

CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE BENCH

Commercial Complex (BDA)
Indiranagar
Bangalore - 560 038

Dated : 27 FEB 1989

APPLICATION NO (S) 57 /89(F)

W.P. NO (S) _____

Applicant (s)

Dr V. Pushpakantha

v/s

To need two copies
P. V. Ananthanarayanan 27/2/89

1. Dr V. Pushpakantha
Medical Officer
Central Hospital
Medi Workers Welfare Fund
Station cum-Mobile
Cannanore District
Kerala

2. Shri D. Sreedharan
Advocate
Indira Mahal Lodge
5th Main Road
Gandhinagar
Bangalore - 560 009

3. The Welfare Commissioner
Labour Welfare Organisation
for Karnataka, Kerala
Govt. of India
75, Millers Road 1st Floor
Vasantha Nagar
Bangalore - 560 052

Respondent (s)

The Welfare Commissioner, Labour Welfare
Organisation for Karnataka, Kerala, Govt.
Bangalore & 2 Orc

4. The Secretary
Ministry of Labour
Shram Shakti Bhawan
New Delhi - 110 001
5. The Assistant Welfare Commissioner
Labour Welfare Organisation
Ministry of Labour
Govt. of India
Cannanore (Kerala State)
6. 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/STW/ADT/DRX/ORDER/DRX
passed by this Tribunal in the above said application(s) on 20-2-89.

4886
R. V. Ananthanarayanan
27-2-89

O/C RAV Venkatesh Rao
DEPUTY REGISTRAR
(JUDICIAL)

Encl : As above

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE BENCH: BANGALORE

DATED THIS THE TWENTIETH DAY OF FEBRUARY, 1989.

Present: Hon'ble Shri Justice K.S. Puttaswamy .. Vice Chairman
Hon'ble Shri L.H.A. Rego .. Member(A)

APPLICATION NO.57/1989

Dr. Smt. V. Pushpakantha
D/o. late P. Venugopal
Major, Medical Officer
Central Hospital
Beedi Workers Welfare Fund
Station cum-Mobile
Cannanore District
Kerala

.. Applicant

(Shri O. Sreedharan, Advocate)

Vs.

1. The Welfare Commissioner
Labour Welfare Organisation
for Karnataka, Kerala
Government of India
75, Millers Road
I Floor, Vasanthanagar
Bangalore - 560 052.

2. Union of India by
its Secretary
Ministry of Labour
New Delhi.

3. Assistant Welfare Commissioner
Cannanore, Kerala State.

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

.. Respondents

This application having come up
for hearing before this Tribunal today, Hon'ble
Vice Chairman made the following:

ORDER

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

2. Dr. Smt. V. Pushpakantha, the
applicant is a member of a scheduled caste ('SC')

and holds a medical MBBS degree. In Memorandum No.24(1)/4/C-1/82 dated 24-4-1987 the Welfare Commissioner, Welfare Organisation, Ministry of Labour, Government of India, Bangalore, (Commissioner) - respondent - 1 appointed the applicant as a Medical Officer on ad hoc basis on the terms and conditions stipulated in that order. In pursuance of that and a later order made thereon, the applicant was posted to Kariganur where she reported for duty on 25-7-1987. In Office Order No.24(1)/1/C-1/87 Vol.II dated 14.6.1988 the Commissioner posted one Dr. (Kum.) D.A. Nalini Eshwari in the place of the applicant and terminated her services from 29.7.1988 on which day the former joined the post. In Application No.1148 of 1988, the applicant challenged the said order on diverse grounds. On 6-12-1988, a Division Bench of this Tribunal consisting of one of us (Justice K.S. Puttaswamy, VC) and Hon'ble Shri P. Srinivasan, Member (A) allowed the same on these terms:

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

- 1) We quash the impugned office order no.24(1)/1/C-1/87-Vol. II dated 14.6.1988 in so far as it relates to the termination of the applicant.
- 2) We direct the respondent nos. 1 and 2 to reinstate and give a posting to the applicant on such terms and conditions as may be decided by them, with all such expedition as is possible and in any event without fail from 1.1.1989. But till then, the applicant need not be paid any salaries. "

In the purported compliance of this order, respondent-1 in his Memorandum No.23/15/3/C1/88 dated 23.12.1988

.....3/-

(Annexure-E) had appointed the applicant from that date till 16.1.1989 or till a regular Central Government Health Service Medical Officer appointed by the Union Ministry of Health joins duty or till she attains the age of 45 years or until further orders, the validity of which is challenged by her before us.

3. In resisting this application, the respondents have filed their reply and have produced their records.

4. Shri O. Sreedharan, learned Advocate has appeared for the applicant. Shri M. Vasudeva Rao, learned Additional Central Government Standing Counsel has appeared for the respondents.

5. Shri Sreedharan contends that on the terms of the order made by this Tribunal on 6.12.1988 (Annexure-D) the applicant should have been reinstated to the original post she held and the fresh appointment order issued by the Commissioner, which was in contravention of the same is illegal, impermissible and unjust.

6. Shri Vasudeva Rao sought to support the impugned order.

7. We have earlier adverted to the appointment order of the applicant made by the Commissioner on 24.4.1987, the developments that ensued thereafter and the order made by this Tribunal on 6.12.1988. On the terms of the order made by this Tribunal, all that was open to the Commissioner was to reinstate the applicant to



the original post she held on the date of her termination and continue her in terms of her earlier appointment order dated 24.4.1987 however exercising the power of transfer, if any in public interest. But, the Commissioner instead of doing so as he was bound to in law, illegally and inaptly issued a fresh appointment order in contravention of our earlier order. On the terms of his first appointment order and the order made by us, this was not permissible.

8. On the eligibility of the applicant for appointment on the first occasion which should be taken as the real datum for appointment, we had expressed that the applicant was eligible for appointment. On that question the matter stood concluded by our order. What stood concluded by our order could not be set at naught by making a fresh appointment on the second occasion by way of purported compliance of our order. On this ground also we must hold that the second appointment order made by the Commissioner on 23-12-1988 (Annexure-E) is illegal and calls for our interference.

9. On any view, we have no alternative except to quash the impugned order and direct the respondent to continue the services of the applicant on the terms of the order dated 24.4.1987 and our order dated 6.12.1988. On the view, we consider it unnecessary to examine all other

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questions and we, therefore, leave them open.

10. In the light of our above discussion we allow this application in part. Quash Memorandum No.23/15/3/C1/88 dated 22.2.1988 of the Commissioner and direct the respondents to continue the services of the applicant in terms of the order dated 24.4.1987 of the Commissioner and our order dated 6.12.1988 in Application No.1148 of 1988.

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.

Sd/-

VC 20/2/88

Sd/-

MEMBER(A) T-20-2-499

TRUE COPY

mr.

B. N. Venkateshwaran
DEPUTY REGISTRAR (JDLY) 27/2/88
CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE