

CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE BENCH

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

Dated:- **13 JUN 1994**

249 of 1994.

APPLICATION NUMBER: _____

APPLICANTS:

RESPONDENTS:

To. Sri.Ramesh v/s. The Regional Director, Regional Biofertilizer
Development Centre, Bangalore.

1. Sri.M.S.Anandaramu, Advocate,
No.27, Chandrashekar Complex,
First Main Road, First Cross,
Gandhinagar, Bangalore-560009.
2. The Regional Director,
Regional Biofertilizer Development Centre,
Government of India, Ministry of Agriculture,
No.34, Second Main Road, Hebbal, Near Baptist Hospital,
Bangalore-560024.
3. Sri.M.S.Padmarajaiah, Central Govt. Sng. Counsel,
High court building, Bangalore-560001.

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

Please find enclosed herewith a copy of the ORDER/
STAY ORDER/INTERIM ORDER/, passed by this Tribunal in the above
mentioned application(s) on Eighth, June, 1994.

gm*

*Received with
B.R. 28/6/94*

S. Shankar
DEPUTY REGISTRAR
JUDICIAL BRANCHES.

*Of
Received
gm*

CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE BENCH : BANGALORE

APPLICATION NO. 249/1994

DATED THIS THE EIGHTH DAY OF JUNE, 1994

Shri A.N. Vujjanaradhya, Member (J)

Shri T.V. Ramanan, Member (A)

Shri Ramash
Aged about 27 years
working as Driver
O/O Regional Director
Regional Biofertilizer Development
Centre, Govt. of India
Ministry of Agriculture
34, II Main Road, Hebbal,
Near Baptist Hospital
Bangalore-24 (now under suspension)
and residing at No.174, Koni Agrahara
H.A.L., Bangalore-17.

.... Applicant

By
(Shri M.S. Anandaramu, Advocate)

Vs.

The Regional Director
Regional Biofertilizer Development
Centre, Government of India
Ministry of Agriculture
34, II Main Road, Hebbal
Near Baptist Hospital
Bangalore-24.

.... Respondent

By
(Shri M.S. Padmarajiah, S.C.G.S.C.)

O R D E R

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

Aggrieved with the order of termination of
his services by the respondent (Annexure-A6), the applicant
has approached this Tribunal with an application under
Section 19 of the Administrative Tribunals Act, 1985, seeking
reliefs as follows:

- (a) Issue a writ of Certiorari or any
other appropriate writ, order or
direction quashing the office order
No.103/93-94(PF(13)RBDC/Ramesh/92-93/
1592 dated 28.1.1994 (vide Annexure-a6)



- 2 -

as the same is illegal and violative of the principles of natural justice and also violative of the articles 311(2) of the Constitution of India;

- (b) Issue a writ of mandamus or any other appropriate order or direction, directing the respondents to grant all the consequential benefits and
- (c) Grant such other relief or reliefs as this Hon'ble Tribunal deems fit to grant under the circumstances of the case to meet the end of justice.

2. The applicant was appointed by the respondents to the post of Driver purely on a temporary basis by an order dated 24.8.1992 (Annexure-R6). Soon thereafter it came to the notice of the appointing authority, that is, the respondent, that the transfer certificate issued indicating his educational qualification and date of birth as produced by the applicant before the respondent prior to his appointment had not, in fact, been issued by the school authority concerned. In view of this position, respondent issued a memorandum dated 11.10.1993 (Annexure-R5) requiring the applicant to submit his written statement of defence as regards the article of charge as also the statement of imputations in support of the article of charge framed against him and duly enclosed with the memorandum addressed to him. It appears that the applicant filed a reply on the 18th of October, 1993 denying the allegations made against him. Subsequently, on the basis of the enquiry report submitted by the enquiry officer, the impugned order (Annexure-A6) came to be issued.

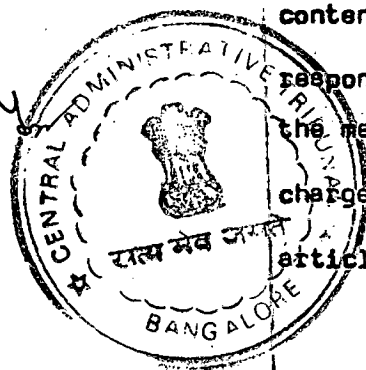
3. We have heard the learned counsel for the applicant and the learned Standing counsel appearing for the respondent.

4. The arguments advanced by the learned counsel for the applicant that the enquiry under the CCS(CCA) Rules should not have been held as a criminal case for the same allegation

was pending against the applicant is not tenable at this juncture because the applicant did not turn up before this Tribunal at the appropriate time to stay the disciplinary proceedings when a criminal matter on the same issue stood registered with the police. In any case, we find that no prosecution has so far been launched by the Police against the applicant even now whereas the disciplinary proceedings initiated against the applicant culminated with the order at Annexure-A6.

