

7188-A

Annexure

B. S. Venkatesh

IN THE HIGH COURT OF KARNATAKA AT BANGA LORE

DATED THIS THE 19TH DAY OF MARCH 1994

BEFORE

THE HON'BLE MR. JUSTICE. C. SHIVAPPA.

W.P. NO. 30581/1992

BETWEEN :

Sri. E. Ramadasa,

s/o. Sri. R. Erappa, aged

about 24 years working as Attendant

(Trade Grad-I, National Dairy

Research Institute (Indian Council

of Agricultural Research), adugodi

post, Bangalore-560 030 (now

illegally terminated from service)

and residing at No.40, East Anjaneya

Temple Street, Basavanagudi,

Bangalore-4.

...Petitioner.

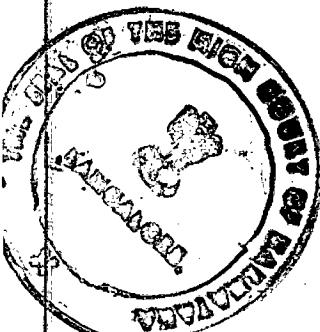
(By Sri. B.S.Venkatesh. Adv.)

The Union of India

Represented by its secretary
Ministry of Labour.

3

This certified copy contains ~~3~~ 3 pages
and a court fee stamp of Rs. 3/- is affixed



-2-

New Delhi.

2. The Management of National
Dairy Research Institute
(Indian Council of Agricul-
rural Research) represented
by its Head, Adugodi,

Bangalore -560 030.

...Respondents.

(By Sri. Meddur Shetty C.G.S.C. for R-1
and Sri. M.Vasudeva Rao for R-2)

This W.P. filed Under Article
226 of the constitution of India, with an affidavit
praying to:Quash the endorsement dt: 5-6-1989 issued
by the R-1 vide Annexure 'E' and etc..

This W.P. coming on for prly.

hearing thisday, the court made the following:

ORDER

CSJ:
19-3-1994.

Since the matter is covered by the
Judgment of this Court W.A.No.1544/93, it is

taken up for final hearing and the following
order is passed:-



-3-

In view of the judgment in W.A.No. 1544/93 reported in ILR 1993 KAR 2807 the remedy of the petitioner is before the Central Administrative Tribunal. Therefore petitioner to approach the appropriate authority.

Petition is dismissed as it does not survive for consideration.

All contentions are left open.

Sd/-Judge.

T.S.Y.A.S.

C.BY

3-15/3/94

R.BY.

H. S

- (a) The date application was made on..... *21/3/94*
- (b) The date on which Addl Charges called for.....
- (c) The date on which the Addl Charges are paid.....
- (d) The date on which the copy is ready..... *21/4/94*
- (e) The date on which copy is delivered..... *31/5/94*

* EXAMINED BY *SP*



TRUE COPY
R. T. S. Ramachandran
 REC'D. OFFICE *15-4-94*

CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE BENCH

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

Dated:- 9 AUG 1994

APPLICATION NUMBER: 914/94

APPLICANTS:

Sri. E. Ramadasa v/s Secretary, M/o Labour, New Delhi and
To. Other

RESPONDENTS:

- ① Sri. B. S. Venkatesh,
Advocate, 43, East Anjaneya Temple Street,
Basavanagudi, Bangalore-560004
- ② Secretary, Ministry of Labour,
New Delhi.
- ③ The Head, National Dairy Research Institute,
Analgod, Bangalore-560030
- ④ Sri. M. Vasudeva Rao,
Addl. CGSC, High Court Bldg,
Bangalore-1

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 18-07-94

Issued on
10/8/94

of

for Se Shannar 9/8
DEPUTY REGISTRAR
JUDICIAL BRANCHES.

CENTRAL ADMINISTRATIVE TRIBUNAL,
BANGALORE BENCH.

ORIGINAL APPLICATION NO. 914/ 1994

MONDAY, THE 18TH DAY OF JULY, 1994

Shri Justice P.K. Shyamsundar ... Vice Chairman

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

Shri E. Ramadasa
S/o Shri R. Erappa,
aged about 30 years
working as Attendant
(Trade Grade I),
National Dairy Research
Institute, Adugodi,
Bangalore - 30
residing at No. 40,
East Anjaney Temple
Street, Basavanagudi,
Bangalore - 560 004. ... Applicant

(By Advocate Shri B.S. Venkatesh)

Vs.

1. The Union of India
represented by its
Secretary, Ministry of
Labour, New Delhi.
2. The Management of
National Dairy Research
Institute, represented
by its Head, Adugodi,
Bangalore - 560 030. ... Respondents

(By Advocate Shri M.V. Rao, Standing
Counsel for Central Government)

ORDER

Shri Justice P.K. Shyamsundar, Vice Chairman

Admit.

We have heard both sides. We think it appropriate to
quash the Office Order under Annexure-B declining reference to
the industrial adjudication. The communication in that behalf
reads as follows:



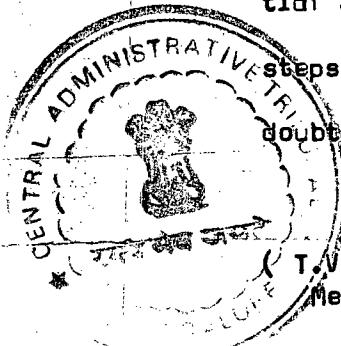
"With reference to the failure of conciliation report No. B (28)/ 88-B4 dated 7.3.89 received from the ALC (C)-II, Bangalore on the above mentioned subject, I am directed to say that the termination of Shri E. Ramadasa did not constitute retrenchment by virtue of sub-section (bb) of Section 2(oo) of the I.D. Act as it was in accordance with the stipulation contained in his appointment order. In view of this the Central Govt. do not consider it necessary to refer the dispute to adjudication."

3. In this matter, which is a dispute between a workman and an employer, the former contending that the termination is illegal on the basis of not holding any enquiry, the Government has taken the view that the termination itself is valid and did not constitute retrenchment by virtue of sub-section (bb) of Section 2(oo) of the I.D. Act being in accordance with the stipulation in his appointment order. ^{(b) even} ~~order could not have made such a positive order giving arise~~

^{to a controversy} which was to be resolved by the Tribunal after a reference. Accordingly, we allow this application and quash the communication under Annexure-B and give a direction to R-1 to refer the applicant's case for adjudication before the appropriate Industrial Tribunal. Let a copy of this order be sent to the respondents for compliance within three months from the date of receipt of the same.

4. We notice the controversy has arisen in the year 1989 and the applicant has approached the High Court of Karnataka earlier. It is only on 19.3.94, the Hon'ble High Court directed the applicant to approach the appropriate forum for redressal of his grievances and thereafter he has approached this Tribunal. In the facts and circumstances of the case, we do not see any reason to reject this application as barred by limitation or latches. Government will now take steps to take up the case and make a reference without raising any doubts about it.

TRUE COPY



T. V. Ramanan)
Member (A)

psp

Sd/- S. Shyam Sundar
SECTION OFFICER
CENTRAL ADMINISTRATIVE TRIBUNAL
ADDITIONAL BENCH
BANGALORE

Sd/-
(P.K. Shyamsundar)
Vice Chairman