

CENTRAL ADMINISTRATIVE TRIBUNAL  
BANGALORE BENCH

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

Dated: - 4 ~~NOV~~ 1994

APPLICATION NO: CP 40/94

APPLICANTS:- Shri. K. Suresh & 100's.  
(in OA 238 & 394 to 455/94)

V/S.

RESPONDENTS:- Mrs. Gayathri Kumar, & Passport Officer,  
M/O External Affairs, Bldg.

T.

1. Shri M. R. Achar, Advocate  
1074 11th Main, 4th Cross  
Samvelanagar,  
Bangalore - 560050.
2. Shri M. S. Padmarajaiah,  
Sr. C.G. S.E.  
High Court Bldg -  
Bangalore.

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

--XX--

Please find enclosed herewith a copy of the ORDER/  
~~STAY ORDER/INTERIM ORDER~~ passed by this Tribunal in the above  
mentioned application(s) on 26th October 1994

Issued on 4.11.94  
GC  
Goh

gm\*

for  
DEPUTY REGISTRAR  
JUDICIAL BRANCHES.

CENTRAL ADMINISTRATIVE TRIBUNAL,  
BANGALORE BENCH.

CONTEMPT PETITION (CIVIL) NO. 40/ 1994

IN

ORIGINAL APPLICATION NO. 238/94 & 394 TO 455/ 1994

WEDNESDAY, THE 26TH DAY OF OCTOBER, 1994

SHRI V. RAMAKRISHNAN	...	MEMBER (A)
SHRI A.N. VUJJANARADHYA	...	MEMBER (J)

1. Shri K. Suresh,  
S/o A. Kannan,  
Aged about 32 years,  
working as Casual Employee,  
Passport Office, Bangalore,  
r/at No: 46, III Main,  
Lingaiahnapalya, Ulsoor,  
Bangalore - 560 008.
2. Shri K. Subramani,  
S/o Kuttai, Aged about  
36 years, Working as Casual  
Employee, Passport Office,  
R/at: No.2, III Cross,  
Sonnan hally, Vivekanagar PO,  
Bangalore - 560 047.
3. Shri Udayakumar,  
S/o C.P. Kandaswamy,  
Aged about 25 years, working  
as Casual Employee,  
Passport Office, R/at  
No. 2/2, Velumudaliar Road,  
Bangalore - 560 001.
4. Shri P.G. Mahesh Babu,  
S/o P.S. Govindaraja Shetty,  
Aged about 26 years,  
Working as Casual Employee,  
Passport Office, R/at No.3,  
Velumudaliar Road,  
Bangalore-560 001.
5. Shri S.D. Arulnathan,  
S/o B.S. Devadas, Aged  
about 31 years, Passport  
Office, R/at: No. 200/A,  
David Villa, New Thippasandra,  
Bangalore - 560 075.



6. Shri K.R. Babu, father's name not given, aged about 24 years, Working as Casual Employee, Passport Office, R/at No. 1, 'E' No. II Street, Shivajinagar, Bangalore - 560 001.
7. Smt. C. Sarala, d/o B.K. Channarasappa, Aged about 22 years, Working as Casual Employee, Passport Office, R/at No. 513, 10th Cross, 6th Block, Rajajinagar, Bangalore - 560 010.
8. Shri Charles Antony Samuel, S/o B.S. Samuel, Aged about 25 years, Working as Casual Employee, Passport Office, R/at No. J No. 3rd Street, No. 18, Ashoka Nagar, Bangalore - 560 028.
9. Shri C. Dheyaneshwaran, S/o Chinnaraj, Aged about 30 years, Working as Casual Employee, Passport Office, R/at No. 216, 3rd Cross, Kanakadasa Layout, Lingarajapuram, Bangalore-84.
10. Shri G. Selambu Selvam, S/o N. Gajendra, Aged about 24 years, Working as Casual Employee, Passport Office, R/at No. 35, Opp: Rcbac Ind., Old Madras Road, Thambuchetty Palya, Virgo Nagar, Bangalore - 560 049.
11. Smt. R. Niveditha, D/o Ramachandraiah, Aged about 23 years, Working as Casual Employee, Passport Office, R/at No.: 67, I 'C' Main, Near Pipeline Road, Binny Layout, Vijayanagar, Bangalore-560 040.

... Complainants

( By Advocate Shri M.R. Achar )

Vs.

162  
Mrs. Gayathri I. Kumar,  
Passport Officer,  
Ministry of External Affairs,  
Sankar Narayan Building,  
No. 25/1, M.G. Road,  
Bangalore-1.

... Respondent

( By Advocate Shri M.S. Padmarajaiah, Senior  
Standing Counsel for Central Govt. )

....3/-

ORDER

Shri V. Ramakrishnan, Member (A)

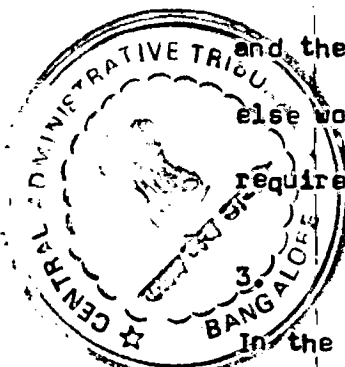
The complainants have alleged that the respondent, namely, Mrs. Gayathri I. Kumar, Regional Passport Officer has committed contempt of court as she has defied the directions of the Tribunal passed on 8.3.94.

