

CONTEMPT OF COURT APPLICATION NO
IN APPLICATION NO. 474/86(F)
W.P. NO.

11

/88

Applicant

Shri Sanjeeva Rai

To

Respondent

V/s

The Sr Supdt of Post Offices, Puttur(DK)
and another

1. Shri Sanjeeva Rai
E.D. Sub-Post Master
Kodimbady - 574 287
(Via) Uppinangadi
Dakshina Kannada District
2. Shri U. Panduranga Nayak
Advocate
No. 7 (Upstairs), 4th Cross
Sriramapuram
Bangalore - 560 023
3. The Senior Superintendent of
Post Offices
Puttur Division
Puttur (Dakshina Kannada District)
4. The Director of Postal Services(S.K.)
Office of the Post Master General
Bangalore - 560 001
5. Shri M.S. Padmarajaiah
Central Govt. Stng Counsel
High Court Building
Bangalore - 560 001

Subject : SENDING COPIES OF ORDER PASSED BY THE BENCH

Please find enclosed herewith the copy of ORDER/~~9000/~~~~INTERIM ORDER~~
passed by this Tribunal in the above said Contempt of Court application on 6-4-88.

R. Venkatesh
DEPUTY REGISTRAR
(JUDICIAL)

Encl : As above

dc

CENTRAL ADMINISTRATIVE TRIBUNAL: BANGALORE

DATED THIS THE 6TH DAY OF APRIL, 1988.

PRESENT:

Hon'ble Mr. Justice K.S. Puttaswamy, .. Vice-Chairman.

And:

Hon'ble Mr. P. Srinivasan. .. Member(A)

CONTEMPT OF COURT APPLICATION NO. 11 OF 1988

P. Sanjeeva Rai,
E.D. Sub-Post Master,
Kodimbady 574 287
via. Uppinangadi.

.. Petitioner.

(By Sri U. Panduranga Nayak, Advocate)

v.

1. Senior Superintendent of Post
Offices, Puttur (D.K) Division,
Puttur.

2. Director of Postal Services (SK)
Office of the Postmaster General,
Bangalore.

.. Contemnors.

(By Sri M.S. Padmarajaiah, SCGSC)

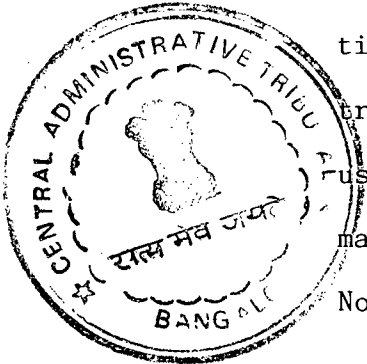
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This application having come up for hearing this day, Vice-Chairman made the following:

ORDER

In this application made under Section 17 of the Administrative Tribunals Act, 1985 and the Contempt of Courts Act, 1971 (Central Act No. 70 of 1971) ('the Acts'), the petitioner had moved us to punish the contemnors for non-implementation of an order made in his favour by this Tribunal on 11-8-1986 in Application No. 474 of 1986.

2. In Application No. 474 of 1986 the petitioner while challenging his removal made by contemnor No. 1 on 25-6-1984, affirmed in appeal on 7-6-1985 by contemnor No. 2, had sought for his reinstatement to service with all consequential benefits. On 11-8-1986 a Division Bench of this Tribunal consisting of Sri



Sri L.H.A.Rego, Member(A) and Sri Ch.Ramakrishna Rao, Member(J) allowed the same reserving liberty to the authorities to hold a fresh inquiry on the second charge levelled against the petitioner. In pursuance of this order, the contemnors had reinstated the petitioner to service from 15-12-1986. On such reinstatement the petitioner moved the contemnors for payment of all allowances due to him from his removal to his reinstatement.

3. On an examination of that request of the petitioner the Post Master General, Karnataka, Bangalore ('PMG') had rejected the same on 14-4-1987 and that order reads thus:

Sub: Payment of wages to Sri P.Sanjeeva Rao,
E.D.S.,P.M.,Kodiambady, S.O.

