

16 (9) 32
BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE BENCH, BANGALORE

ANNEXURE - A19

M.A.F.
Copy
DATED THIS THE 14TH DAY OF MARCH, 1990

Present: Hon'ble Shri P. Srinivasan .. Member(A)

Hon'ble Shri D. Surya Rao .. Member(J)

APPLICATION NO. 591 to 599/89(F)

1. Shri H.R. Gopalaswamy
2. Smt. B.L. Sarala Devi
3. Smt. M.N. Ratna
4. Shri Venkatanarasimhaiah
5. Shri P.G. Pradeep
6. Smt. S. Vimala
7. Smt. S.M. Vasanthakumari
8. Shri M.R. Munirathnam
9. Shri Adhinarayana S.

(All the applicants are working
as Computers in the Office of
the Director, Census Operation
in Karnataka Bangalore-560 027

Applicants

(Dr. M.S. Nagaraja - Advocate)

Vs

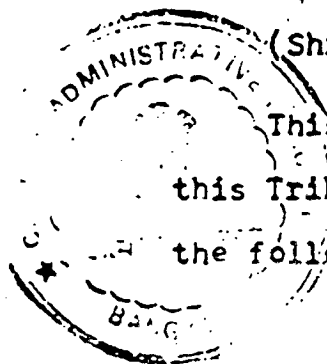
1. The Director,
Census Operation in Karnataka
21/1, Mission Road,
Bangalore-560027
2. The Registrar General of India
Ministry of Home Affairs
Mansingh Road,
New Delhi

Respondents

(Shri M.V. Rao - Advocate)

This application has come up today before
this Tribunal for Orders. Hon'ble Member(A) made
the following:

P.L. 42



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ORDER

All the nine applicants before us are currently working as Computers on ad hoc basis in the office of the Director of Census Operations at Bangalore. The next promotion for a computer is to the post of Statistical Assistant. Though the relevant rules have not been ^{or produced} provided by either side, it is common ground that the eligibility for promotion at each stage - from Assistant Compiler to Computer and from Computer to Statistical Assistant - is eight years' regular service from Assistant Compiler to Computer and five years' regular service from Computer to Statistical Assistant. The applicants apprehend that since they have not so far been regularised in the post of computer even though they have been officiating in that post on ad hoc basis from 1984, their case for promotion is not likely to be considered for an indefinite period. In fact, the Joint Director of Census Operations, Karnataka, in an 'endorsement' dated 31.1.1989 addressed to one of the applicants in respect of the latter's representation dated 5.1.1989 informed him that he was not eligible for being regularised in the post of computer as he was regularised in the next lower post of Assistant Compiler only with effect from 8.2.1984 while regularisation in the post of Computer required 8 years of regular service as Assistant Compiler. The applicants

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want the contents of this letter quashed, and a direction to be issued to the respondents to count their ad hoc service from the date of their initial appointment till the date of their regularisation in the cadre of Assistant Compilers for determining their eligibility for promotion to the next higher post and similarly, on their regularisation in the post of Computer, to count their ad hoc service rendered in that post prior to such regularisation for promotion to the next higher post.

2. Dr.M.S. Nagaraja for the applicants and Shri M. Vasudeva Rao for the respondents have been heard.

3. The agreed facts relevant to the present controversy are: In the office of the Director of Census Operations, the posts of Assistant Compiler, Computer and Statistical Assistant are sanctioned for short periods in the first instance, but the sanction is renewed from time to time till the post is eventually made permanent. While the sanction of the post subsists for short periods, persons appointed to those posts are treated as ad hoc employees even though they are selected for appointment by a proper course of selection in accordance with the relevant service rules. They are continued in the post, albeit ad hoc, till the post is made permanent and thereafter they are regularised in that post. While still working ad hoc in the lower post, they are also given

