

CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE BENCH

Second Floor,
Commercial Complex,
Indiranagar,
Bangalore-560038.

Review Application No.5/93 in

Dated: **15 OCT 1993**

APPLICATION NO(S) 507 of 1992.

APPLICANTS: Sri.P.Ramesh

RESPONDENTS: Chief General Manager,
Karnataka Telecom Circle, Bangalore
and Others.

TO.

1. Dr.M.S.Nagareja,
Advocate, No.11,
First Cross,
Second Floor,
Sujatha Complex,
Gandhinagar, Bangalore-9.
2. The Chief General Manager,
Telecommunication,
Karnataka Circle,
Old Madras Road, Ulsoor, Bangalore-9.
3. Sri.M.S.Padmarajaiah,
Central Govt.Stng.Counsel,
High Court Building,
Bangalore-1.

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

Please find enclosed herewith a copy of the
ORDER/STAY/INTERIM ORDER, passed by this Tribunal in the
above said application(s) on 06-10-1993.

Issued
*gm**

of
DEPUTY REGISTRAR
JUDICIAL BRANCHES.

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE BENCH: BANGALORE

DATED THIS SIXTH DAY OF OCTOBER, 1993

Present: Hon'ble Shri S.Gurusankaran, Member (A)

Hon'ble Shri A.N.Vujjanaradhya, Member (J)

REVIEW APPLICATION NO.5/93 IN OA 507/92

Sri P.Ramesh,
aged 24 years,
S/o Sri Ganapathy,
C/o Dr.M.S.Nagaraja, Advocate,
No.11, 2nd Floor, 1st Cross,
1st Main,
Gandhinagar,
Bangalore-560 009.

....Applicant

(Dr.M.S.Nagaraja - Advocate)

Versus

1. The Sub-Divisional Officer,
Telecommunications, BDX,
Bidar - 585 401.
2. The Telecom Dist., Engineer,
Bidar Division,
Bidar-585 401.
3. The Chief General Manager,
Telecommunication,
Karnataka Circle.
Bangalore-560 009.
4. Union of India represented by
Secretary to Government,
Ministry of Communication,
Sanchar Bhavan,
New Delhi.

... Respondents

(Shri M.S.Padmarajaiah - Advocate)

This Review Application having come up for admission
before this Tribunal today; Hon'ble Shri S.G urusankaran, Member (A)
made the following:

ORDER

This Review Application has been filed by the applicant
in OA 507/92, which came to be rejected at the admission stage itself



by a bench of this Tribunal by order dated 18.12.1992. It was held in that case that it was not a fit case, where this Tribunal would be justified in exercising its discretion in entertaining the application without the applicant first exhausting the remedies available under I.D.Act.

2. The main ground on which the applicant seeks review of the judgment is that all the submissions made by the applicant were not taken into consideration and findings given in the judgment and hence there are mistakes apparent on the face of the record, which necessitate the judgment to be recalled and reviewed. We are unable to agree with this submission. The scope of review application is very limited. The error apparent on the face of the record cannot mean the points, which are urged either in the pleadings or during the oral arguments and which have not been specifically considered in the judgment and the findings given. Normally a judgment has to take into account only the essential points raised by the applicant and it is also not necessary to refer to all the case laws cited by the applicant. For instance, in this case itself, the applicant had cited a large number of cases to prove that even after the judgment of larger bench of this Tribunal in Padmavallabha's case ((1990) 14 ATC 914) various benches of this Tribunal have admitted and adjudicated upon the cases involving casual labour. It was not necessary to refer to them, since in our view ~~at~~ the law laid down by a larger bench of this Tribunal is binding on all benches and these judgments did not or could not in any way change the ratio laid down in Padmavallabha's case.

3. In our opinion what the applicant is trying to do in the form of a review application is to re-urge the points raised by him during the arguments as well as in the application and get a re-hearing of the case. This is obviously neither permissible nor desirable.

