

CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE BENCH

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

Dated: **9 SEP 1993**

APPLICATION NO(S) 552 of 93.

APPLICANTS: T.G. Rajappa

RESPONDENTS: Regional Officer, D/o
Field Publicity, No 12 B, N Dethi D/O

TO.

- ① Dr. M. S. Nagaraja, Advocate, No. 11, Second Floor, 1 cross,
Sujatha Complex, Grandhinagar, Bangalore-9.
- ② Sri. G. Shanthappa, Addl. Central Govt Stng. 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 27th August 93.

Issued
for

N. S.
for **DEPUTY REGISTRAR**
JUDICIAL BRANCHES.

9/9/93

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL

BANGALORE BENCH : BANGALORE

DATED THIS THE 27TH DAY OF AUGUST, 1993

PRESENT

HON'BLE JUSTICE MR. P.K. SHYAMSUNDAR .. VICE CHAIRMAN

HON'BLE MR. V. RAMAKRISHNAN .. MEMBER (A)

APPLICATION No.552/93

Sri T.G. Rajappan,
S/o. Sri C.N. Govindan,
20, Praveen Nilaya,
Subedar Palya,
9th Main, K.N. Extension,
Yeshwanthpur,
Bangalore-560 022.

... Applicant

(Dr. M.S. Nagaraja .. Advocate)

Vs.

1. The Regional Officer,
Directorate of Field Publicity,
Government of India,
Ministry of Information & Broadcasting,
79, 1st Main, Seshadripuram,
Bangalore-560 020.
2. The Director of Field Publicity,
Government of India,
Ministry of Information & Broadcasting,
East Block IV, R.K. Puram,
New Delhi - 110 066.
3. Union of India
represented by Secretary to Government,
Ministry of Personnel & Public Grievances
and Pension, North Block, New Delhi. ... Respondents

(Shri G. Shanthappa .. Advocate)

This application, having come up before this Tribunal
today for admission, Hon'ble Justice Mr. P.K. Shyamsundar,
Vice Chairman, made the following :

ORDER

We have before us a typical example of how bureaucracy
functions. In this case, we find that a man having served for a



long period of 12 years as a Stenographer is now sought to be reverted to the post of a L.D.C. on the ground that his appointment as Stenographer was impermissible under the rules because he was over-aged by just 20 and odd days on the date of his appointment as a Stenographer. It is not in dispute that he has been working as a Stenographer from the date of his appointment in the year 1981 (vide Annexure-A5). That was, however, termed as purely temporary and ad-hoc till further orders, etc. Subsequent to his appointment, he was posted in that capacity to other places and is now presently on deputation to the Field Publicity Department, Government of India at Bangalore. Curiously we find there is even a seniority list of Stenographers of the Department wherein the applicant's name is placed above as many as 8 people vide Annexure-A5. He has been continuously referred to as Stenographer in the several orders issued by the Department and under those orders he has been shifted from place to place as Stenographer. A reference in this connection may be made to Annexures A6, A7 and A8. He sought and obtained the appointment in question pursuant to an advertisement issued by the Staff Selection Commission. He had therein provided all details about his age, qualification, etc. He was, thereafter, permitted to take an examination at which he emerged successful and was thereafter appointed as per Annexure-A5 in 1981 on temporary and ad-hoc basis.

2. Earlier, we find there is a communication from the Government of India under which the short-fall in regard to the age requirement of the applicant is found noticed and a recommendation made suggesting relaxation of the age appropriate to the communication appropos the applicant's request.

..."Here, we have a suggestion in this respect for your kind consideration. One of our existing Lower Division Clerks, T.G. Rajappan, a candidate sponsored by the Staff Selection Commission, Allahabad, for the post, has qualified in the Stenographers' Special Examination 1980 (CR), in English Stenography. His claim for appointment as Stenographer has been rejected on the ground that he is now over-age. In this connection, please refer your office letter No.3/NOMN/80-ALL(460098) dated 16.4.81 addressed to Shri T.G. Rajappan at his Mandsauz address. At the time of his appointment as LDC in this office he was within the prescribed age limit. In case he is considered for appointment as Stenographer in this office, his age at the time he qualified for the post of Stenographer will not be an obstacle. It will be treated as selection to the post. Appointment to the post of Stenographer will give him immense satisfaction, as for his service career is concerned.

