

CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE BENCH

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

Dated: 23 DEC 1994

APPLICATION NO: 758 of 1994.

APPLICANTS:- N.Rajendran, Bangalore,
V/S.

RESPONDENTS:- ~~Sec~~ Secretary, Ministry of Railways, New Delhi
and others.,

T.

1. Sri.M.S.Anandaramu, Advocate,
No.27, First Floor, First Main,
Chandrashekar Complex,
Gandhinagar, Bangalore-560 009.
2. Sri.A.N.Venugopala Gowda, Advocate,
No.8/2, Upstairs, R.V.Road, Bangalore-4.

3.

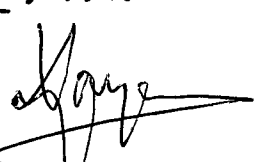
By Rpad
The Presenting Officer,
Central Government Industrial
Tribunal-cum-Labour Court,
Geetha Mansion, K.G.Road, Bangalore-5600009.
(The Original Records of C.R.No.22 of 1988 are herewith
sent back by registered post, which may kindly be
acknowledged. The records are as stated in the INDEX).

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 14th December, 1994.

Issued on

23/12/94


o/c for DEPUTY REGISTRAR
JUDICIAL BRANCHES.

CR. NO. 22/88

Central Government Industrial
Tribunal cum Labour Court
No. 40/3, Geetha Mansion
Kempegowda Road,
Bangalore-560 008.

For Ref in O.A. 758/94

II PARTY

I PARTY

Shri N. Rajendran
S/o Shri Natarajan
'N' Block, Rajajinagar
Bangalore - 560 010.

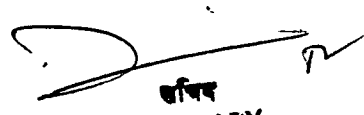
vs. The Divisional manager
Southern Railway, Bangalore
Railway Station,
Bangalore City.

Sl. No.

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D.D. 29.6.1990


SECRETARY
केन्द्रीय सरकार औद्योगिक अपिहार
Central Government Industrial Tribunal
एन. जे. नारायण, बेंगलूर
Cum Labour Court, Bangalore,

CENTRAL ADMINISTRATIVE TRIBUNAL: BANGALORE BENCH: BANGALORE

ORIGINAL APPLICATION NUMBER 758 OF 1994

WEDNESDAY, THIS THE 14TH DAY OF DECEMBER, 1994.

Mr. Justice P.K. Shyamsundar,

Vice-Chairman,

Mr. V. Ramakrishnan,

Member (A)

N. Rajendran,

Aged about 35 years,
S/o Natarajan,

working as Khalasi, Southern Railways,
Bangalore City, Bangalore
and (now illegally dismissed from
service) residing at C/o N. Raja Cycle
Shop, No. 8, M.C. Road, Pallikonda,
Vellore District,
Tamilnadu.

.. Applicant.

(By Advocate Shri M.S. Ananda Ramu)

v.

1. The Union of India,
represented by its Secretary,
Ministry of Railways,
Rail Bhavan, New Delhi..
2. The Divisional Railway Manager,
Southern Railway,
Bangalore City.
3. The Presenting Officer,
Central Government Industrial
Tribunal-cum-Labour Court,
Geetha Mansion, K.G. Road,
Bangalore-9.

.. Respondents.

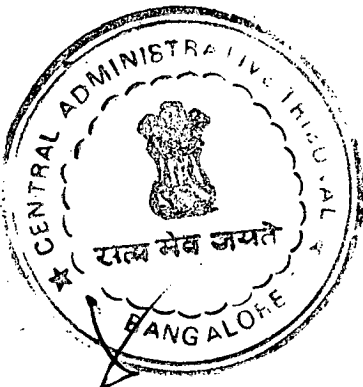
(By Standing Counsel Shri A.N. Venugopala Gowda)

O R D E R

Mr. Justice P.K. Shyamsundar, Vice-Chairman:-

Heard. Admit.

