

CENTRAL ADMINISTRATIVE TRIBUNAL  
BANGALORE BENCH

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

Dated: **27 JAN 94**

APPLICATION NO(s) 543 of 1993.

APPLICANTS: S.R. Adimurthy

RESPONDENTS: General Manager, Wheel and  
Axle Plant, Bangalore.

TO.

1. Sri.S.Ranganatha Jois,  
Advocate, No.36, 'Vagdevi'  
Shankara park,  
Shankarapuram, Bangalore-4.
2. The General Manager,  
Wheel and Axle Plant,  
Personnel Branch,  
Yelahanka, Bangalore-64.
3. Sri.A.N.Venugopala Gowda,  
Advocate, No.8/2, Upstairs,  
R.V.Road, Bangalore

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 02-12-1993.

*S. S. Sankar*

For

DEPUTY REGISTRAR  
JUDICIAL BRANCHES.

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*lm*

CENTRAL ADMINISTRATIVE TRIBUNAL  
BANGALORE BENCH

SECOND FLOOR  
COMMERCIAL COMPLEX  
INDIRANAGAR  
BANGALORE-560038.

dated: 27 JAN 1994

To

1. Sri. Sanjeev Malhotra,  
All India Services  
Law Journal, No.22,  
Tagore Park, Near Model  
Town, Delhi-110009.
2. M/s. Administrative Tribunal  
Reporter, No.90, Bhagat Singh  
Market, New Delhi-110001.
3. The Editor, Administrative  
Tribunal Cases, C/o. Eastern  
Book Company, No.34, Lalbagh,  
Lucknow-226001.
4. The Editor, Administrative  
Tribunal Law Times, 5335,  
Jawahar Nagar, Kolhapur Road,  
Delhi-110007.
5. The Administrative Tribunals  
Judgements, No.3857,  
Sector-32-D, Chandigarh-160047.
6. M/s. Services Law  
Reporter, No.108,  
Sector-27-A,  
Chandigarh.
7. The Chief Editor,  
Weekly Law Notes,  
Khanda Falsa, Jodhpur,  
Rajasthan.
8. The Dy. Secretary,  
Indian Law Academy,  
Rajajipuram,  
Lucknow-226017.
9. The Manager,  
Swamys Publisher(P)  
Limited, Post Box No.  
2468, No.164, R.K. Mutt  
Road, Raja Annamalaipuram,  
Madras-600028,  
(Sandhya Mansions)
10. The Registrar, Central Administra-  
tive Tribunal, Principal Bench,  
Copernicus Marg, New Delhi.

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. O.A.No.543 of 1993.....

Date:02-12-1993.

-X-X-X-X-X-X-

Yours faithfully,

DEPUTY REGISTRAR  
JUDICIAL BRANCH.

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CENTRAL ADMINISTRATIVE TRIBUNAL

BANGALORE BENCH

ORIGINAL APPLICATION No.543/93.

THIS THE 2ND DAY OF DECEMBER, 1993

SHRI JUSTICE P.K.SHYAMSUNDAR .. VICE CHAIRMAN

SHRI V. RAMAKRISHNAN .. MEMBER (A)

S.R. Adimurthy,  
S/o. Sri Ramappa,  
32 years,  
No.38/1, II Cross,  
Nagappa Block, Sreerampuram,  
Bangalore-21. .. Applicant

(By Advocate Shri S. Ranganatha Jois)

Vs.

- R
1. The Chief Mechanical Engineer,  
Wheel and Axle Plant,  
Yelahanka, Bangalore-64.
  2. The Chief Personnel Officer (Personnel Br),  
Wheel and Axle Plant,  
Yelahanka, Bangalore-64.
  3. The General Manager,  
Wheel & Axle Plant,  
(Personnel Branch),  
Yelahanka, Bangalore-64. .. Respondents

(By Advocate Shri A.N. Venugopal)  
Central Govt. Standing Counsel.

ORDER

Shri Justice P.K. Shyamsundar, Vice Chairman.

Heard both sides. Admit.