We hope the Commission will have no objection in considering Shri T.G. Rajappan for appointment to the post of Stenographer. Shri T.G. Rajappan will be given opportunity to learn Hindi Stenography/Typing. If agreed to, you are requested to kindly issue Clearance Certificate in his favour."

3. We are probably not wrong in presuming that it is only after receipt of the communication at Annexure-A4 a formal order of appointment came to be issued under Annexure-A5 and thereafter series of orders have been issued giving him various postings as Stenographer, not to mention a material development viz., inclusion of his name in the seniority list of Stenographers. While all this was going on, everything appeared to be routine. It does however appear this question of the applicant's appointment to the Stenographers' Cadre notwithstanding the problem in regard to his age was still simmering and was still under consideration. But, after 12 years of his officiation, an order of the Ministry was issued as per Annexure-A9 stating that the Govt. felt the applicant's case was not fit for according age relaxation and that became apparent from the Impugned Order itself. More so, the order indicates albeit the alleged careful consideration of the facts and circumstances of the case, the applicant



is not told why a small deficiency that needs requirement of stretching just 26 days (applicable) could not be relaxed.

There are no reasons.

4. What is more, why it took nearly 12 years for the Government to produce this cryptic order is something which is shrouded in mystery. We asked the learned standing counsel as to why there was such inordinate delay in making the Government order in question. All that he told us was that there was some correspondence going on all these years. We are not satisfied with this explanation which appears to be totally omnibus but nonetheless wholly unsatisfactory. We find the applicant is a graduate. He was allowed to take the examination prescribed for a Stenographer and when he sought leave to take the examination he had given details of all the particulars including his age. It was apparent he was over aged by 26 days and that was nothing sudden or startling about it. It was an open secret. Even so, he was allowed to take the examination and the Staff Selection Commission recommended his appointment after giving relaxation regards his age. It was only after the issue of Annexure-A4, addressed to the Staff Selection Commission soliciting the appointment of the applicant after relaxing the age requirement, the applicant's appointment as Stenographer came to be issued as per Annexure-A5. Subsequently too, he continued, allowed to Cross Efficiency Bar and there is no doubt that he has been finally implanted in the Stenographers' cadre.

5. There is also a document produced by the Respondents indicating that nobody was against relaxing the rules regarding age. The Department wanted the rules to be relaxed. In the 12 long years, the applicant has rendered service as a Stenographer

and certainly there appears to be no ground for pushing him out for want of ability. All these facts clearly pointed that the applicant continued as Stenographer all these years indicating that there had indeed been a relaxation of the requirement of the rules notwithstanding the absence of a paper order.

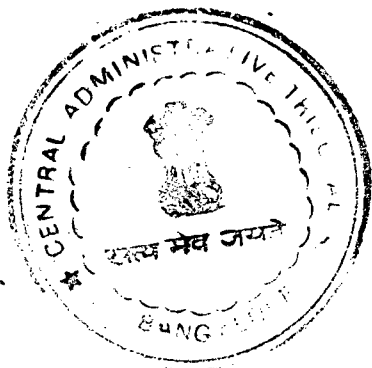
6. In the circumstances, we are of the opinion that the continuous officiating in the post although it may be contrary to the recruitment rules, having been continuously treated as regular and hence the relaxation of the rules regarding age is to be assumed. The Supreme Court has accordingly said so in Narendra Chadha Vs. Union of India 1986(SCC)38. We follow that decision and hold this to be a case of deemed relaxation of the rules. This application, therefore, succeeds and is allowed, the order at Annexure-A9 stands quashed. We direct this controversy regarding the age of the applicant shall not be revived henceforward at any stage. No costs.

Sch
MEMBER (A)

Sch
VICE CHAIRMAN

psp.

TRUE COPY



S. J. [Signature]
SECTION OFFICER
CENTRAL ADMINISTRATIVE TRIBUNAL
ADDITIONAL CLERK
BANGALORE

9/9/92