

CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE BENCH

Second Floor,
Commercial Complex,
Indiranagar,
Bangalore-560 038.

Dated: 2 SEP 1993

APPLICATION NO(s). C.P.NO. 17/93

Applicant(s) N. PRABHAKAR and anr. Respondent(s) Raghavendra N.K.
and anr.

To

received
Dated
02/09/93

① N. Prabhakar,
Ex- probationer
Wheel and Axel plant (Electrical)
Now R/C No. 128,
Afsar Ali Reddy Layout,
Bengaluru, Blr. 45.

⑤ Sh. Ranganathan,
Advocate No. 36,
Vaidhevi, Shantinagar,
Shantinagar,
Bangalore 560004.

②

H. Mallikarjunulu
Ex- wheel unit operator,
H.no. 184, Ews III stage,
22-B Cross road,
New Town Yelahanka, Blr. 64.

⑥ Sh. A.N. Venugopal,
Advocate,
No. 4, RV Road,
Opp. Bangalore Hospital
Bangalore.

③

Raghavendra N.K.
General Manager (personnel)
Wheel and Axel plant,
Yelahanka, Blr. 64.

④

K.L. Chittaboy
Chief Mechanical Engineer
Wheel and Axel plant,
Yelahanka, Blr. 64.

SUBJECT:- Forwarding of copies of the Order passed by
the Central Administrative Tribunal, Bangalore Bench
Bangalore.

Please find enclosed herewith a copy of the ORDER/
STAY/INTERIM ORDER passed by this Tribunal in the above said
application(s) on 11/8/93

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* DEPUTY REGISTRAR
JUDICIAL BRANCHES.

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE BENCH, BANGALORE

DATED THIS DAY THE 11TH OF AUGUST, 1993

Present: Hon'ble Mr.V. Ramakrishnan

Member (A)

Hon'ble Mr.A.N. Vujjanaradhaya

Member (J)

CONTEMPT PETITION NO.17/93

1. Shri N. Prabhakar,
Ex-Probationer,
Wheel & Axle Plant(Electrical)
now R/o No.128,
Abbaiah Reddy Layout,
Banasavadi Layout,
Bangalore - 43

2. Shri H. Mallikarjuna,
Ex-Wheel Unit Operator,
H.No.1804, EWS III Stage,
22-B Cross Road,
New Town, Yelahanka,
Bangalore-64

Petitioners

(Shri Ranganatha Jois - Advocate)

v.

1. Shri Raghavendra, N.K.,
General Manager(Personnel),
Wheel & Axle Plant,
Yelahanka
Bangalore - 64

2. Shri K.L. Chhabra,
Chief Mechanical Engineer,
Wheel & Axle Plant,
Yelahanka,
Bangalore - 64

Respondents/
Alleged
contemnners

This contempt petition has come up today
before this Tribunal for orders. Hon'ble Mr.V.
Ramakrishnan, Member (A) made the following:

ORDER

The petitioners in this case got the following direction from this Tribunal in O.A. Nos. 157 & 263 of 1992 which were disposed off on 28.1.1993:

"It is trite law that during the period of probation the employers are at liberty to order termination of services of the probationers and could resort to the same in terms of the order of appointment. But then when the services of probationers are sought to be terminated because of some misconduct, the employer will have to hold an enquiry and thereafter make an order of termination. This fact is agreed to by both sides. It is apparent from the impugned order that both the applicants are penalised for misconduct, alleging they had participated in the illegal strike. Shri A.N. Venugopal for the respondents tells us that charge was also on the ground of illegal absence from duty which of course is apparent from the impugned order itself. It is clear as day light that both the applicants were punished by having their services terminated because of the alleged misconduct. In that situation the respondents could not have passed such order of termination without holding an appropriate enquiry. In these circumstances, we allow the applications and quash the impugned order in both the cases.