P. L. K.

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promotion in the order of their relative seniority to higher posts, but they hold the higher posts also on ad hoc basis. Regularisation of a person in a post depends on ^{(i) M} another person who held that post earlier and who has been promoted to a higher post on ad hoc basis being regularised in the higher post ^M as well and ⁽ⁱⁱ⁾ ~~as~~ the lower post being declared a permanent post. There are a number of persons who are holding posts in each grade on ad hoc basis whose regularisation takes place ^{M by} as a chain reaction i.e. when a person in the higher post is regularised, he releases a post in the lower post for regularisation and when a person is regularised in the lower post, he releases the post for regularisation in the grade next below. Thus, persons holding posts either as Statistical Assistant or Computer or Assistant Compiler on ad hoc basis are for all intents and purposes regular employees; but for the peculiar feature of the Census department viz. vacancies being sanctioned for short periods and extended from time before being made permanent, the appointees could be treated as regular from the date of their initial appointment itself. In this context, it appears meaningless to insist on regular service in a post for a certain number of years for promotion to the next post, since ad hoc appointment in this particular establishment is as good as regular ^{or appointment} service. On the other hand, by treating the incumbent of a post eligible for promotion only after he completes

P. S. S.

the specified period service after regularisation

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in that post, service rendered prior to regularisation is totally ignored for the purpose of promotion.

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To our mind, on the peculiar facts of this case such treatment is wholly unfair. We are, therefore, of the view that when persons working as Assistant Compilers, Computers and Statistical Assistants in this department are regularised in their posts after rendering continuous ad hoc service in the same posts, the service rendered ad hoc before such regularisation should also be counted for the purpose of eligibility for promotion to higher posts. The relevant rules, as already stated, have not been produced before us. We do not consider it necessary to strike down the relevant rule of eligibility but direct that it be read as indicated by us here. We are, however, not inclined to accept Dr. Nagaraja's contention that the respondents should be directed to regularise the applicants in their posts from the date of their initial appointment thereto as that could cause administrative problems.

4. We, therefore, direct the respondents to count ^{continuous and unbroken} ~~the~~ ad hoc service rendered by the applicants as Assistant Compilers or Computers ^{immediately} before their regularisation in those posts for determining their seniority in ^{the} ~~the~~ regular posts

and their eligibility for promotion to higher

posts. To the extent that the communication

dated 31.1.1989 at Annexure A-4 to the application

and similar communications addressed to the

other applicants are inconsistent with this

ADMINISTRATIVE


5/1/74

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MEMBER(J) 14/3/40

1990

3-10-68



CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE BENCH

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

Dated: 26 AUG 1993

APPLICATION NO(s). 148 / 93.

Applicant(s)

R. Francis

VS


Respondent(s)

D.G. Employment &
Training

1. R. Francis, NO. 28, FT-7-H.BCB.
Near new Buss B water Tank, Nandini-
layout, Yeshwantpur, Bangalore-22.
2. The Director General of Employment
& Training, Ministry of Labour & Shram
Mantralaya, New Delhi.
3. The Director, Jeevan Training
Institute Turnkur Road Bangalore-22
4. The Union of India by its Secretary
Ministry of Labour, New Delhi.
5. Sri M. Raghavendra Char, Advocate.
1074, 1075, 4th cross, Shrinivasa Nagar
II Phase, BSK I Stage, Bangalore-50.
6. Sri M. Vasudeva Rao, Central Govt Standing
Council, High Court Building Bangalore.

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 30.7.93


DEPUTY REGISTRAR
JUDICIAL BRANCHES.

CENTRAL ADMINISTRATIVE TRIBUNAL: BANGALORE.

DATED THIS THE 30TH DAY OF JULY, 1993.

PRESENT:

Hon'ble Mr. Justice P.K. Shyamsundar,

.. Vice-Chairman.

And

Hon'ble Mr. V. Ramakrishnan,

.. Member(A).

APPLICATION NUMBER 148 OF 1993.

R. Francis,
S/o late Rayappa, Sigamani,
Aged about 37 years,
Residing at Site No.23, FT-I-HBCB,
Near New DWSSB Water Tank,
Nandini Lay-out, Yeshwanthpur,
Bangalore-22.

.. Applicant.

(By Sri M. Raghavendrachar, Advocate)

v.

1. The Director General of Employment & Training, Ministry of Labour, Shrama Mantralaya, New Delhi.
2. The Director, Foremen Training Institute, Tumkur Road, Bangalore-22.
3. G. Louis Raj, Skilled Worker, Foremen Training Institute, Tumkur Road, Bangalore-22.
4. The Union of India, by its Secretary, M/o Labour, New Delhi.

.. Respondents.

