

CENTRAL ADMINISTRATIVE TRIBUNAL  
BANGALORE BENCH

Second Floor,  
Commercial Complex,  
Indiranagar,  
Bangalore-38.

Contempt Petition No.37/1993 in

Dated: 1 FEB 1994

APPLICATION NO(s) 473 of 1992.

APPLICANTS: M. Sampathkumar v/s. RESPONDENTS: B.N. Som, Central Provident  
Fund Commissioner, New Delhi and Other.

TO.

1. Sri. Ravivarma Kumar,  
Advocate, Jeevan Bldgs,  
Kumara Park East,  
Bangalore-560 001.
2. Sri. M. Vasudeva Rao,  
Addl. C.G.S.C.,  
High Court Bldg,  
Bangalore-1.

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

-xxx-

Please find enclosed herewith a copy of the  
ORDER/STAY ORDER/INTERIM ORDER/, Passed by this Tribunal  
in the above mentioned application(s) on 21-01-1994.

*Issued on  
21/1/94*

gm\*

*Ole*

*N. D. S.*  
for DEPUTY REGISTRAR  
JUDICIAL BRANCHES. *1/2/94*

CENTRAL ADMINISTRATIVE TRIBUNAL  
BANGALORE BENCH: BANGALORE

CONTEMPT PETITION NO.37/93

FRIDAY THE 21ST DAY OF JANUARY, 1994

Present: Shri A.N.Vujjanaradhya, Member (J)  
Shri T.V. Ramanan, Member (A)

M.Sampathkumar,  
S/o late Munirajappa,  
Aged 58 years,  
Enforcement Officer,  
Employees Provident Fund,  
O/O the Regional Provident

Fund Commissioner,  
Bhavishya Nidhi Bhavan  
No.8 Rajaram Mohanroy Road,  
Bangalore-560 025

...Complainant

By Advocate Shri Ravivarma Kumar

Versus

1. Sri B.N.Som, Major  
Central Provident Fund Commissioner,  
Mayur Bhavan, 9th Floor,  
Connaught Circus,  
New Delhi 110 001.

2. Sri S.M.Basappa, Major  
Regional Provident Fund Commissioner,  
No.13, Rajaram Mohan Roy Road,  
Bangalore-560 025.

...Respondents

By Advocate Shri M.Vasudeva Rao, C.G.S.C.

O R D E R

Shri A.N.Vujjanaradhya, Member (J)

....2/-



The complainant, who was applicant in O.A.473/92, which was disposed of on 16.11.1992, has filed this Contempt Petition alleging that the respondents did not comply with the directions of the Tribunal and therefore action should be taken against them for the said contempt. It is specifically alleged that complainant should be treated as belonging to<sup>a</sup> Scheduled Tribe with effect from 27.7.1977 and give him all retrospective promotion from the day when he became eligible under the quota reserved for ST.

2. The contempt~~ners~~ers, who were the respondents in the said OA have filed their reply stating that they have complied with the directions of this Tribunal and urge that having complied, no wilful~~ly~~ dis-obedience of the directions of this Tribunal is found to call upon them to explain their action.

3. We have heard Shri Ravivarma Kumar for the complainant and Shri MV Rao, the additional Central Govt. Standing Counsel for the alleged contempt~~ners~~ers and perused the records. In OA 164 to 166/86, in which the complainant was the first applicant, a direction was given in the order dated 12.11.86 (Annexure A2), which is as follows:

"We also direct the first respondent to inquire into the matter afresh, after giving an opportunity to the applicants to present their case personally, if they so desire."

Complaining that these directions were not complied with, the complainant had filed DA 473/92, which came to be considered on 16.11.92, in which following directions were given.

" 5. In the light of the above we dispose of this application by giving the following directions.

