

S. J. TRIBUNAL

CENTRAL ADMINISTRATIVE TRIBUNAL  
BANGALORE BENCH

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

Dated: 30 SEP 1993

APPLICATION NO(S) 218 07 1993

APPLICANTS: K. Pushpakar

RESPONDENTS: Director, Mangalore Telecom  
Area, Mangalore and other.

TO.

1. Sri. Vishnu D Bhat,  
Advocate, no. 22,  
First floor, Nehrunagar,  
Bangalore-560020.
2. The Director (Telecom),  
Mangalore Area,  
Telephone Exchange Building,  
Aminity Block, Second Floor,  
Pandeshwar, Mangalore-1.
3. Chief General Manager, (Staff Selection),  
Telecommunication, Karnataka Circle,  
no. 1, Old Madras Road, Ulsoor, Bangalore-8.
4. Sri. G. Shankappa,  
Addl. Central Govt Sgng Counsel,  
High Court Bldg., 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 27-09-1993.

*For*  
DEPUTY REGISTRAR  
JUDICIAL BRANCHES.

gm\*

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL  
BANGALORE BENCH, BANGALORE

DATED THIS DAY THE 27TH OF SEPTEMBER, 1993

Present: Hon'ble Justice Mr.P.K. Shyamsundar Vice Chairman  
Hon'ble Mr.V. Ramakrishnan Member(A)

APPLICATION NO.218/1993

Shri K. Pushpakar,  
Telegraph Office Assistant,  
Office of Superintendent,  
Central Telegraph Office,  
Pandeshwar,  
Mangalore - 1

Applicant

( Shri V.D. Bhat - Advocate )

v.

1. Director(Telecom),  
Mangalore Area,  
Aminity Block, II Floor,  
Telephone Exchange Building,  
Pandeshwar,  
Mangalore - 1
2. Chief General,  
Manager, Telecommunication  
(Staff Selection),  
Karnataka Circle,  
No.1, Old Madras Road,  
Bangalore - 560 008

Respondents

( Shri G. Shanthappa - Advocate )

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

ORDER

The applicant who was functioning as Telegraph  
Assistant in the Central Telegraph Office, Mangalore  
from 29.9.1978 volunteered for the post of a Lower



Division Clerk in the Area Office and was appointed as such since 27.7.1981. On the basis of his representation as per Annexure R-1, he was promoted as an ad hoc Upper Division Clerk with effect from 16.6.1984 as in Annexure R-2. With the restructuring of the Department converting the posts of LDCs and UDCs to TOAs he was sought to be repatriated back to Telegraph Traffic Division vide order dated 31.10.92 as Assistant. He had also submitted a representation that he should be permitted to exercise an option as provided in para 5 of the Department of Telecom's circular dated 9.9.1992 as per Annexure A-3. This representation was turned down as per Annexure A-6 dated 15.1.1993, on the ground since he was promoted as UDC only on ad hoc basis, he cannot be treated as an UDC on regular basis and as such, he had no right to exercise the option for continuing in UDC's cadre or otherwise. He has challenged the order At Ann-A2 and seeks regularisation as UDC.

2. We have heard the learned counsel for the applicant as also Shri G. Shanthappa for the respondents.

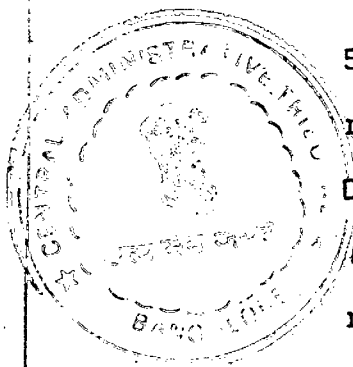
3. From Annexure R-1 it is clear that when the Area Office was ~~found~~<sup>formed</sup>, volunteers were called for to work in the vacancies of LDCs and UDCs in that office. The applicant had volunteered and was selected and has been serving in the Area Office since 7.7.81. The Department in their order dated 31st October, 1992 (Annexure A-2) had taken the view that the applicant should be repatriated back to the Telegraph Division of Mangalore on the ground that he was holding the post in the Area Office purely on ad hoc basis. The applicant was duly selected in the Area Office

157 ✓

after he had volunteered to come to this organisation and he had been continuing in the Area Office w.e.f. July, 1981. The Department cannot now take the plea that he was in the Area Office purely on an ad hoc basis and that he is liable to be repatriated back to Telegraph Traffic Division of Mangalore. As such, the order at Annexure A-2 repatriating the applicant back to Telegraph Traffic Division, Mangalore deserves to be quashed.

4. Also the contention of the Department that the applicant cannot be given the benefit of provision contained in para 5 of the circular dated 9.9.92 (Annexure 3) cannot be sustained for the reason that such long service cannot be ignored and the Department cannot take the plea that he cannot be given the benefit as extended to a regular UDC. We also find that there is no specific bar against extending the benefit of option to ad hoc LDCs and UDCs in para 5 of the circular. In view of this position, we hold that the rejection of the representation by the Department as per Annexure-6 by the order dated 15.1.93 is clearly unwarranted and has to be quashed.

5. In the result, we quash the order at Annexure A-2 repatriating the applicant to Telegraph Traffic Division, Mangalore and the order dated 15.1.93 (Annexure A-6). The Department will re-examine the representation of the applicant in the light of the OM dated 9.9.92 (Annexure A-3) and in the light of the observations made in this order. We direct the Department to pass orders accordingly with such expedition as is possible in the circumstances of the case. No costs.



TRUE COPY

*[Signature]*

SECTION OFFICER

CENTRAL ADMINISTRATIVE TRIBUNAL

ADDITIONAL DEPUTY

BANGALORE

*[Signature]*  
MEMBER (A)

*[Signature]*  
VICE CHAIRMAN