

CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE BENCH

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

Dated: 2 AUG 1993

APPLICATION NO(s). 34 of 1993.

Applicant(s) K.Mohamed Akbar v/s. Respondent(s) Air Officer Commanding,
Bangalore & Others.

1. Sri.K.Mohamed Akbar,
S/o.Mohamed Ghouse,
No.19, Munuswamappa Block,
Gangenhalli, Bangalore-32.
2. Sri.S.Prakash Shetty,
Advocate, No.159,
First Main Road,
Seshadripuram, Bangalore-20.
3. The Air Officer Commanding,
Air Force Station,
Jalahalli West, Bangalore-15.
4. The A.O.C. In-C Training Command,
I.A.F., Air Force Station,
Jalahalli West, Bangalore-15.
5. The Chief of Air Staff,
Vajr Bhavan, Air Head Quarters,
New Delhi-10.
6. Sri.M.Vasudeva Rao,
Central Govt.Stng.Counsel,
High Court Building,
Bangalore-1.

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 -----46-02-93.---

Issued
GN

for 
DEPUTY REGISTRAR
JUDICIAL BRANCHES.

CENTRAL ADMINISTRATIVE TRIBUNAL: BANGALORE.

DATED THIS THE 16TH DAY OF JULY, 1993.

PRESENT:

Hon'ble Mr. Justice P.K. Shyamsundar, .. Vice-Chairman.

And

Hon'ble Mr. V. Ramakrishnan, .. Member(A)

APPLICATION NUMBER 34 OF 1993

K. Mohamed Akbar,
S/o Mohamed Ghouse,
Aged about 50 years, No.19,
Munuswamappa Block,
Gangenahalli, Bangalore-560 032.

.. Applicant

(By Sri S. Prakash Shetty, Advocate)

v.

1. The Air Officer Commanding,
Air Force Station,
Jalahalli West,
Bangalore-560 015.
2. The A.O.C IN-C Training Command,
I.A.F., Air Force Station,
Jalahalli West, Bangalore-560 015.
3. The Chief of Air Staff,
Vayu Bhavan, Air Head Quarters.
New Dehi-110 010.

.. Respondents.

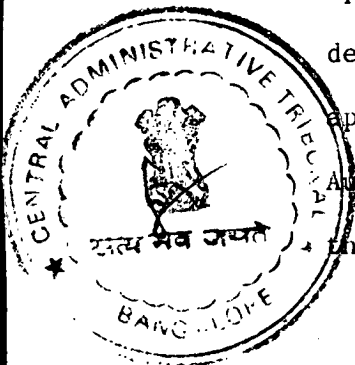
(By Sri M. Vasudeva Rao, Standing Counsel)

--

This application having come up for hearing to-day, Hon'ble Vice-Chairman made the following:

ORDER

Having heard Mr. S. Prakash Shetty, learned counsel for the applicant and Sri M. Vasudeva Rao, learned Standing Counsel appearing for the Union Government and other personnel - respondents herein, we notice that in the appeal preferred by the applicant from an order of removal passed by the Disciplinary Authority at an inquiry held inquiring into the allegation that the applicant remained absent for a very long period dating



from 1981, the Appellate Authority who has since passed the order produced at Annexure-A6 has not given reasons of any kind to substantiate his conclusion that the penalty imposed on the applicant by the Disciplinary Authority had to be affirmed.

2. From a reading of the appellate order, it becomes clear that the physical absence of the applicant before the Appellate Authority, despite being summoned had to some extent contributed to the passing of the impugned order leading to the rejection of his appeal. Mr. Rao appearing for the Department no doubt tells us that the Appellate Authority, who was not under law required to hear the applicant had still directed his presence in Court just to ascertain whether the applicant was anywhere near about and had not left the country as suspected by the authorities, an impression they were perhaps justified in entertaining because we notice all efforts to reach the applicant to effect service of notice of the proposed inquiry which was ultimately disposed of ex-parte, had failed with the man not appearing before the Disciplinary Authority even after a public notice was issued in a newspaper, copy of which is produced at Annexure-R3. The Appellate Authority entertaining some doubt about the physical presence of the applicant in the country and that probably was the reason in asking him to appear before the authority.

8 3. Be that as it may, it seems to us that the Appellate Authority should not have allowed itself to be ruled by that consideration namely the absence of the applicant before the appellate forum despite issue of notice but should have proceeded to dispose of the appeal on its merits after taking note of all the contentions urged giving all of them an objective consideration and recording appropriate reasons therefor.

4. In that view of the matter, we think it necessary to

set aside the order passed by the Appellate Authority at Annexure-A6 and remit the case back to the Appellate Authority for de novo disposal in accordance with law in the light of the observations made herein. We may in passing observe that if the Appellate Authority thinks it appropriate, i.e, in case it were to affirm the order of the DA, it may consider substituting the penalty by compulsory retirement in place of removal ordered by the Disciplinary Authority. This ofcourse is merely an observation we feel constrained to make taking notice of the plight of the applicant in the facts and circumstances of the case. The Appellate Authority will dispose of the appeal afresh within 3 months from the date of receipt of a copy of this order which is directed to^{be} despatched immediately.



Sd-
MEMBER(A)

TRUE COPY

Sd-
VICE-CHAIRMAN.

[Signature]
2/8/93
SECTION OFFICER
CENTRAL ADMINISTRATIVE TRIBUNAL
ADDITIONAL BENCH
BANGALORE

CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE BENCH

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

Miscellaneous Application No.458/93 inn dated 30 DEC 1993

APPLICATION NO(s) 34 of 1993.

APPLICANTS: K. Mohamed Akbar,

RESPONDENTS: Air Officer Commanding,
IAF, Bangalore and Others.

TO.

1. Sri.S.Prakash Shetty,
Advocate, No.159, First Main Road,
Seshadripuram, Bangalore-20.
2. Sri.M.Vasudeva Rao,
Central Govt. Stng. Counsel,
High Court Buldg, 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 30-11-1993.

gm*

[Signature]
for DEPUTY REGISTRAR
JUDICIAL BRANCHES.

[Signature]
Sd/-
[Signature]

MA No. 458 of 93

34

ORDER SHEET (contd)

V/S Air Officer Commanding, IAF, Blore 803.

Date	Office Notes	Orders of Tribunal
	<p>PKSVC/VRMA</p> <p>30.11.93</p> <p>Heard. By consent of both sides time for compliance extended by a further period of 2 months from today.</p> <p>No further extension</p>	<p>Sd- MA</p> <p>Sd- ve.</p>
	<p>TRUE COPY</p> <p><i>[Signature]</i></p> <p>SECTION OFFICER</p> <p>CENTRAL ADMINISTRATIVE TRIBUNAL</p> <p>ADDITIONAL BENCH</p> <p>30/12/93</p>	