(By Sri M. Vasudeva Rao, Standing Counsel for R1, R2 & R4)

This application having come up for hearing to-day, Hon'ble Member(A) made the following:-

ORDER

Heard the learned counsel for the applicant as well as the learned Standing Counsel. The applicant has challenged the promotion of respondent-3 Sri G. Louis Raj as Maintenance Millwright in 1988 on the ground that he was not eligible for promotion in terms of the Recruitment Rules when he was actually promoted. After protracted correspondence the department inform-



ed the staff association by its letter 3-12-1992 that the appointment of Sri Louis Raj as Maintenance Millwright was in order. This decision has been challenged by the applicant. Along with the official respondents notice was sent to Sri Louis Raj, but the same was returned with the postal endorsement that the said respondent has refused to accept the same pursuant to which we have held that the service of notice on him as sufficient.

2. We find that the Recruitment Rules were amended in 1986 by the Notification No.DGET-A.12018/8/85-TA.II dated 8-3-1986 which made it obligatory for a qualifying service of 7 years at the lower level before being considered for promotion to the higher post of Maintenance Millwright. This position has been confirmed to-day by the learned Standing Counsel after checking the office records.

3. We had gone through the relevant file and found that when the Departmental Promotion Committee considered the case of respondent-3 in 1988 it had not taken into account the amendment to the Recruitment Rules as the note for the DPC indicated that the qualifying period was only 5 years whereas in fact it had been raised to 7 years as pointed out supra. On the date the DPC considered the case of respondent-3 in 1988, admittedly he had not put in 7 years of service but had completed only 5 years of service and as such he was not eligible for promotion as per the amended Recruitment Rules which came into force in March, 1986. Accordingly, we quash the communication dated 3-12-1992 as per Annexure-A14 holding the promotion of respondent-3 as Maintenance Millwright as in order. We direct the department to hold a review/fresh Departmental Promotion

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Committee meeting. The learned counsel for the applicant informs us that the department had already held ^{such a} ~~the~~ DPC but had not published the result. If that is the position, the department should publish the results of the DPC.

4. The learned Standing Counsel now mentions that the applicant is not eligible to be considered for higher post of Maintenance Millwright as he has not completed 7 years of qualifying service ^{and} he will be completing 7 years of qualifying service only in 1994. We however, find from Annexure-A16 dated 31-12-1985 the applicant in fact got appointed with effect from 31-12-1985 and the wording of the appointment order is such as to imply that it was a regular appointment. The respondents have not been able to show to us anything to the contrary. In view of this, the applicant seems entitled to be considered along with the other eligible candidates. In case the applicant is selected for promotion and is actually promoted he would be given all consequential benefits as per Rules.


5. This application is disposed off accordingly. No costs.



Sd/-
MEMBER(A)

Sd/-
VICE-CHAIRMAN.

TRUE COPY


SECTION OFFICER
CENTRAL ADMINISTRATIVE TRIBUNAL
ADDITIONAL BENCH
BANGALORE

26/8/93

CENTRAL ADMINISTRATIVE TRIBUNAL: BANGALORE

REVIEW APPLICATION NUMBER 62 OF 1993 (OANo. 148/93)

DATED THIS THE 24TH DAY OF NOVEMBER, 1993

Mr. Justice P.K. Shyamsundar, .. Vice-Chairman.

And

Mr. V. Ramakrishnan, .. Member(A).

1. The Director General of
Employment and Training,
Ministry of Labour,
Shrama Mantralaya,
New Delhi.
 2. The Director,
Foremen Training Institute,
Tumkur Road, Bangalore-22.
 3. The Union of India,
by its Secretary, Ministry
of Labour, New Delhi.
- .. Applicants.

(By Standing Counsel Shri M. Vasudeva Rao)

v.

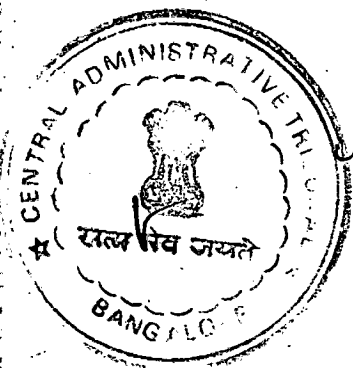
R. Francis,
S/o late Rayappa, Sigamani,
Aged about 37 years,
residing at Site No. 23, FT-I-HBCB,
near New BWSSB Water Tank,
Nandini Lay-out, Yeshwanthpur,
Bangalore-22.

.. Respondent.