2. This application arises from an award passed by the Central Industrial Tribunal in C.R.No.22 of 1988 dated 29-6-1990. By that order, the Tribunal rejected the reference holding that the first party workman referred to therein and



presently the applicant before us viz., N.Rajendran Son of Natarajan is the same person as K.Rajendran son of Rathnam who was involved in an identical reference pending in the same Tribunal in C.R.No.107 of 1987. Being of the view that in regard to one person two references were pending before the Tribunal and the Tribunal having considered and disposed off one of the two references in C.R.No.107 of 1987 on its merits, it felt that there was no need to pass a separate order in the reference arising out of C.R.No.22 of 1988 in which we find that admittedly the first party/employee N.Rajendran son of Natarajan was not, in fact, served with the notices of the Tribunal at all. We have been furnished with a copy of the order sheet of the Tribunal as per Annexure-A5 which clearly indicates that at no stage of the proceedings the party concerned was served with the notices of the Tribunal. The Tribunal in the course of its order refers to the persistent efforts made by the Tribunal to get the notice served on the workman and the consequent failure. It says -

"Though notices have been issued many times, it has not been possible for this Tribunal to contact the I party. Let me repeat. The Tribunal has taken all possible steps to inform the I party about this reference. It has not been possible to get the notice served on him since his address appears to be not known. The conciliation file also is before this Court. For the address in the conciliation file also notice was issued by post. Even then it has not been served on the I party. One notice has been returned with endorsement "insufficient address", second notice has been returned with endorsement "insufficient address - addressee not known", the third notice issued has been returned with endorsement "insufficient address, not known". The Tribunal had written the address which was available on record and in the conciliation file. But, the notice has not been served on the I party. It should be taken that the I party is not interested in this particular reference."

3. From the foregoing what becomes obvious is that the workman before

the Tribunal N.Rajendran S/o Natarajan, the applicant herein was not served with the notice of the Tribunal although admittedly the employer had been served. The Tribunal says that the non-service of summons of the Tribunal on the workman was indicative of the complacent attitude of the workman signifying that he was really not interested in prosecuting the matter. We are at a loss to appreciate this logic and the conclusion based on the same. Admittedly, the workman had not been served although repeatedly the Tribunal had issued notices. It is too much of a surmise to hold that non-service on the workman was due to aspects of the workman indicative of the lack of interest in prosecuting the reference. But, if the workman did not know of the pendency of the proceedings and had actually not been served with the notices it is somewhat of a paradox to hold that service of notice on the workman was prima facie indicative of his disinterestedness is a conclusion to which we cannot subscribe. It is the duty of the Tribunal to serve notice of the proceedings on the party involved in the reference.

4. The fact that either party may not turn up before the Tribunal on their own or keep a sharp look out in regard to the progress of the proceedings and may ultimately turn up even if they are not summoned is not a ground to foreclose the interest of the workman by branding him as someone not interested in the proceedings. To say the least, the view that commended itself to the Tribunal as aforesaid is something we find to be most unconscionable and also unpardonable.

5. What is more interguing is that the Tribunal not only committed an error in recording a finding that the notice was not served on the workman because he was not interested in the proceedings, but went further resulting in the Tribunal holding

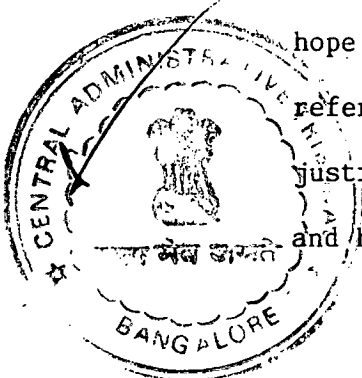


that as a matter of fact that very workman was concerned in another pending reference in C.R.No.107 of 1987 which had been diligently prosecuted by him resulting in an award being passed as per Annexure-A7. It is worthwhile to excerpt that part of the Tribunal's observation based on the aforesaid view:-

"4. In the reference in CR 22/88, the initials have been written in ink. From the address of the I Party in the conciliation file and other papers and in CR 107/87 it is clear that Rajendran in CR 22/88 is the same person as referred to in CR 107/87. When a reference is already pending, a second reference does not lie in respect of the same matter. I have stated same matter because the name Rajendran is same, the date of termination is same and father's name is same."