4. For example, the applicant has stated in para 4 of his review application that the Administrative Tribunals have been constituted



for the purpose of ensuring speedy, efficacious and less expensive remedy. Therefore, directing the lowest paid employee in Government to the Labour Court or Industrial Tribunal in the first instance would be contrary to the aims and objectives of the Administrative Tribunals Act. It is not at all necessary for us to refer to this submission or give a finding on this issue, since we are bound by the conclusions arrived at by a larger bench in Padmavalli's case that "an applicant seeking relief under the provisions of ID Act must ordinarily exhaust the remedies available under the Act."

5. Similarly in para 5 of the application, the applicant has stated that he has raised the question of power of superintendence of the Central Administrative Tribunal over the Labour Court and Industrial Tribunal. Again this question is well settled by the decision of a full Bench of this Tribunal in the case of General Manager, Southern Railway, Madras and Ors. Vs. Presiding Officer, Central Govt. Labour Court and Ors. ((1987) 4 ATC 912). In that case the Presiding Officer, Central Govt. Labour Court was the main respondent. It was held by the Full Bench that such applications under articles 226/227 of the Constitution against the orders of the Labour Court will lie only to the Central Administrative Tribunals on and from the date of setting up these Tribunals, since after the date no Civil Court including the High Court has jurisdiction to deal with service matters of Central Government Employees. It is also clear from the findings of the Full Bench judgment that this Tribunal exercises judicial Superintendence over Labour Courts under article 227 concerning cases filed by Central Government employees before these Tribunals, Labour Courts etc., as distinct from administrative superintendence, which will always remain with the High Court. The Full Bench decision in the case of U.O.I. Vs. Sarup Chand Singhal (1989 (1) SLJ (CAT) 491) concerning payment of wages Wages Authority and Workmen's Compensation Act authority is also on the same lines.



6. This the reason why no reference was made to these contentions, since these matters are already well settled and binding on us and it is not necessary for the Tribunal to refer to such points again particularly, since reference was invited to these Full Bench judgments.

7. The applicant has also urged that most of the cases in Industrial Tribunals or Labour Court get delayed very much beyond the period of six months. The Administrative Tribunals have been set up for ensuring speedy and efficacious disposal of cases redressing the grievances of employees and hence the applicant should not be directed to approach the Industrial Tribunal first, before coming to the Administrative Tribunal. Again we find no merit in this submission, since this aspect should also be deemed to have been covered by the judgment in Padmavally's case, which is binding on this bench. Even though this aspect of delay in the Labour Courts has not been specifically discussed in Padmavally's case, it cannot be said that the Members of the Larger Bench were not aware of the working of the Labour Courts and had this point been considered, the conclusion would have been different. As pointed out by the Madras Bench of this Tribunal in the case of R. A thiraj Vs. UOI (OA 58/91 and MP 17/91 decided on 19.1.1991), if the Law maker has provided certain machinery under a particular Act, he has done so with full wisdom and such scheme cannot be disturbed by this Tribunal. In the case of VISL contract worker's Association Vs. Visweswaraya Iron & Steel Co., Ltd. (1991 Lab IC 1702) the Karnataka High Court has held that delay in disposal of proceedings in Labour Court is no ground to exercise writ jurisdiction. In any case, if the applicant feels that he is aggrieved by the findings in Padmavally and other cases the remedy lies elsewhere and not in review application in the present case.