This application by a quondam employee of the Wheel and Axle Plant at Bangalore is clearly a case of some <sup>one</sup> who jumped the trigger before actually a shot was fired, possibly apprehending action being taken to terminate his services for having joined a strike that took place in the Wheel & Axle Plant

in the year 1991. The applicant appears to have taken what according to him the precautionary measure of tendering his resignation to the post held by him in the Wheel & Axle Plant who is the lone respondent herein represented by three different officers at the administrative level. A copy of that resignation letter is produced by the respondents who opposed the application by filing a objection statement. It is at Annexure-R1, dated 10th October, 1991 in which his request is to accept his resignation with effect from 11.3.1991. The respondent department accepted his resignation with effect from 22.03.1991 and communicated the same vide order dated 27.11.1991 (Annexure-R2). The letter reads:

"WHEEL & AXLE PLANT  
(Ministry of Railways)

General Manager's Office,  
(Personnel Branch)  
Yelahanka, Bangalore-64.

M E M O R A N D U M

The resignation tendered by Shri S.R.Adimurthy (Staff No.73699) Wheel Unit Operator, Moulding Room, Mechanical Branch, in the scale Rs.1200-1800(RPS) has been accepted by the Competent Authority and he will accordingly cease to be in Railway Service with effect from 22.03.1991 subject to remittance of one month's pay towards notice period, to the Administration.

Sd/-  
for CHIEF PERSONNEL OFFICER

No.WAP/PF/SRA/1086 Dated: 27-11-1991."

From the two letters supra, it becomes clear the applicant had submitted an unqualified and unconditional resignation to the post he held in the Wheel & Axle Plant. There was an equally after shock response by the respondent department who accepted wholeheartedly the applicant's resignation with the result the applicant ceased to be an employee of the respondents with effect from 22.3.1991. But, later on, for no reason at all, the department

itself stirred the hornets nest by issuing the endorsement at Annexure-A1 dated 27th July, 1992, wherein it purported to rectify the date of resignation mentioned in Annexure-R2 as 10.10.1991 instead of 22.3.1991. The communication in the endorsement at Annexure-A1 is as follows:

"WHEEL AND AXLE PLANT  
(Ministry of Railways)

General Manager's Office,  
(Personnel Branch),  
Yelahanka, Bangalore-64

C O R R I G E N D U M

Further to this office Memo.No.WAP/PF/SRA/1086, dated 27.11.1991 the date of acceptance of resignation tendered by Shri S.R.Adimurthy (Staff No.73699) Wheel Unit Operator, Moulding Room, Mechanical Branch, may please be read as 10.10.1991 instead of 22.3.1991 as mentioned therein.

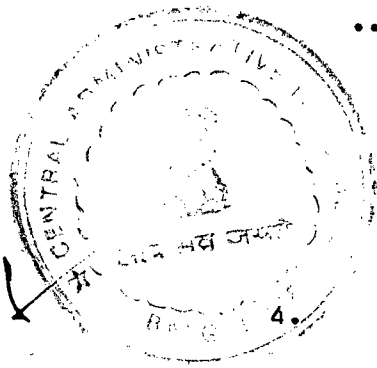
This has approval of Competent Authority.

Sd/-  
for CHIEF PERSONNEL OFFICER.

No.WAP/PF/SRA/1086 dated 27.7.1992."

3. On receipt of the said endorsement at Annexure-A1, the applicant wrote back as per Annexure-A2, dated 31.7.1992 in which he remonstrated against change in the effective date of his resignation from 22.3.1991 to 10.10.1991 and in the penultimate portion of the letter, he states:

..."In view of the above I request that my case may please be considered sympathetically and accept my resignation from the date of 22.3.1991 without imposing the penalty due to strike since I did not take part in the strike. Otherwise I request that I may please be considered for re-employment in WAP since the lapse of 8 months is not on my part."



4. The Wheel & Axle Plant once again rebounded to the applicant's resignation at Annexure-A2 by issuing the endorsement at Annexure-A3 dated 28.10.1992 wherein it said that his resignation

representation has been considered by the competent authority and was told that his resignation cannot be accepted from a date earlier than the date on which the letter of resignation was submitted. This letter apparently justifies rightly the corrigendum issued at Annexure-A1. Thereafter the applicant took up the matter again with the Chief Personnel Officer, Wheel & Axle Plant by writing another letter dated 15.12.1992 which he ended by stating as follows:

..."No, that if my resignation could not be accepted with retrospective effect I request that I may please be permitted to join the service. I could not submit my representation within the stipulated time as I received your advice only after a lapse of nine months."