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Sir,

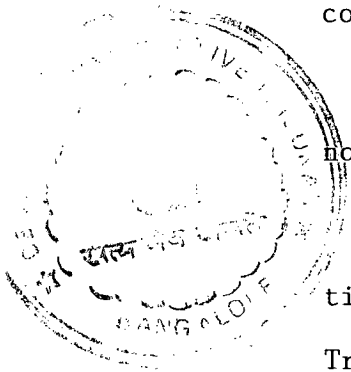
With reference to your letter No.NU/CAT-ARR/86 dated 11-2-1987 and reminder dated 30-3-1987 I am directed to inform you that the Hon'ble Tribunal has ordered that the E.D.Agents should be reinstated with consequential benefits and this does not necessarily be interpreted as wages for the put off duty period. If the Hon'ble Tribunal had meant this, they would have specifically stated this in their order as they have done in other cases. The question of paying the E.D.agent wages will not therefore arise.

Besides, unions are precluded from taking up individual cases.

The petitioner claims that the denial, which is not justified, constitutes contempt of this Tribunal.

4. In justification of the order made by the PMG the contemnors have filed their reply.

5. Sri U.Panduranga Nayak, learned counsel for the petitioner contends that on the terms of the order made by this Tribunal in Application No.474 of 1986 his client was entitled for payment of allowances from the date of his removal to the date of his reinstatement to service and the denial of the same constitutes contempt of this Tribunal.



6. Sri M.S.Padmarajaiah, learned Senior Central Government Standing Counsel appearing for the contemnors, contends that in the absence of an express order by this Tribunal, the contemnors were justified in denying the allowances claimed by the petitioner and that in any event the view taken by the PMG does not constitute contempt of this Tribunal to justify action under the Contempt of Courts Act.

7. We have earlier set out the nature of the relief sought for by the petitioner.

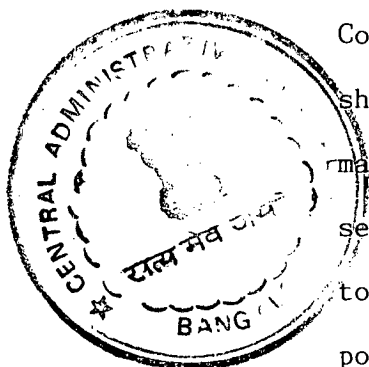
8. On an examination of the claims made by the petitioner, the Division Bench made its order thus:

5. The respondents, however, are at liberty to proceed with the enquiry against the applicant de novo, in respect of the second charge, rectifying the above and other defects if any.

6. In the result, the application is allowed.

In this order, the Tribunal had not specifically denied the allowances due to the petitioner from the date of his removal to the date of his reinstatement to service. But, that does not necessarily mean that this Tribunal had denied the same also.

9. When an order of removal is quashed or set aside by a Court or a Tribunal, its legal effect will be that the relationship of master and servant which stood snapped by removal automatically stands restored from the very date of removal from service. In other words, the order of removal cannot be deemed to have ever existed in the eye of law. If this the true legal position, then unless the Tribunal in express terms denies backwages, as it is always open to it to do so, a civil servant automatically becomes entitled to payment of backwages from the date of his removal to the date of his reinstatement to service. On this legal position, which is true of the order



made by this Tribunal, in his favour, the petitioner was undoubtedly entitled for payment of allowances from the date of his removal to the date of his reinstatement to service. We need hardly say that the contrary view expressed by the PMG on 14-4-1987 and given effect to by the contemnors is not sound and cannot be accepted. But, by reason of this only, we cannot hold that the contemnors had deliberately flouted the order of this Tribunal and have committed contempt. We are satisfied that their action though wrong is bona fide. On this view, it is not proper to initiate proceedings against the contemnors or the PMG under the Contempt of Courts Act. We must, therefore, drop these proceedings with appropriate directions to the contemnors.

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

1. We drop these contempt of court proceedings against the contemnors. But, we direct the contemnors to make payment of all the allowances due to the petitioner from the date of his removal from service to the date of his reinstatement to service with all such expedition as is possible in the circumstances of the case and in any event within a period of three months from the date of receipt of this order.

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



NPI

Sd/-
VICE-CHAIRMAN. 6/4/88.

Sd/-
MEMBER(A) 6/4/88

TRUE COPY

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