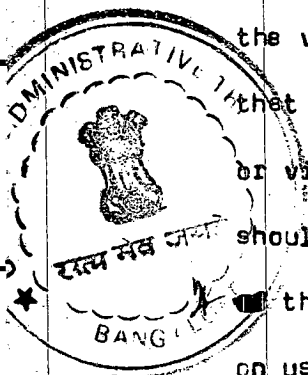


8. Finally Dr. Nagaraja pointed out that even after the judgment in Padmavalli's case the Tribunals have been admitting certain applications regarding the grievances of the casual labour and adjudicating upon them. He, therefore, argued that the conclusions reached in Padmavalli's case should be interpreted to mean that all applications concerning casual labours and seeking remedies under the ID Act should be admitted straightaway by the Tribunal, if there are violation of the provisions of ID Act or violation of Fundamental Rights under articles 14 and 16 of the constitution. It is true that as pointed out by the learned counsel for the applicant that in some cases, the applications are admitted while in other cases, they are not admitted, because the concerned Tribunals feel that alternative remedies available should be exhausted depending on the facts and circumstance of the case. It is neither feasible nor necessary to lay down, as argued by the learned counsel for the applicant, detailed guide lines as to what sort of cases should be admitted by the Tribunal concerning casual labour and claiming relief under the ID Act. Just like the judicial discretion and jurisprudence exercised by the Tribunals in allowing the applications for condoning delays, granting interim reliefs etc., it is for the Tribunal to use its discretionary powers depending upon the conspectus and circumstances of each case. In our view only in very exceptional cases, where a grave injustice is committed, a large number of people are affected and the Tribunal feels that the monstrosity of the situation cry for timely judicial interdict or mandate, the Tribunal can retain an application without exhausting the alternative remedies provided under I.D. Act. Dr. Nagaraja submitted that since the applicant who has lost his job is deprived of any other source of income, it should be considered as grave injustice and the application should be admitted. This would mean that in every case, where the casual labour is removed from service or has not been engaged further, should be admitted, without exhausting alternative remedy under the ID Act. This is not the ratio



laid down in Padmavally's case. Similarly every infraction of the provisions of ID Act like section 25-F cannot be stretched to conclude that fundamental rights under articles 14 and 16 have been violated and the applications should be admitted as it would defeat the ratio laid down in Padmavally's case.

9. While dictating the judgment Dr. Nageraja sought intervention at this point and drew our attention again to the judgment of the Bombay bench of this Tribunal in the case of S.M. Gaikwad Vs. Secretary to Govt. of India reported in 1993 (1) SLJ (CAT) 227. He pointed out that it has been held in para six of that judgment that since the applicant was discharged from service contrary to section 25F of the ID Act and the action of the respondents was arbitrary and resulted in violation of Fundamental Rights, the Tribunal could entertain and grant the relief. At the cost of the repetition, we may observe that these observations of the various benches in specific cases do not lay down the law or ratio that in every case, where there has been violation of fundamental rights or violation of provisions of Industrial Disputes Act, the Tribunal should invariably admit the application. There is no such finding in these cases. Even if there is such ^a finding, that cannot be binding on us, since the findings of larger bench in Padmavally's case is binding on all the benches of this Tribunal. The conclusion in Padmavally's case lays down that if the applicant is seeking reliefs under the provisions of the ID Act, like being discharged without following provisions of 25F of the ID Act, violation of provisions that the last man in should be the first man to go out, re-engagement as per seniority etc., he must ordinarily exhaust the remedies available to him under the ID Act before approaching this Tribunal. In the case of B. Parameshwara Rao Vs. Divisional Engineer (1990 (2) SLJ (CAT) 525), a Full Bench of this Tribunal has explained that the word "ordinarily" connotes a discretionary power in the Tribunal but it has to be exercised in ~~some~~ ^{rare and} exceptional cases and not usually or casually. In the case of John Lucas Vs. Additional



Chief Mechanical Engineer, South Central Railway ((1987) 3 ATC 328), a Full Bench of this Tribunal has observed that for invoking the jurisdiction of the Tribunal, any person aggrieved by an order has to confirm to the provisions of the Administrative Tribunals Act. Once the matter is admitted, the Tribunal has the same jurisdiction and authority as the High Court. This important aspect has to be kept in view always. Hence, the submission of Dr. Nagaraja that all cases in which there is violation of provisions of ID Act should be straight-away admitted has to be rejected.


In view of the above we find no apparent errors on the face of the record in the orders passed on 18.12.1992 and also no valid grounds to review the orders. Accordingly the application is dismissed at the admission stage itself.

