

Advocate A.

CENTRAL ADMINISTRATIVE TRIBUNAL

BANGALORE BENCH

ORIGINAL APPLICATION No.806/93

TUESDAY, THIS THE 1ST DAY OF FEBRUARY, 1994.

SHRI JUSTICE P.K. SHYAMSUNDAR .. VICE CHAIRMAN

SHRI T.V. RAMANAN ... MEMBER (A)

M. Shivappa,  
Token No.2675,  
Working as Tradesman Mate,  
515, Army Base Workshop,  
Ulsoor, Bangalore - 560 008. ... Applicant

(By Advocate Shri A.S. Natarajan)

Vs.

1. The Secretary,  
Ministry of Defence,  
Government of India,  
New Delhi.
2. The Director General,  
E.M.E.(E.M.E. Civil),  
Army Head Quarters,  
D.HQ P.C., New Delhi.
3. The Commander,  
Takaniki Group Vaidut aur  
Yantrik Ingeeyari Mukhyalaya,  
Head Quarters Technical Group (E.M.E.),  
Delhi Cantt-10.
4. The Commandant,  
515, Army Base Workshop,  
Ulsoor, Bangalore-560 008. ... Respondents

(By Advocate Shri M.S. Padmarajaiah)  
Central Govt. Sr. Standing Counsel.

ORDER

Shri Justice P.K. Shyamsundar, Vice Chairman.

Admit.

Having heard both sides, it becomes clear the applicant has acquired the required eligibility and is entitled to make a demand for promotion as Tradesman. But, the department submits



in its objection statement that notwithstanding the same, i.e., the applicant acquiring the eligibility stamp, promotion to the higher cadre depended on the availability of vacancies. In that behalf, they have come with this application and have told us that some people have been promoted during the pendency of the application No.54/92 which came to be pronounced on 11.8.1992, During the pendency of the application, a proposal was said to be made to the applicant asking to withdraw the application or else to go without promotion. This is a submission made across the Bar. But, in the meanwhile, it transpires whatever that may be, the order of promotion made in favour of others were withdrawn and the position now is nobody is promoted as Tradesman. The applicant, who has acquired the eligibility badge after having passed some test on the basis of which he becomes eligible to be considered for promotion. We, therefore, direct the department to consider the claim for promotion subject to ascertaining whether the applicant has actually passed the promotion test or not. We do not see in such a case how the department can plead want of vacancy for promoting the applicant. But, that ofcourse, it is a sheer contentious issue. We will not take for granted that statement for the aforesaid reason, but make it clear that if there are vacancies available and if the applicant is found suitable for manning the higher post and has also acquired the prescribed eligibility, the department will do well to consider his case for promotion along with others who may be similarly eligible.

3. With this observation, this application stands disposed TRUE COPY off finally. Whatever is required to be done in compliance, let it be done within a period of three months subject however to availability of vacancies.

*Se Shanthi*  
16/2  
SECTION OFFICER

ADMINISTRATIVE TRIBUNAL  
HIGH COURTIAL BENCH  
BENGALURU

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

Sd-  
*V*  
(P.K.SHYAMSUNDAR)  
VICE CHAIRMAN

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HONDA A<sub>2</sub>

RESTRICTED  
DAILY ORDERS PART II  
(Page No 1 of 4)

515 Sena Base Workshop  
515 Army Base Workshop  
Bangalore - 560008

Serial No 76/IND

Dated : 05 Oct 93

(Last DO Part II No 75/IND dated 04 Oct 93)

INDUSTRIAL PERSONNEL

PROMOTION - INDUSTRIAL PERSONNEL (Elect (MV) Mate to Elect (MV) Skilled)

1. T No 2687 Elect (MV) Mate  
Shri Hanumantharayappa

- Having passed the prescribed trade test promoted to Elect (MV) in the scale of pay of Rs, 950-20-1150-EB-25-1500 wef 01 Oct 93 and assumed duty wef the same date.

Will be on probation for a period of 2 years from the date of assumption of duties.

PROMOTION - INDUSTRIAL PERSONNEL (Fitter Mate to Fitter (Skilled))

2. T No 2672 Ftr Mate  
Shri MR Balakrishnan

- Having passed the prescribed trade test promoted to Fitter in the scale of pay of Rs, 950-20-1150-EB-25-1500 wef 01 Oct 93 and assumed duty wef the same date.

3. T No 2673 Ftr Mate  
Shri Bharath Mani

Will be on probation for a period of 2 years from the date of assumption of duties.