There are quite a few factual errors in the aforesaid observation made by the Tribunal supporting its conclusion that the workman in C.R.No.22 of 1988 was the same as the workman in C.R.No.107 of 1987. As a matter of fact and actually the reference in C.R.No.22 of 1988 pertain to a workman by name N.Rajendran son of Natarajan residing at 'N' Block, Rajijnagar, Bangalore-10 whereas the companion reference in C.R.No.107 of 1987 pertain to the workman by name R.Rajendran Son of Rathnam, No.3, 3rd Cross, Prakashnagar, Bangalore-560 021 (R.Rajendran typed as K.Rajendran in Annexure-A7 is probably a typographical error). A casual reference to the names and addresses of the parties involved in C.R.Nos.22 of 1988 and 107 of 1987 leaves no one in doubt that the workmen involved in the two references were different persons and it was not entirely a case of duplication of proceedings. N.Rajendran son of Natarajan and R.Rajendran son of Rathnam cannot be one and the same. Their addresses as furnished in the cause title to the awards at Annexures A6 and A7 also clearly indicate their different locations at Bangalore and any one who reads the cause title would easily notice that the two workmen N.Rajendran and R.Rajendran are

two different persons and that the person involved in the reference in C.R.22 of 1988 was different from the person involved in C.R.No.107 of 1987. In that view of the matter, the conclusion that two reference were at the instance of the same person and was merely a duplication of one another is totally unjustified and wholly error prone. What becomes therefore, obvious is the reference in C.R.No.22 of 1988 pertaining to workman N.Rajendran son of Natarajan has been disposed off without serving a notice on him. As a matter of fact, the Tribunal has persuaded itself to adopt the aforesaid stands for turning down the reference on the ground that it would not serve any purpose since it was only duplication of proceedings based on the submissions apparently made by the counsel appearing before the Tribunal for the management/ Divisional Manager, Southern Railway by asking the Tribunal to refer to the address furnished by the different workman in C.R.No.107 of 1987 for the purpose of issuing notices. Whatever may be the contribution of the counsel appearing for the Railways, the Tribunal clearly fell into an error in holding that N.Rajendran and R.Rajendran are one and the same without noticing the fact that N.Rajendran in C.R.No.22 of 1988 was the son of Natarajan whereas R.Rajendran involved in C.R.No.107 of 1987 was the son of one Rathnam. It is very clear now that the two workmen are not one and the same being the progeny of two different parents. We regret very much to notice the Tribunal should have so hurriedly disposed off the reference in C.R.No.22 of 1988 by committing a serious error that cannot be judicially countenanced. We do hope the Tribunal would hereafter not rush into disposing off references based on grievous errors leading to miscarriage of justice. On this short ground this application has to succeed and has to be accordingly allowed.



6. Hence, we make an order quashing the award passed by the Tribunal as per Annexure-A6 and remit Central Reference No.22 of 1988 back to the Tribunal for disposal in accordance with law. The reference will now stand revived and be called for hearing on 1-3-1995. On that day the first party/workman N.Rajendran son of Natarajan will report to the Tribunal through Shri M.S.Anandaramu, the learned counsel who appears for him herein. Shri Anandaramu undertakes to appear for the said workman before the Tribunal in which event there will be no occasion to issue any fresh notices. We reiterate once again that reference in C.R.No.107 of 1987 being relatable to a different person, reference in C.R.No.22 of 1988 will now have to be disposed of on its merits. Shri A.N.Venugopala Gowda, learned counsel who appears for the Railways submits that he was entitled to resist not merely this application but also the reference on the ground of laches. So far as we are concerned we do not propose to go into that aspect. We, however leave it to the administration to raise the same before the Tribunal and seek all the benefits it can as a result of such submissions. The Tribunal had submitted the records in the case. We direct the records be sent back to the Tribunal expeditiously.

Sd/-

MEMBER(A)

Sd/-

VICE-CHAIRMAN.

np/

TRUE COPY

Section Officer

Central Administrative Tribunal

Bangalore Bench

Bangalore