5. When this threat of the prospect of rejoining the plant appeared to be in the mind of the applicant as found from his communication at Annexure-A4, the plant people who apparently did not want the applicant to reimpose himself on them once again, performed another volteface by telling him that the department decided to accept his resignation from 23.2.1991. The endorsement to this effect which is at Annexure-A5 dated 27.1.1993 reads:

"WHEEL & AXLE PLANT

General Manager's Office  
(Personnel Branch)  
Yelahanka, Bangalore-64.  
Dated 27th January 1993.

No.WAP/PF/SR./1066

Sri S.R. Adinurthy,  
Door No.38/1 (Jeyalakshmi Industries)  
2nd Cross, Nagappa Block,  
Srirampuram,  
Bangalore-560 021.

Sub:Resignation.

Reference to your representation dated 15.12.92 addressed to GPO/WAP, the matter has been carefully considered by the competent Authority. Taking into account the circumstances

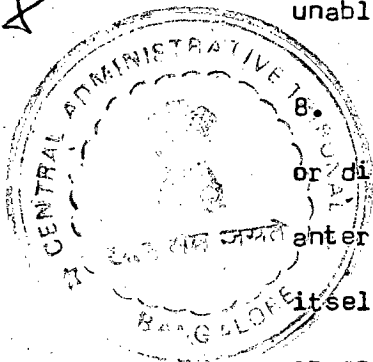
...5...

explained in your representation dated 15.12.91, the competent Authority has in partial supersession of the instructions contained in this office letter of even No. dated 27.7.92 has decided to accept your Resignation w.e.f. 22.3.91."

6. Then followed one more communication from the applicant as per Annexure-A6 <sup>11/11/93</sup> asking them to permit him to continue in service in the Wheel & Axle Plant interalia expressing remorse for his action in submitting his resignation, etc., etc. with that the intense correspondence having ended, he is now before us urging that albeit the acceptance of his resignation as per Annexure-R2, the department having later changed its stance by bringing forward the date of resignation and not reckoning it from the date on which it had actually accepted, a step with which he did not concur as could be seen from the representation he has made, in particular, the representation at Annexure-A4 urging that if his resignation could not be accepted with retrospective effect, he should be permitted to join the service, he now says that this clearly is a case of a resignation having been retracted on the basis of the department's action in reversing the date of resignation. He says the position is as if there was no resignation at all and asks us he should be restored into service with all attendant benefits.

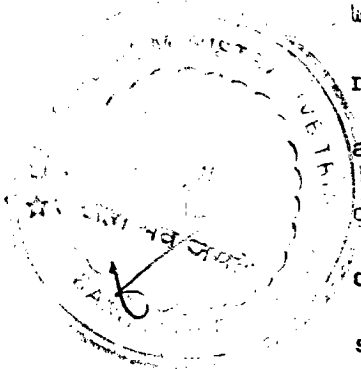
7. We have considered with some earnestness all the submissions put forward in support of the stand by Shri Ranganatha Jois, counsel appearing for the applicant, but find ourselves unable to accede to any of them.

8. The question herein is not whether the respondents had or did not have the authority to accept a resignation from an anterior period, but, the question is whether the resignation itself had been accepted, be it on the terms of the applicant or on the terms of the department.



9. The applicant purported to resign with effect from 11.3.1991 and that resignation has been accepted with effect from 22.3.1991 as could be seen from Annexure-R2 which has the same effect as Annexure-A7. Shri A.N. Venugopal for the respondents tells us that after resigning the post and following its acceptance the applicant had vacated the official quarters and had also paid back one month's salary in lieu of notice period as seen from the communication of acceptance as per Annexure-R2 and therefore it is urged that he cannot now say his resignation had not been effective at all and merely because the department thought it was appropriate to revise the date of resignation from 22.3.1991 to 10.10.1991. Even so, the issue of resignation was not alive and could not have enabled the applicant to retrace his steps and ask for reinstatement in service. We think the foregoing position as espoused by Shri A.N. Venugopal appears to be quite tenable.