ORDER

Mr. Justice P.K. Shyamsundar, Vice-Chairman:

We have heard the learned Standing Counsel who for a change has sponsored this review application although we are accustomed to hear such applications at the instance of the applicant in the original proceedings before the Tribunal. Be that as it may, learned Standing Counsel takes exception to two observations made in our order dated 30-7-1993. One is that we had given ~~unpalpably~~ ^{unpalpably} a direction to the Department to publish the results of the Departmental Promotion Committee. We have read the order

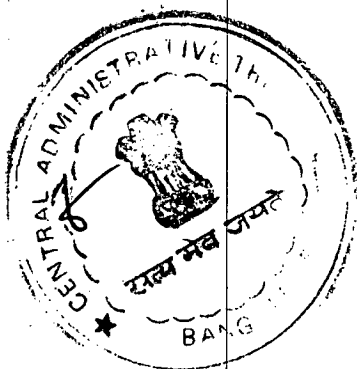


and we are clear in our ^{view} ~~opinion~~ that there is no such direction at all. This is what we said -

"The learned counsel for the applicant informs us that the department had already held such DPC but had not published the result. If that is the position, the department should publish the results of the DPC."

The above makes it clear and explicit that if the department had not published the results of the Departmental Promotion Committee, it will have to publish the same. We never asked the department to publish the results ^{if} ~~when~~ it had done so earlier. At any rate we now make it clear by stating here and now if ~~the~~ results are already published it is not necessary to republish them again. The other objection taken by the learned Standing Counsel is that we had directed the claim of the applicant in the original application be considered for ^{for} ~~managing~~ a higher post of Maintenance Millwright although he did not have the eligibility tag as according to the Recruitment Rules one has to complete 7 years of qualifying service in the lower post to become eligible for claiming the post of Maintenance Millwright. According to the learned Standing Counsel the applicant R. Francis will be completing 7 years of qualifying service only in the year 1994 but we have considered this objection in para 4 of our order thus -

4. The learned Standing Counsel now mentions that the applicant is not eligible to be considered for higher post of Maintenance Millwright as he has not completed 7 years of qualifying service and he will be completing 7 years of qualifying service only in 1994. We however, find from Annexure-A16 dated 31-12-1985 the applicant in fact got appointed with effect from 31-12-1985 and the wording of the appointment order is such as to imply that it was a regular appointment. The respondents have not been able to show to us anything to the contrary. In view of this,



the applicant seems entitled to be considered along with the other eligible candidates. In case the applicant is selected for promotion and is actually promoted, he would be given all consequential benefits as per Rules."

Our view as above specifically does not preclude the department from rejecting the applicant's claim for promotion as Maintenance Millwright if he is not qualified according to the Recruitment Rules. It certainly behoves on the part of the respondents to consider the applicant's case for the promotional slot provided he is qualified. In the light of the foregoing, ^{elaborately} we do not consider it necessary to entertain this review application. It stands dismissed.

Sd-

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MEMBER(A)

Sd-

VICE-CHIRMAN. ✓

np/



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Mr. J. S. 26/11/83

SECTION OFFICER
CENTRAL ADMINISTRATIVE TRIBUNAL
ADDITIONAL BENCH
BANGALORE

Recd. by post.
H. add to RA 62/93 file.
R18/364 1-30 P.M.
So (FTI) / S. Rao.

GOVERNMENT OF INDIA
MINISTRY OF LABOUR

FOREMEN TRAINING INSTITUTE - BANGALORE - 560 022

No. FTI/1/REVIEW/93-94/ESTT/2505-15

March 17, 1994

OFFICE ORDER:

As per the directions given by the Hon'ble Central Administrative Tribunal, Bangalore in O.A No.148/1993 and the consequential orders for implementing the said directions, Shri G LOUIS RAJ is reverted from the post of Maintenance Millwright to the post of Skilled Worker with effect from his date of joining in the post of Maintenance Millwright i.e. from 21st November 1988.

On his reversion, Shri G Louis Raj to the post of Skilled Worker, his pay will be fixed accordingly as per the rules.