Sd/-
MEMBER (J) 6/10/93

Sd/-
MEMBER (A)

Gaja

TRUE COPY


SECTION OFFICER
CENTRAL ADMINISTRATIVE TRIBUNAL
ADDITIONAL BENCH
BANGALORE
15/10/93

CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE BENCH

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

Dated: **15 OCT 1993**

To

1. Sri. Sangeev Malhotra,
All India Services
Law Journal, No. 22,
Tegore Park,
Near Model Town,
DELHI - 110 009.
2. M/s. Administrative Tribunal
Reporter, No. 90,
Bhagat Sing Market,
New Delhi - 110 001.
3. The Editor,
Administrative Tribunal Cases,
C/o. Eastern Book Company,
No. 34, Lalbagh,
Lucknow - 226 001.
4. The Editor,
Administrative Tribunal Law
Times, 5335, Jawahar Nagar,
Kolhapur Road,
Delhi - 110 007.
5. M/s. Services Law
Reporter, No. 108,
Sector 27-A,
Chandigarh.
6. The Chief Editor,
Weekly Law Notes,
Khanda Falsa,
Jodhpur.
Rajasthan.
7. The Dy. Secretary,
Indian Law Academy,
Rajajipuram,
Lucknow-226 017.
8. The Administrative Tribunals
Judgements, 3857, Sector-32-D,
Chandigarh-160047.
9. The Manager, Swamys Publishers (P)
Ltd., PB. No. 2468, No. 164, R. K. Mutt
Road, Raja Annamalaiapuram,
Sandhya Mansions, Madras-600028.

Sir,

I am directed to forward herewith a copy each of the undermentioned Orders passed by a Bench of this Tribunal with a request for publication in the journals.


APPLICATIONS NO.

DATE OF THE ORDER.

1. Review Application No. 5/93 inf


Original Application No. 507 of 1992.Dt: 06-10-1993.

Yours faithfully


DEPUTY REGISTRAR
JUDICIAL BRANCH

Copy with enclosures forwarded for information to:

1. The Registrar, Central Administrative Tribunal,
Principal Bench, Faridkot House, Copernicus Marg,
New Delhi- 110 001.
2. The Registrar, Central Administrative Tribunal,
Tamil Nadu Text Book Society Building, D.P.I.
Compounds, Nungambakka, College Road, Madras-600 006.
3. The Registrar, Central Administrative Tribunal,
C.G.O. Complex, 234/4, A.J.C. Bose Road, Nizam Palace,
Calcutta-700 020.
4. The Registrar, Central Administrative Tribunal,
Gulistan Building, 4th Floor Near Bombay Gymkhana,
Opp: B.M.C. ENT Hospital, Prescott Road, Fort, Bombay-400001.
5. The Registrar, Central Administrative Tribunal
S.C.O. 102/103, Sector 34-A, Chandigarh-22.
6. The Registrar, Central Administrative Tribunal,
23-A, Post Bag No. 013, Thorn Hill Road, Alhababad-211001.
7. The Registrar, Central Administrative Tribunal,
Rajgarh Road, Bhangagarh, P.B. No. 58, GPO, Guwahati-781005.
8. The Registrar, Central Administrative Tribunal,
Kandamkulathil Towers, 5th & 6th Floor, Opp: Mahareja College,
M.G. Road, Ernakulam, Cochin-682001.
9. The Registrar, Central Administrative Tribunal,
Caravas Complex, 15, Civil Lines, Jabalpur-482001 (MP).
10. The Registrar, Central Administrative Tribunal, 88-A,
Sri Krishna Nagar, Patna-800 001 (Biher).
11. The Registrar, Central Administrative Tribunal,
No. 5-10-193, First Floor, H.A.C.A. Bhavan,
Opp: Public Gardens, Hyderabad-500 004.
12. The Registrar, Central Administrative Tribunal,
Fifth Floor, B.D. Patel House, Near Sardar Patel Colony,
Navjivan Post, Naranpura, Ahmedabad-380014.
13. The Registrar, Central Administrative Tribunal,
Fourth Floor, Rajaswa Bhawan, Cuttack-753002.
14. The Registrar, Central Administrative Tribunal,
No. 69, Pate, Post Box No. 619, Jodhpur-342006 (Rajasthan).
15. The Registrar, Central Administrative Tribunal,
C-42, Civil Lines, Bhat Vatika, Jaipur.
16. The Registrar, Central Administrative Tribunal,
No. 2, Moti Mahal, Rana Pratap Marg, Lucknow.


DEPUTY REGISTRAR.
(JUDICIAL BRANCH)