4. T No 2674 Ftr Mate  
Shri S Raju

5. T No 2676 Ftr Mate  
Shri V Srinivasalu

6. T No 2678 Ftr Mate  
Shri N Ravi

7. T No 2680 Ftr Mate  
Shri S Eswarappa

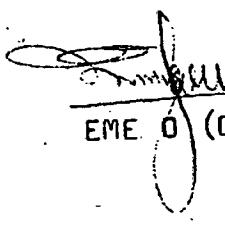
8. T No 2681 Ftr Mate  
Shri Mukunda

9. T No 2683 Ftr Mate  
Shri S Rajendra Prasad

10. T No 2684 Ftr Mate  
Shri G Ashok Kumar

11. T No 2686 Ftr Mate  
Shri R Karthigayan

12. T No 2688 Ftr Mate  
Shri S Krishna

  
EME O (Civ)

Contd... 2/-

RESTRICTED

515 ARMY BASE WKSP (IND PERSONNEL) DO PART II NO 76/IND DATED 05 OCT 93

PROMOTION - INDUSTRIAL PERSONNEL (Fitter Mate to Fitter (Skilled) Contd)

13. T No 2691 Ftr Mate  
Shri Venkataswamy

14. T No 2080 Ftr Mate  
Shri Anwar

15. T No 2694 Ftr Mate  
Shri R Ravi Kumar

16. T No 2695 Ftr Mate  
Shri CK Channiah

17. T No 2698 Ftr Mate  
Shri N Narasimhaiah

18. T No 2703 Ftr Mate  
Shri Arul Dass

19. T No 2711 Ftr Mate  
Shri Shivalingaiah

20. T No 2712 Ftr Mate  
Shri N Ramakrishna

21. T No 2715 Ftr Mate  
Shri Chaluvaraju

22. T No 2717 Ftr Mate  
Shri Ganesh

23. T No 2719 Ftr Mate  
Shri Hutchanna

24. T No 2705 Ftr Mate  
Shri Gopalakrishna

- Having passed the prescribed trade test promoted to Fitter in the scale of pay of Rs 950-20-1150-EB-25-1500 wef 01 Oct 93 and assumed duty wef the same date.

Will be on probation for a period of 2 years from the date of assumption of duties.

PROMOTION - INDUSTRIAL PERSONNEL (Turner Mate to Turner (Skilled))

25. T No 2675 Tur Mate  
Shri M Shivappa

26. T No 2677 Tur Mate  
Shri K Francis Alexander

27. T No 2579 Tur Mate  
Shri R Ravi

28. T No 2682 Tur Mate  
Shri Ramachandra

- Having passed the prescribed trade test promoted to Turner in the scale of pay of Rs 950-20-1150-EB-25-1500 wef 01 Oct 93 and assumed duty wef the same date.

Will be on probation for a period of 2 years from the date of assumption of duties.

EME O (Civ)

RESTRICTED

Contd... 3/-

CENTRAL ADMINISTRATIVE TRIBUNAL  
BANGALORE BENCH

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

Dated: -4 NOV 1994

APPLICATION NO: CP 48 of 1994 in O.A

APPLICANTS:- M. Shivappa NO. 806/93  
V/S.

RESPONDENTS: Shri K. A. Nambiar, Seey, M/bfene & Sons.

I.

1. Shri. S. V. Narasimham  
Akhwate  
105/1, Balepet,  
Bangalore - 560 053
2. Shri. M. V. Rao  
Adv. C.G.S.C.  
High Court Bldg  
Bangalore - 1

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

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Please find enclosed herewith a copy of the ORDER/  
STAY ORDER/INTERIM ORDER/ passed by this Tribunal in the above  
mentioned application(s) on 28th October 1994

dc  
Issued on 4/11/94  
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for  
DEPUTY REGISTRAR  
JUDICIAL BRANCHES.

gm\*

CENTRAL ADMINISTRATIVE TRIBUNAL  
BANGALORE BENCH, BANGALORE

CONTEMPT PETITION NO.48/1994 IN  
D.A.NO.806/1993

FRIDAY THIS THE TWENTY EIGHTH DAY OF OCTOBER, 1994

MR. JUSTICE P.K. SHYAMSUNDAR

VICE CHAIRMAN

MR. T.V. RAMANAN

MEMBER (A)

Shri M. Shivappa  
aged about 32 years,  
Token No.2675,  
Working as Tradesman Mate,  
515 Army Base Workshop,  
Ulsoor,  
Bangalore- 560 008

Applicant

( By Advocate Shri S.V. Narasimhan )

v.