- i) The first respondent is hereby directed to complete the enquiry in accordance with the directions given by this Tribunal in A N.164 to 166/86 by order dated 12.11.1986 and afford full opportunity to the applicant to putforth further material that he may choose to produce in substantiating the claim which he has putforth as belonging to ST. The first respondent shall in deciding the question shall also take into consideration the subsequent amendment to the Constitution as regards the status of the applicant who claims to belong to Beda community as a synonym of Nayak as per the Ordinance and Act subsequently passed.
  - ii) If on such enquiry as aforesaid it is decided by the first respondent that the applicant belongs to a community which comes within the fold of ST, the first respondent shall consider the case of the applicant for further promotions on that basis.
6. It was submitted by the learned counsel for the applicant that once he is declared as belonging to ST on the basis of the amendment to the Constitution by Ordinance followed by the Act, the applicant would also be entitled to retrospective promotions on that basis. We do not enter into that question having regard to the scope of the application. If the applicant is entitled to such relief it will be open to him to represent to the respondents and in case he suffers an adverse order it will be open to him to ventilate his grievance before the appropriate forum."

Now the question is whether the directions contained in para 5 of the order in Annexure A3 are complied with or there is any wilful disobedience



or the said directions.

5. The alleged contemners have come forward with the plea that they have complied with the directions and for which purpose they refer to Annexure A4 dated 26.8.93 which reads thus:

"Attention of Shri M.Sampath Kumar, Enforcement Officer is invited to his representations dated 27.11.92 and 16.8.93. Shri M.Sampath Kumar, E.O. is informed that his representation has been examined and it is clarified that as per the Govt. of Karnataka Order dated 17.9.92, all the communities viz. Naik, Nayak, Beda & Valmiki are to be treated as belonging to S.T. w.e.f. 19/4/91 only namely, the date from which the constitution (ST) order (second amendment) Act 1991 has come into effect, and as such they are not entitled to benefits available to ST prior to 19/4/91. Accordingly, Sri M.Sampathkumar is entitled for consequential benefits provided for ST category with effect from 19/4/91."

6. As rightly contended by the learned counsel for the complainant, the direction in Annexure A3 were to notify the adverse material, which may be against the applicant, give him opportunity to explain the same, verify the genuineness of the certificates produced, hold fresh inquiry and give opportunity of personal hearing and after holding such inquiry decide whether the applicant belongs to Beda community, which is synonym of Naik as per Ordinance and Act subsequently passed.

7. Annexure A4 quoted above <sup>makes it</sup> abundantly clear that applicant belongs to Beda (Naik) community,

which is classified as Scheduled Tribe community as per Karnataka Govt. order dated 17.9.92. In view of this position, there was no question of holding any inquiry to decide whether the complainant belong to Beda/Naik community, even though the alleged contemners have produced the file showing that the Dy. Commissioner of Bangalore Rural District did inquire and report that the complainant is of the community of Beda/Naik which is ST community. Thus, it is unnecessary to notify the complainant or to give opportunity of hearing or to verify the genuiness of the certificates produced by him and to hold fresh inquiry to ascertain the fact as to which community the complainant belongs, which is not now in dispute. Thus, we are inclined to observe that there is compliance with the directions contained in Annexure A3 in spirit though not in letter. However, the fact that the complainant is of ST community (Beda/Naik) is finally conceded by the alleged contemners.

8. The further contention of the learned counsel for the complainant that respondents ought to have given retrospective promotions treating the complainant as belonging to ST community from 27.7.91 will not survive for consideration in as much as neither the order in Annexure A2 nor the one in Annexure A3 had given such direction. As a matter of fact, the contention of the



learned counsel for the complainant that complainant would be entitled to retrospective promotion on the basis of declaration that he belongs to ST community was not considered and was observed in Annexure A3 : "we do not enter into that question having regard to the scope of the applicant", which clearly goes to show that there was no such prayer in the said application OA 473/92.

9. Consequently, we are of the view that the alleged ~~contemners~~ have complied with the directions of the orders in Annexure A2 and Annexure A3 and if at all the applicant has any grievance about he having not been given retrospective promotion, his remedy is elsewhere and not in this Contempt Petition. Accordingly, we see no merit in this application and therefore, we, hereby reject the same. We also discharge the alleged ~~contemners~~/respondents.

*Sd-*  
(T.V. RAMANAN)  
MEMBER (A)

*Sd-*  
(A.N.VUJJANARADHYA)  
MEMBER (J)

TRUE COPY

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*m. Jee S*  
11/2/94  
SECTION OFFICER  
JAL ADMINISTRATIVE TRIBUNAL  
ADDITIONAL BENCH  
BANGALORE