Sambasiva Rao
(V SAMBASIVA RAO) 17/3/94
DIRECTOR

Shri G Louis Raj
Skilled Worker
Foremen Training Institute
Tumkur Road
BANGALORE - 560 022

Copy to:

1. The Director of Appr. Training, Ministry of Labour (DGE&T) Shram Shakti Bhavan, Rafi Marg, NEW DELHI - 110 001 - with reference to his letter No. DGET-C-11011/5/93-TA-I dated 11th March 1994.
2. The Director of Training, Ministry of Labour (DGE&T) Shram Shakti Bhavan, Rafi Marg, NEW DELHI - 110 001.
3. The Director, Apex Hitech Institute, F.T.I. Campus, Tumkur Road, BANGALORE - 560 022.
4. The Deputy Director/Principal, Regional Vocational Trg. Institute, Hosur Road, Bangalore - 560 029.
5. The Accounts Section, FTI Bangalore (2 copies) for information and necessary action for calculation of overpayment made to the official.

6. Establishment Section, FTI - to fix his pay consequent to his reversion to the post of Skilled Worker.
7. The Pay & Accounts Officer, Pay & Accounts Office, DGE&T-II, C/o C.T.I. Campus, Gumindy, Madras-600 032 for information.
8. The Registrar, Central Administrative Tribunal, Administrative Branch, Bangalore - with reference to their judgement dated 30th July 1993 for application No.148/93 and judgement for Review application No.62/1993 dated 24th November 1993.
9. Service Book/Service Record of Shri G Louis Raj, Skilled Worker.
10. Joint Directors - 1 & 2 for information
11. Shri M S Lingaiah, Dy. Director, FTI and Section In-charge of Welding Section.


(S SATHYANARAYANA RAO)
ADMINISTRATIVE OFFICER
for DIRECTOR

CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE BENCH

R.A. NO. 12/94

OA NO. 148/93 ✓

MONDAY THIS THE FOURTH DAY OF APRIL 1994

Shri Justice P.K. Shyamsundar ... Vice Chairman

Shri V. Ramakrishnan ... Member [A]

G. Louis Raj,
S/o M.D.G. Raj [late],
Aged 45 years,
Working as Mill Wright Maintenance,
Foreman Training Institute,
Tumkur Road,
Bangalore.

... Applicant

[By Advocate Shri S. Ranganatha Jois]

v.

1. The Director General of
Employment and Training,
Ministry of Labour,
Shrama Mantralaya,
New Delhi.
2. The Director,
Foreman Training Institute,
Tumkur Road,
Bangalore-22.
3. R. Francis,
S/o late Rayappa Sigamani,
Aged 37 years,
at Site No.23, FT-I-HBCB,
Near BWSSB Water Tank,
Nandini Layout,
Yeshwanthpur,
Bangalore-22.
4. The Union of India represented
by its Secretary,
Ministry of Labour,
New Delhi-110 001.

... Respondents

ORDER

Shri Justice P.K. Shyamsundar, Vice-Chairman:

1. Having heard Shri Ranganatha Jois, learned counsel for

At 10:00 a.m. on 10-1-1974

At 10:00 a.m. on 10-1-1974

In the circumstances and the applicant, we think no review application can lie in the circumstances of this case. But if the applicant still feels wronged by the action of the administrative authority he can challenge the same by a fresh application. With this observation this application stands dismissed.

Sd-

Sd-

MEMBER [A]

VICE-CHAIRMAN

bsv

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Sd. Shauver

SECTION OFFICER

CENTRAL ADMINISTRATIVE TRIBUNAL

ADDITIONAL BENCH

BANGALORE

-3-

(B-627)

**In the Central Administrative Tribunal
Bangalore Bench**

Applicant : R. Francis **Bangalore**

vs. B.K. Bhattacharya, Director General
M/o. Labour N. Delhi

C.P.(Civil) Application No. 8 ... of 1994

OA NO. 148/93 ✓

ORDER SHEET (contd)

Date	Office Notes	Orders of Tribunal
		<p>(PKS)VC/(VR)M(A)</p> <p>APRIL 19, 1994.</p> <p>After this matter was heard for some time, Shri M.R.Achar, learned counsel for the petitioner seeks permission to withdraw this contempt petition. Accordingly it is dismissed as withdrawn. Mr. Achar seeks liberty to the be reserved to the petitioner to take up other proceedings with regard to the petitioner's non-selection. We leave open the liberty sought for.</p> <p style="text-align: center;">Sol- Sol-</p> <p>MEMBER(A) VICE-CHAIRMAN.</p> <p style="text-align: center;">TRUE COPY</p> <p style="text-align: center;"><i>S. Shauhar</i> SECTION OFFICER CENTRAL ADMINISTRATIVE TRIBUNAL ADDITIONAL BENCH BANGALORE</p>