1. Shri Nambiar, K.A.,  
Secretary,  
Ministry of Defence,  
Government of India  
New Delhi
2. Lt. Gen. Aluwalia,  
Director General E.M.E.(Civil),  
Army Headquarters, DHQ  
New Delhi

3. Maj. Gen. S. Rishi,  
Commander,  
Takaniki Group Vaidut Aur  
Yantrik Indineeyari Mukhyalaya,  
H.Q. Technical Group (EME),  
Delhi Cantt.10

Brig. K.B. Wadhavan,  
Commandant,  
515 Army Base Workshop,  
Ulsoor,  
Bangalore - 560 008

Respondents

( By learned Standing Counsel )  
Shri M.V. Rao

ORDER

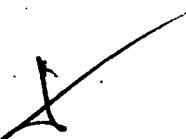
MR. JUSTICE P.K. SHYAMSUNDAR, VICE CHAIRMAN

We have heard both sides in this contempt



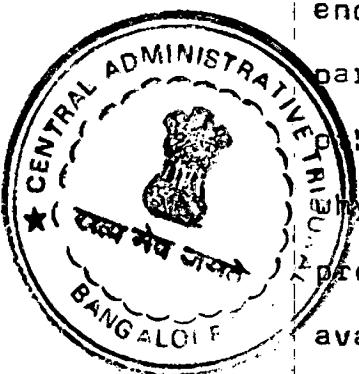
petition requesting for action to be taken against the Administration for non-compliance of the directions of the Tribunal while disposing of O.A.No.806/93 on 1.2.94. Therein, we had directed the Administration which is a military organisation to consider the claim of the applicant for promotion subject of course to satisfactory proof of eligibility and availability of vacancies etc. etc. The time limit for complying with the directions was three months. It now transpires within the time frame, the respondents had not moved up the matter and hence this petition.

2. Upon notice having been issued to the respondents, they appeared before us and filed a lengthy objections statement running to several pages which does not, however, appear to convey relevant information. In addition, upon our direction, one officer by name Col. Deepak Sharma, General Manager(Administration) has filed an affidavit dated 26th October, 1994, stating that on the previous occasion, promotions were made because the Administration succumbed to the pressure of the labour union leaders and thereafter on the objection of the audit people for under-utilisation of manpower owing to insufficient workload, steps had to be taken to reduce the number of persons manning the higher posts. The affidavit then goes on to state that the position has since improved with more work being available and hence the chances of promoting the applicant and others like him to the higher



posts are very bright and that soon all will probably be promoted. He, therefore, asks that no action be taken for having allegedly broken faith by not complying with the directions of the Tribunal.

3. We are hard put to accept the foregoing submission which is somewhat baffling as well. If on the earlier occasion promotions were made against existing vacancies promotees could not possibly have been reverted for want of work. Be that as it may, the vague explanation that because of the pressure tactics adopted by the labour union, promotions were made and subsequently withdrawn it thus appears to really militate against accepted norms for promotions. Promotions once made cannot be tinkered unless such promotion is taken away on grounds of disciplinary enquiry or abolition of posts. Contrary to these parameters, promotions of the applicant and others had been taken away and that is the reason why we had ordered a review of the applicant's promotion subject, however, to vacancies being available. We are now told vacancies are there but promotions were cancelled for lack of workload. We are also now told that the workload position has considerably improved and there is sufficient workload for everyone with the result the Administration will hereafter consider the case of the applicant for promotion. In the light of the statement made by the General



Manager Administration as aforesaid, which statement we place on record, we proceed to dispose of this petition with a direction that the Administration will now consider the applicant's case for promotion within a period of three months from the date of receipt of a copy of this order. The Administration should not plead want of vacancies again. Subject to the applicant's being found eligible for promotion, they will consider the claim of the applicant and pass appropriate orders within the time granted herein.

4. At this stage, Shri M.V. Rao, learned Standing Counsel submits that the applicant will be promoted if there are vacancies. We cannot countenance this submission for we are really hard put to reckon with this statement. Nowhere in the affidavit referred to supra or in the course of the lengthy, prolix objections statement, is there any mention that earlier promotions had been made against non-existing vacancies. In that situation, we do not think it proper for Government Advocate to say that the applicant will be promoted if there are vacancies. Be that as it may, we have given three months time. That should be sufficiently long interval in which the Department should either find out a vacancy and if there are no vacancies, to create the same, as we are now told by the General Manager, Administration

that there is ample work and the Department  
~~go all out~~  
wants to ~~out~~one with full steam ahead. No  
costs.

Sd-

MEMBER (A)

Sd-

VICE CHAIRMAN



TRUE COPY

*Agrey*  
04/11/94

Section Officer  
Central Administrative Tribunal  
Bangalore Bench  
Bangal. re