Shri Ranganatha Jois for the applicants says that the impugned orders being void the period of their absence may be regularised and the applicants be granted all the benefits they are entitled to. Shri Karanth for the respondents says that the impugned order is not a void order although it may be an invalid order and therefore it should be left to the authorities to regulate the period of absence i.e. from the date of the issue of the impugned order to the date of reinstatement to which the probationers will become entitled to. Accordingly, we direct the authorities to regulate the period of absence as we think that this is not a case of total absence of jurisdiction and want of competence. It may be a case of exercise of authority contrary to law. Probationers cannot be penalised without an enquiry and this being clearly a case of punishing the probationers for misconduct i.e. not preceded by an appropriate enquiry amounting in law to invalid exercise of power. We, therefore, leave it to the Department itself to decide as to how the period of absence should be treated. The respondents will be at liberty to take necessary action in accordance with

law including that of regularisation of period of absence from duties. No costs."

2. We now find that the applicants have been reinstated in service and are facing an enquiry. As regards the period of absence from the date of termination till the date of reinstatement, the railway authorities have still not passed orders. Shri A.N. Venugopal for the respondents, the alleged contemner's submitted before us that this would be done in a month's time. We direct the Railways to comply with this portion of the order within a month from today. With these observations, this contempt petition stands disposed off finally. No costs.

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Sd-

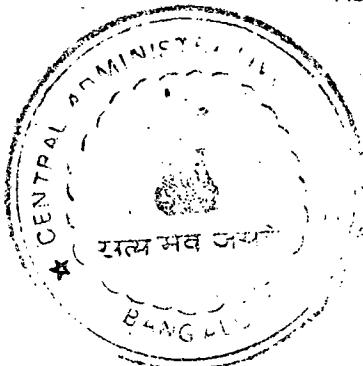
11/2/77
MEMBER (J)

Sd-

11/2/77
MEMBER (A)

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SECTION OFFICER
GENERAL DIRECTIVE DEPT.
ADMINISTRATIVE
MANAGER



Arindal
21/2/77

CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE BENCH

Second Floor,
Commercial Complex,
Indiranagar,
Bangalore-560 038.

Contempt Petition No. 17 of 1993 in Dated:- 6 SEP 1994

APPLICATION NUMBER: 157 of 1992 and 263 of 1992.

APPLICANTS:

Sri. N. Prabhakar and another v/s. General Manager, Wheel and Axle Plant, Bangalore and others.
To:

To
1.

Sri. Ranganath Jois, Advocate,
No. 36, Vagdevi, Shankarapark,
Shankarapuram, Bangalore-560 004.

2.

Sri. A. N. Venkopal Gowda, Advocate,
No. 8/2, First Floor, R.V. Road, Bangalore-4.

Subject:- Forwarding of copies of the Orders passed by the
Central Administrative Tribunal, Bangalore.

Please find enclosed herewith a copy of the ORDER/
STAY ORDER/INTERIM ORDER/, passed by this Tribunal in the above
mentioned application(s) on 24th August, 1994.

Issued on

7/9/94

g/c

for DEPUTY REGISTRAR
JUDICIAL BRANCHES.

S. G. Shanthaveerappa

Shri N. Prabhakar & Another. v/s. G. M. Wheel and Axle plant
 -4- CP No. 17/93 P. I. O. & others

Date	Office Notes	Orders of Tribunal
		<p>(P.K.S) v/s (G.M.R) M.R.A 24.8.1994.</p> <p>We have heard both sides. There is no violation of the direction of the Tribunal made while disposing off O.A. 157 & 263/92. Mr. K. S. Iyer had said in those applications has to ask the department to regularize the period of absence of the applicant in accordance with law and that having been done, if the applicant is not satisfied with whatever has been done he will have to challenge the same separately and not seek to adapt contempt proceeding. This application is therefore dismissed.</p> <p style="text-align: right;">Sd/- Sd/-</p>



TRUE COPY
 S. S. Shrivastava
 Section Officer
 Central Administrative Tribunal
 Bangalore Bench
 Bangalore