

b Annexure A1

DATED THIS DAY THE 19TH OF JULY, 1993

Present: Hon'ble Justice Mr. P. K. Shyamsundar Vice-Chairman
Hon'ble Mr. V. Ramakrishnan Member (A)

APPLICATION NO. 318/1993

Shri Ashok H. Dongare,
Tube-Well Operator,
Office of the Director,
Central Fodder Seed Production,
Farm, Hessaraghatta,
Bangalore North,
Bangalore

Applicant .

(Shri Anandaramu- Advocate)

V.

1. The Union of India by its
Secretary,
Ministry of Agriculture,
Department of Animal Husbandry and
Dairying,
Krishi Bhavan,
New Delhi
2. The Director,
Central Fodder Seed Production,
Farm, Hessaraghatta,
Bangalore North,
Bangalore

Respondents

(Shri M.V. Rao - Advocate)

This application has come up today before this Tribunal for orders. Hon'ble Justice Mr. P.K. Shyamsundar, Vice Chairman made the following:

O R D E R



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We have heard Shri M.S. Anandaramu for the applicant and Shri M.V. Rao learned Standing Counsel for the respondents Department. The applicant who was inducted as a Tubewell Operator by an order dated 24th September, 1984, (Annexure H) was kept on probation for a period of 2 years subject to fulfilment of certain conditions in that if no intimation regarding completion of probation period within or after two years by the competent authority was given, the period of probation be treated as extended until further orders. The order at Annexure H also mentions that the applicant had been appointed on a regular basis provisionally from the date of DPC i.e. 19th September, 1984.

2. It is common ground that the services of the applicant were extended from time to time and he continued almost as a regular employee till his prospects received a set back with the Department making an order at Annexure J dated 4.3.93 through which he was notified that the competent authority had not agreed to the regularisation of some of the candidates appointed earlier including the applicant who was appointed in the year 1984. Annexure-J reads:

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"I am directed to refer to your letter No.3-2/91-CFS/542 dated 28th April, 1992 and to convey the approval of competent authority for the regularisation of the appointment of :

- 1) Sh. Joseph D. Cruz, as Vehicle Driver,
- 2) Sh. Raj Bahadur as Tractor Driver
- 3) Promotion of Sh. M.G. Pillai as Head Clerk and Confirmation of Shri M.G. Pillai, M. Durai Kannu A. Rayappa, Shabhu, Sasidharan and V. Krishnan.

The competent Authority did not agree to the regularisation of the following. It has, therefore, been decided that the:

- 1) Appointment of Shri Ashok, H. Dongra to the post of Tube Well Operator.

Appointment of Shri Raju to the post of Tractor Driver

The appointment of the above candidate may be declared as irregular and the incumbent may be removed from service after following the prescribed procedure.

- 2) Appointment of Shri Raju to the post of Tractor Driver. This appointment may be declared as irregular and the incumbent may be removed from service after following the prescribed procedure.

The Director, Central Fodder Seed Production Farm, Hessaraghatta, Bangalore may take necessary action and send a compliance report to the undersigned at the earliest."

3. Apprehending of further action being taken to ^{for} get him out of service, he has approached this Tribunal and also obtained stay of termination of his services. During the pendency of this application, he was served with an order of termination dated 9.3.93 received by him on 26.3.93. The learned counsel for the applicant has produced the same with an additional affidavit at Annexure-L which reads:

"In pursuance of the Proviso to sub rule (1) of Rule 5 of the Civil Services (Temporary Service) Rules, 1965, I C. Govindan, Director, Central Fodder Seed Production Farm, Hessaraghatta, hereby terminate forthwith the services of Shri Ashok H. Dongare, Tubewell Operator w.e.f. 9.3.93 AN and direct that he shall be entitled to claim a sum equivalent to the amount of his pay plus allowances for the period of notice at the same rates at which he was drawing them immediately before the termination of his service, or, as the case may be, for the period by which such notice falls short of one month."



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4. Although at one stage the learned Standing Counsel took strong exception to the applicant in not coming forward by making a clean breast of the entire thing as regards the termination order since produced at Annexure-L, when he was apprised of the fact that on the date the original application was filed herein, the termination order although passed had not been communicated to the applicant and that it was communicated only on 26.3.93, he withdrew the said objection.

5. We must make mention of the fact that there is no material to show that the applicant had got scent of any termination order being in the offing on the date he filed original application and we have no reason to doubt his statement that the termination order was served on him only on 26.3.93.