2. We have heard Shri M.R. Achar for the complainants and Shri M.S. Padmarajaiah, the learned Senior Standing Counsel. On 8.3.94 while the request of the respondents for extension of time for filing reply was considered, the counsel for the applicants had prayed that we should give a direction to the respondents not to recruit anybody in place of the applicants pending disposal of the application. The order <sup>of the Tribunal</sup> also refers to the fact that the Standing Counsel had drawn attention to para 4 and para 9 of the reply statement where it was brought out that the services of the applicants were dispensed with on the ground that there was no work to be given to the applicants and there was no vacancy and as such the question of recruiting anybody else would not arise. It was further averred that if there was any requirement for engaging any one, the applicants will be considered.

This original application was finally disposed of on 30.6.94.

In the meanwhile, towards the end of June, 1994 about 16 people had joined as LDCs in Group 'C' in the Regional Passport Office. The complainants submit that engaging these 16 people as LDCs in the Group 'C' cadre has defied the interim order passed by the Court on 8.3.94.

.... 4/-



07

4. The learned standing counsel submits that these 16 persons were recruited by the Staff Selection Commission for filling the vacant posts at the level of LDC on a regular basis. He further makes available to us a copy of the letter dated 24.9.92 issued by the Ministry of External Affairs, New Delhi addressed to the Staff Selection Commission which indicates the vacancies to be filled up at the level of LDCs on regular basis in the various wings of the passport office. (A copy of the letter is taken on record). As against the required posts of 18, two posts were reserved for various protected categories. Shri Padmarajaiah argues that this letter was issued much before the filing of the OA and before passing of the order. He also contends that nobody else had been engaged as a casual labour in respect of any casual labour vacancy. He distinguishes the filling up of the regular posts through the accepted channels of recruitment from that of engagement of persons on casual basis. He also emphasises that the OM dated September 1993 which deals with conferment of temporary status and regularisation of casual labour refers only to Group 'D' category and whereas the persons who have been appointed towards the end of June, 1994 belonged to the level of LDCs which is of Group 'C'. In the light of the above he submits that the department had not committed any contempt.

5. We have considered the matter carefully. While passing the order dated 8.3.94, Shri Padmarajaiah had referred to para 4 and para 9 of reply statement of the respondents. These paras read as follows:

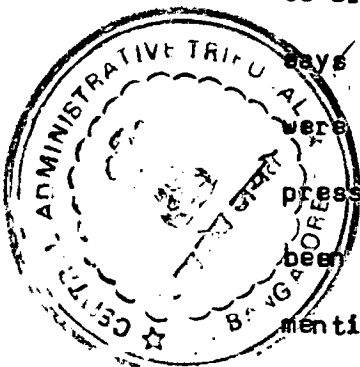
"4. The 2nd respondent submits that on 31.1.1994 this office cleared most of the work that had earlier necessitated the requirement of the said applicants. There was no need for the services of the applicants on or after 31.1.94, there was no work pending relating to them, there were no regular vacancies of Group-D staff at the office of the 2nd respondent and no budget was available. Therefore, the services of the applicants were dispensed with on the legitimate ground that

there was no work to be given to them and the respondents are not in a position to give them wages as (1) there was no work, (2) there are no vacancies and (3) there is no work.

9. As admitted by the applicants in para 4(f) of the application, they were taken for employment as an emergency measure to immediately carry out the work on hand, even bypassing persons waiting in the employment exchange as, at that time, there was no time to carry out the time consuming procedure of requisitioning persons from the Employment Exchange and waiting for them to join. No promises whatsoever, were given to them that their services will be regularised later. The O.M. dated 10.9.1993 referred, the order is not applicable to the applicants since their services were not continuous. As they were engaged on day-to-day basis as casual workers on a payment of 1/30 basic pay at the minimum admissible to the Group-D staff. Since the applicants are not eligible for the benefits, the application is liable to be rejected. They are not entitled for any reliefs.

It is submitted that the order of the 2nd respondent is not illegal, nor biased or opposed to the principles of natural justice. Hence the applicants have no ground to approach this Hon'ble Court for reliefs."

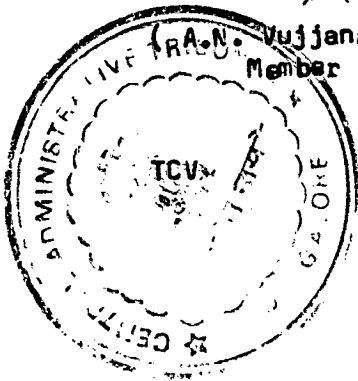
From this, it will be clear that the case was examined in the context of the provisions of the OM dated 10.9.93 which deals with conferment of temporary status and regularisation which in any case is available only to Group 'D' categories. Paragraph 9 of the reply statement no doubt says that since there was no work to be given to the applicants, they were not engaged but they were required at a time when there was a pressing need to clear some work. The applicants numbering over 60 have been engaged but not against any regular post. It is also pertinent to mention that the number of regular posts available in Group 'C' is less than 20. It is necessary to make a distinction between recruitment on regular basis and engagement on casual basis. The submissions of the Standing Counsel and the intention of the Tribunal was that nobody else should be engaged on a casual basis while the applicants were discharged



on the ground that there was no work to be given to them. As the Respondent has not engaged anybody else on casual basis, there was no question of defiance of the order dated 8.3.94.

6. In view of the above, the contempt petition fails and is dismissed and the alleged contemner is discharged.

Sd-



(A.N. Vujjanaradhya )  
Member (J)

Sd-

( V. Ramakrishnan )  
Member (A)

TRUE COPY

*[Signature]*  
Section Officer  
Central Administrative Tribunal  
Bangalore Bench  
Bangalore