

CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE BENCH

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

Dated: 24 NOV 1994

APPLICATION NO: 1272 of 1994

APPLICANTS:- Sri. M.S. Havaldar

V/S.

RESPONDENTS:- M/o Rlys (Secy) & 3 ors.

- T. 1. Shri. M.S. Anandaramu, Advocate, NO. 27, 1st floor,
Chandra Shekar Complex, 1 Main Road, Gandhinagar - B'hr-9
2. Sri. N.S. Prasad, Advocate, NO. 29, 5th Main Road,
Gandhinagar, Bangalore - 9.
3. Sri. M.S. Padmarajah, Sr. C.G.S.E, High Court Bldg, B'hr-1
4. Secy, M/o Labour, Shramika Shekethi Bhawan,
New Delhi - 110001.

Subject:- Forwarding of copies of the Orders 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 22nd November 1994


Issued on

25/11/94





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DEPUTY REGISTRAR
JUDICIAL BRANCHES.

CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE BENCH, BANGALORE

ORIGINAL APPLICATION NO.1272/94

TUESDAY THIS THE TWENTY SECOND DAY OF NOVEMBER, 1994

MR. JUSTICE P.K. SHYAMSUNDAR

VICE CHAIRMAN

MR. T.V. RAMANAN

MEMBER (A)

Shri M.S. Havalad,
aged about 55 years,
Working as Rivetter,
T.No.444B, Boiler Shop,
South Central Railway,
Hubli
(now illegally dismissed from
service and residing at near
Gonadale House,
Karwar Road,
Hubli-580029

Applicant

(By Advocate Shri M.S. Anandaramu)

v.

1. The Union of India,
by its Secretary,
Ministry of Railways,
Rail Bhavan,
New Delhi
2. The General Manager,
South Central Railway,
Secunderabad
3. The Divisional Railway Manager,
South Central Railway,
Hubli
4. The Union of India,
represented by its Secretary,
Ministry of Labour,
Shrama Shakti Bhavan,
New Delhi

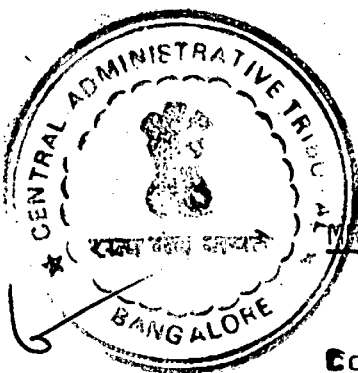
Respondents

(By learned Standing Counsel)
Shri N.S. Prasad for R-1 to 3
Shri M.S. Padmarajaiah for R-4

ORDER

MR. JUSTICE P.K. SHYAMSUNDAR, VICE CHAIRMAN

We have heard the learned Standing
Counsel at the stage of admission in this case



wherein the applicant seeks just a reference being made to the Industrial Tribunal under Section 10 of the Industrial Disputes Act. The Government order impugned herein relates to refusal to make a reference to the Industrial Tribunal on the ground of delay. This is what the Government order says:

"No.L-41012/134/93-IR(DV) dated 18.2.94
Government of India/Ministry of Labour.

I am directed to refer to the Failure of Conciliation Report No.8/22/93-A/M dated 30.9.93 received from the Assistant Labour Commissioner(C), Mangalore on the subject noted above and to say that the Central Government, having considered the said report, in terms of Sec.12(5) of the Industrial Disputes Act, 1947, is of the opinion that the dispute is not fit for reference to the Industrial Tribunal for adjudication on the following grounds:

"The dispute has been raised belatedly after 13 years without justifying the delay."

2. We think that Government has out-stepped its limitations in rejecting the claim for reference treating the demand as belated. If the matter is belated it is upto the Industrial Tribunal to defend it straightway but it is not open to the Government to decline reference on the ground of delay and reject the application for reference in limine. In this connection, we are supported by the judgment of the High Court of Karnataka in W.P.No.5401 of 1994, copy of which is produced by the learned counsel. Therein the Court held the rejection by the Government a demand for reference on the ground of delay to be unsustainable and proceeded to quash the rejection

inter alia directing the Government to make a reference. We follow the said precedent and in turn make an order quashing order at Annexure-2 with a consequent direction to the appropriate Government, Respondent No.4, to make a reference to the Industrial Tribunal for adjudication of the applicant's grievance. Necessary steps to be taken within three months from the date of receipt of this order. No costs.

Sd/-

MEMBER (A)

Sd/-

VICE CHAIRMAN



TRUE COPY

[Signature]
Section Officer
Central Administrative Tribunal
Bangalore Bench
Bangalore