6. We find that the order of termination and the order refusing to regularise his services are both vitiated not merely for the reason that neither of them supplied the reasons for rejecting someone who was in service for the last 10 years and was even at one stage was commended as per certificate issued by the Director of Indo-Australian Fodder Seed Production Farm, Hessarghatta, Bangalore, who had in no uncertain terms expressed satisfaction with the work of the applicant as a Tubewell Operator. The man apparently had the necessary credentials and his work was found to be

satisfactory by the officers under whom he worked and what is more having done his job entirely to the satisfaction of his superiors for a decade but has since been shown ~~that~~ for no reason at all. The two orders produced at Annexures J and L give no reasons. It is clear that the orders are totally unsustainable ~~on the principle enunciated in~~ on the principle enunciated in the case of State of Haryana and others v. Piara Singh and Ors (1992) 4 SCC 118 wherein their Lordships laid down that terminating the services of long terms employees by a summary order of termination is is illegal and that on the contrary they should be rewarded by regularising their services subject of course to vacancies being available and not to mention of financial constraints. We are not told that the need to terminate the applicant's services arose for want of vacancy and financial constraints. The Government in those circumstances would have done well by regularising his services instead of terminating the same.

7. Hence, for the reasons mentioned above, this application succeeds and is allowed. The impugned orders at Annexures J and L stand quashed. We make a direction to the Department to regularise the applicant's services as Tubewell Operator from the date of his initial appointment as per order dated 24th September, 1984, produced

at Annexure-H. The Department will tie up all loose ends such as arrears etc. within a period of three months from this day.

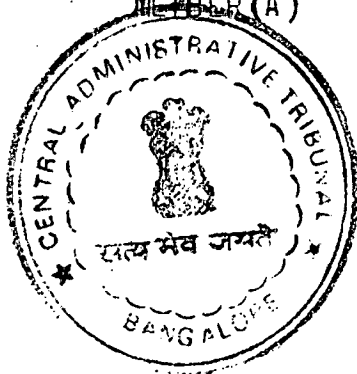
No costs. Send a copy to the Department.

Sd-

Sd-

MEMBER (A)

VICE CHAIRMAN



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SECTION OFFICER
CENTRAL ADMINISTRATIVE TRIBUNAL
ADDITIONAL BENCH
BANGALORE

4/8/93

CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE BENCH

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

Contempt Petition No.12 of 1994 in

Dated:- **23 JUN 1994**

APPLICATION NUMBER: 318 of 1993.

APPLICANTS:

RESPONDENTS:

Sri.Ashok H.Dongare v/s. Sri.N.P.Singh, Secretary, M/o. Agriculture,
New Delhi and other.

1. Sri.M.S.Anandaramu, Advocate, No.27, First Floor,
First Main Road, Chandrashekar Complex, Gandhinagar,
Bangalore-560 009.
2. The Director, Central Fodder Seed Production Farm,
Hessaraghatta, Bangalore-86.
3. 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 10th June, 1994.

S. Shanmugam
DEPUTY REGISTRAR 23/6
JUDICIAL BRANCHES.

gm*

g/c
Issued
gm

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**In the Central Administrative Tribunal
Bangalore Bench
Bangalore**

Contempt Application No. 15 of 1994 in OA 318/93

Askok H. Dongare vs Secy, M/o Agriculture, N Delhi & others

ORDER SHEET (contd)

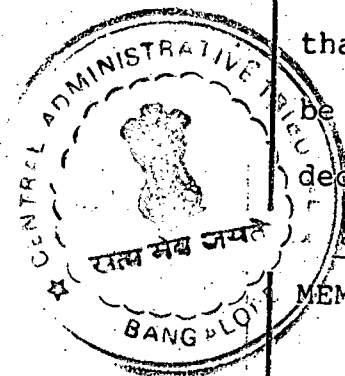
Date	Office Notes	Orders of Tribunal
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PKSVC/TVRMA

10th June 1994

O R D E R

Learned counsel for the petitioner says that the Department has complied with the orders of this Tribunal faithfully and that contempt proceedings may be dropped. The statement recorded and proceedings dropped.



MEMBER[A]

sd -
VICE CHAIRMAN

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SECTION OFFICER 28/6
CENTRAL ADMINISTRATIVE TRIBUNAL
ADDITIONAL BENCH
BANGALORE