10. The offer of resignation becomes effective both in law and fact the moment it is accepted by the authority who is competent to accept such resignation. It is not denied the authority competent to accept the resignation had in fact accepted the applicant's resignation as per Annexure-R2 with effect from 22.3.91. With the result from that day, i.e., the day of acceptance of resignation had in fact resulted in the cessation of relationship as employee and employer or master and the servant. The further development occurring with the department trying to shift the date of resignation to 10.10.91 from 22.3.91, does not change the situation at all. It may be seen the corrigendum issued at Annexure-A1 treating the date of resignation as 10.10.91 instead





by then nearly 8 months had elapsed and during all those 8 months, the man had accepted his status as that of a quondam employee of the respondents and his evidence in having vacated his quarters and paid back one month's salary in lieu of notice period on the basis further strengthens the department's case that he had also reconciled his status as an ex-employee.

11. What, therefore, follows is that merely because the administration did a turn about and thought the act of acceptance of resignation required a little bit of *laundery* and felt that it was more appropriate to treat the applicant as having resigned from 10.10.91 and not from 22.3.1991 the position of the applicant does not change at all, be it 10.10.91 or 22.3.91, he will remain an employee who had resigned with effect from 22.3.1991 and was therefore not in employment at all. The corrigendum at Annexure-A1, it does not alter the said position at all. What is more in his representation against Annexure-A1 and the explanation at Annexure-A4, he went on to state that if his resignation could not be accepted with retrospective effect, he may be permitted to join service. In other words, he had categorically stated that if his resignation was not to be accepted with retrospective effect he would consider himself being eligible for reinstatement all of which makes it once again apparent that he was insisting on acceptance of a resignation from an anterior date. The department gave no such choice to the applicant because they promptly issued the endorsement as at Annexure-A5 dated 27.1.1993 to which we have drawn attention in which it is mentioned that they had decided to accept his resignation with effect from 22.3.1991 and were now going back on that.

12. Thereafter, the applicant wrote one more letter at Annexure-A6, dated 11.2.1993 in which he simply threw himself at the mercy of the department pointing out that he was somewhat over hasty in tendering resignation which action he was deeply repenting and wanted a reappointment and asked that his request for reappointment be considered sympathetically. The respondents apparently were not disposed to accept his appeal for clemency and were not probably inclined to take him back into service with the result there was no response to the letter at Annexure-A6 and that is where the matter stays. Considering the matter fully, it becomes clear that notwithstanding a bit of hesitancy on the part of the department, the acceptance of the applicant's resignation under Annexure-A1 with effect from 22.3.1991 had become final and the situation did not change with the issuance of the corrigendum at Annexure-A1, dated 27.7.1992 shifting the date of resignation to 10.10.91 from 22.3.91. At any rate, the faux pas if any committed by the department in issuing the corrigendum at Annexure-A1 was later rectified by issuing the fuller communication under Annexure-A7 making it clear that acceptance of his resignation with effect from 22.3.91 was a thing of the past and had to remain and it became final. The position, therefore, was and clearly is the resignation having been accepted with effect from 22.3.1991 had become final. Resignation having been accepted, applicant cannot seek reinstatement but can seek reappointment subject to being eligible.

13. But, Shri Bis asks us to direct the department to reappoint the applicant treating him as a fresher as was done in the case of other employees who had participated in the strike during 1991. It is not open to us to give any such direction to

(V. RAMAKRISHNAN)  
MEMBER (A)

(P.K.SHYAMSUNDAR)  
VICE CHAIRMAN



**SECRET**

1950

E. S. Sauer

10/1/91  
SECTION OFFICER  
CENTRAL ADMINISTRATIVE TRIBUNAL  
ADDITIONAL BENCH  
BANGALORE

CENTRAL ADMINISTRATIVE TRIBUNAL  
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SECOND FLOOR  
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dated: [ 7 JAN 1994

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Sir,

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APPLICATIONS NO.

DATE OF THE ORDER

1. O.A.No.543 of 1993.....

Date:02-12-1993.

-x-x-x-x-x-x-

Yours faithfully,

*Se. Shamber*

DEPUTY REGISTRAR  
JUDICIAL BRANCH.

For