5. The next contention raised by the learned counsel for the applicant was, a copy of the report was not made available to the applicant before the disciplinary authority arrived at the conclusion with regard to the guilt of the employee. In view of the judgement of the Supreme Court in the case of MANAGING DIRECTOR, ECIL Vs. KARUNAKARAN as reported in 1993(5)SLR 532, this requirement is a must before an employee is removed from service. Standing Counsel for the respondents also admits that this mandatory requirement has not been complied with by the respondent. In fact, a perusal of the order at Annexure-A6 shows that a photocopy of the enquiry report was enclosed with that order ^{only} which was delivered to the applicant. On this grounds alone the order at Annexure-A6 stands vitiated and requires to be set aside.

6. We are, constrained to make certain observations which will reflect adversely upon the conduct of the disciplinary proceedings against the applicant. Learned standing counsel contends that the disciplinary authority in this case is the respondent. In fact, it is the respondent who had issued the memorandum carrying with it the statement of article of charge and the statement of imputation in support of the article of charge framed against the applicant. Also, it is



the respondent who had issued the order at Annexure-A6. However, a perusal of the record shows that it was the Director, National Biofertilizer Development Centre, who is the head of the department, situated at Ghaziabad, who considered the enquiry report and sent a letter dated 20.1.1994 as at Annexure-R9 to the respondent who is stated to be the disciplinary authority in this case in which he has said, inter alia,

"3. The disciplinary authority after carefully going through the enquiry report has found that Shri Ramesh is found guilty of deceiving the office by furnishing a forged certificate which proves his doubtful integrity and wilful suppression of facts pertaining to his educational qualifications and date of birth. The disciplinary authority has taken a serious view of the charges proved against Shri Ramesh and hereby impose the penalty of removal from service under Rule 11 of CCS(CCA) Rules, with immediate effect. It is advised that the services of Shri Ramesh should be terminated with immediate effect.

A copy of the enclosed Inquiry report may be given to Shri Ramesh along with his termination order. "

If the respondent happens to be the disciplinary authority, why was the matter referred to the head of the department at Ghaziabad to pass an order based on which only the order of termination at Annexure-A6 was issued to the applicant by the respondent? Similarly, there are other anomalies which we have noticed. They are : (1) After giving him time upto 25th October, 1993 or within 10 days of the receipt of the memorandum dated 11.10.1993 at Annexure-R-5 carrying the charge sheet etc., on 13.10.1993, that is, within 2 days thereafter the respondent issued a letter to the applicant stating that enquiry would be conducted at his office on the 1st and 2nd of November, 1993 at 11 a.m. The letter also says that the applicant who was under suspension to face the

enquiry on the aforesaid dates. This letter at Annexure-R5 was highly premature because the applicant had been given time of 10 days or upto 25.10.1993, whichever was earlier, to file written statement of his defence and the memorandum dated 11.10.1993 also states that the enquiry would be held only if the article of charge was not admitted. (ii) There is another order dated 30.9.1993 issued by the head of the department appointing the Regional Director, Bangalore, the respondent, as presenting officer in the case. It is rather surprising that appointment of a presenting officer should have been made even before the charge sheet was issued to the applicant. It is further interesting to note that the disciplinary authority himself was appointed as presenting officer before the enquiry officer. (iii) It is also of interest to note that the head of the department appointed Regional Director, Biofertilizer Deve. Centre, as the enquiry officer by an order dated 30.9.1993 although the charge sheet itself came to be issued to the applicant only on 11.10.1993. (iv) We find from the enquiry report submitted by the enquiry officer (Annexure-A7) that the enquiry was shoddily conducted. No doubt, the applicant did not participate in the enquiry excepting for denying the allegations levelled against him in the article of charge. The enquiry officer who conducted the enquiry ex-parte, instead of confining himself to the reply filed by the applicant and the list of documents which were to support the case against the applicant (the list is also a part of the memorandum dated 11.10.1993) went about calling on the Headmaster of the School who had denied the issue of the T.C., the Sub-Inspector of the Police (Law & Order),



Kamakshipalya Police Station, who was investigating the case of the applicant, Shri H.J. Mariswamy Gowda, PSI (Law & Order), I.A., Upperpet Police Station, Shri V. Narayanappa, Employment Officer, District Employment Exchange(Technical), Shri M.V. Srinivasa Murthy, Joint Director in the office of the Director of Employment and Training, talked to them, obtained their statements oral or otherwise collected documents from a few of them, some of which are other than those spelt out in the list furnished to the applicant along with the memorandum dated 11.10.1993 and finally came to the conclusion in his report that the charge against the applicant stood proved. It may not be necessary for us to further elaborate on this except to observe that the "enquiry" conducted was not certainly in accordance with the rules and principles of natural justice.

7. Some of the observations made by us would even show whether at all the respondent is the disciplinary authority in the case of the applicant. Be that as it may, we set aside the order dated 28.1.1994 at Annexure-A6 and order reinstatement of the applicant. We further give liberty to the respondent for initiation of de novo disciplinary proceedings against the applicant by the disciplinary authority concerned and its disposal thereafter strictly in accordance with law ^{if so desired.} The period between the termination of the applicant's service and his reinstatement will be regulated in accordance with law. No order as to costs.



TRUE COPY

[Signature]
SECTION OFFICER
CENTRAL ADMINISTRATIVE TRIBUNAL
ADDITIONAL BENCH
BANGALORE

13/6 (T.V. RAMANAN)
MEMBER(A)

[Signature]
8/6/74
(A.N. VUJJANARADHYA)
MEMBER(J)