

CENTRAL ADMINISTRATIVE TRIBUNAL  
BANGALORE BENCH

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

Dated: **16 FEB 1994**

APPLICATION NO(s) 21 of 1994

APPLICANTS: M. Nagaraj

Vs. RESPONDENTS: The Chairman, Railway  
Board, New Delhi & 3 Ors.

TO.

- ✓ 1. Shri M. Narayanaswamy,  
Advocate,  
No. 844, (Up-stairs),  
17th G Main, V Block,  
Rejainagar,  
Bangalore - 560 010.
- ✓ 2. The Divisional Personnel Officer,  
Southern Railway,  
Bangalore Division,  
Bangalore - 23.
- ✓ 3. Shri A.N. Venugopala Gowda,  
Advocate,  
No. 8/2, First Floor,  
R.V. Road,  
Bangalore - 560 004.

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 09.02.1994.

*S. S. Srinivas*  
DEPUTY REGISTRAR  
JUDICIAL BRANCHES.

gm\*

*Issued  
on 17.2.94  
17/2*

CENTRAL ADMINISTRATIVE TRIBUNAL  
BANGALORE BENCH; BANGALORE

APPLICATION NO.21/1994

WEDNESDAY, THE NINETEEN FEBRUARY, 1994.

Present: Mr. Justice P.K. Shyamsunder, Vice Chairman

Mr. T.V. Ramanan, Member(A)

Shri M. Nagaraj  
S/o. late Muniyappa  
Aged about 28 years  
Bungalow Peon (now under  
orders of termination)

Addl. Divisional Railway Manager,  
358, Seshadri Road, Bangalore-9.

Permanent Address: Site No.2,

Kannamangala Village & Post  
Devanahalli Taluk, Bangalore District. .... Applicant

(By Advocate Shri M. Narayanaswamy)

Vs.

1. The Railway Board  
rep. by its Chairman  
Rail Bhavan, New Delhi.

2. The Divisional Railway Manager,  
Southern Railway, Bangalore Dvn.,  
Bangalore-23.

3. The Divisional Personnel Officer  
Southern Railway, Bangalore Dvn.,  
Bangalore-23.

4. Shri Arun Bhagra  
Assistant Divisional Railway Manager  
Southern Railway, Bangalore. .... Respondents

( By Shri A.N. Venugopal, Advocate )  
Learned Standing Counsel for Railways.



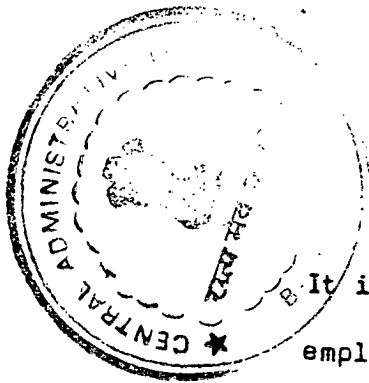
O R D E R

(Mr. Justice P.K. Shyamsunder,  
Vice Chairman)

Heard. Admit.

The applicant herein was appointed as Substitute Bungalow Lascar by an order dated 1.4.1992 produced at Annexure-A1. Although the appointment is termed temporary, one of the conditions of appointment is "that the appointment is terminable on 14 days notice on either side. No such period will be required if the termination is due to his mental or physical incapacity or due to removal or dismissal from service as a disciplinary measure after compliance with the provisions of clause(2) Article 311 of the Constitution of India". We now find the applicant's service has been terminated for unsatisfactory performance without complying with the requirements of provisions of clause(2) Article 311 although such obedience is enjoined in the order of the appointment. The order of termination which is at Annexure-A4 reads:-

"The service of Shri M. Nagaraja, substitute Bungalow Lascar to ADRM/SBC (length of service 1 year and 9 months) on pay Rs 762/- in scale of Rs 750-940 are hereby terminated with effect from 31.12.1993 A/N (due to unsatisfactory performance in terms of CPO/MAS letter no. PB/SC/153 dated 4.6.1977.



It is well settled that no employee that includes a temporary employee as well cannot have services broken up on grounds of unsatisfactory performance unless it is preceded by an appropriate enquiry alleging unsatisfactory performance or indifferent performance in the discharge of duty being established. This being the position in law, if an employee were to lose his service after being branded that service rendered by him was unsatisfactory ought clearly to stymie the employee and that can be done only after an enquiry is held but not without any enquiry. In this view of the matter, we have got to quash the impugned order at Annexure-A4 and we

allow this application and quash the order of termination at Annexure-A4 dated 30.12.1993, leaving it open to the Railway administration to hold an enquiry if they choose. In the meanwhile, we direct to reinstate the applicant into service and the absence of duty from the date of impugned order to the date of reinstatement will be regulated in accordance with law. No costs.



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

*Sd-*  
(P.K. SHYAMSUNDER)  
VICE CHAIRMAN

**TRUE COPY**

*Sc Shauhar* 16/2  
SECTION OFFICER  
CENTRAL ADMINISTRATIVE TRIBUNAL  
ADDITIONAL BENCH  
BANGALORE

CENTRAL ADMINISTRATIVE TRIBUNAL,  
BANGALORE BENCH.

CONTEMPT APPLICATION NO. 26/ 1994

IN

ORIGINAL APPLICATION NO. 21/ 1994

THURSDAY, THE 23RD DAY OF JUNE, 1994

Shri V. Ramakrishnan

... Member (A)

Shri A.N. Vujjanaradhya

... Member (J)

Shri M. Nagarej,  
s/o late Shri Muniyappa,  
aged about 28 years,  
Bungalow Peon,  
Addl. Divisional Railway Manager,  
358, Seshadri Road, B'lore-9,  
now residing at site No.2,  
Kannamangala Village and Post,  
Devanahalli Taluk,  
Bangalore District.

... Petitioner

( By Advocate Shri M.N. Swamy )

Vs.

1. Shri Shukla,  
Chairman,  
Railway Board, Rail Bhavan,  
New Delhi.

2. Shri S.C. Sen Gupta, Major,  
Divisional Railway Manager,  
Southern Railways, B'lore Division,  
Bangalore-23.

3. Shri Mohan A. Menon, Major,  
Divisional Personnel Officer,  
Southern Railway, B'lore Dvn.,  
Bangalore-23.

... Respondents

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

ORDER

Shri A.N. Vujjanaradhya, Member (J)

Shri M.N. Swamy for the applicant submits that as mentioned  
in the reply of the respondents, the directions of the Tribunal are  
TRUE COPY complied with and therefore, he submits that the proceedings may be  
dropped. Because of the compliance of the directions of the Tribunal,

Proceedings are dropped.

SECTION OFFICER  
CENTRAL ADMINISTRATIVE TRIBUNAL  
BANGALORE BENCH

BANGALORE ( A.N. Vujjanaradhya )  
Member (J)

( V. Ramakrishnan )  
Member (J)