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CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE BENCH, BANGALORE

APPLICATION NO. 21/1994

WEDNESDAY, THE NINETH FEBRUARY, 1994.

Presents: Mr. Justice P.K. Shyamsunder, Vice Chairman

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

Shri M. Nagaraj
S/o. late Muniyappa
Aged about 28 years
Bungalow Peon (now under
orders of termination)

Addl. Divisional Railway Manager,
358, Seshadri Road, Bangalore-9.

Permanent Address: Site No.2,
Kannamangala Village & Post
Devanahalli Taluk, Bangalore District. Applicant

(By Advocate Shri M. Narayanaswamy)

Vs.

1. The Railway Board
rep. by its Chairman
Rail Bhavan, New Delhi.
2. The Divisional Railway Manager,
Southern Railway, Bangalore Dvn.,
Bangalore-23.
3. The Divisional Personnel Officer
Southern Railway, Bangalore Dvn.,
Bangalore-23.
4. Shri Arun Bhagra
Assistant Divisional Railway Manager
Southern Railway, Bangalore. Respondents

(By Shri A.N. Venugopal, Advocate)
Learned Standing Counsel for Railways.

O R D E R

(Mr. Justice P.K. Shyamsunder,
Vice Chairman)

Heard. Admit.

The applicant herein was appointed as Substitute Bungalow Lascar by an order dated 1.4.1992 produced at Annexure-A1. Although the appointment is termed temporary, one of the conditions of appointment is "that the appointment is terminable on 14 days notice on either side. No such period will be required if the termination is due to his mental or physical incapacity or due to removal or dismissal from service as a disciplinary measure after compliance with the provisions of clause(2) Article 311 of the Constitution of India". We now find the applicant's service has been terminated for unsatisfactory performance without complying with the requirements of provisions of clause(2) Article 311 although such obedience is enjoined in the order of the appointment. The order of termination which is at Annexure-A4 reads:-

"The service of Shri M. Nagaraja, substitute Bungalow Lascar to ADRM/SBC (length of service 1 year and 9 months) on pay Rs 762/- in scale of Rs 750-940 are hereby terminated with effect from 31.12.1993 A/N (due to unsatisfactory performance in terms of CPO/MAS letter no. PB/SC/153 dated 4.6.1977.)

It is well settled that no employee that includes a temporary employee as well cannot have services broken up on grounds of unsatisfactory performance unless it is preceded by an appropriate enquiry alleging unsatisfactory performance or indifferent performance in the discharge of duty being established. This being the position in law, if an employee were to lose his service after being branded that service rendered by him was unsatisfactory ought clearly to stymie the employee and that can be done only after an enquiry is held but not without any enquiry. In this view of the matter, we have got to quash the impugned order at Annexure-A4 and we

(8) (9)
(10) (11)
(12)

allow this application and quash the order of termination at Annexure-A4 dated 30.12.1993, leaving it open to the Railway administration to hold an enquiry if they choose. In the meanwhile, we direct to reinstate the applicant into service and the absence of duty from the date of impugned order to the date of reinstatement will be regulated in accordance with law. No costs.



Sd/-

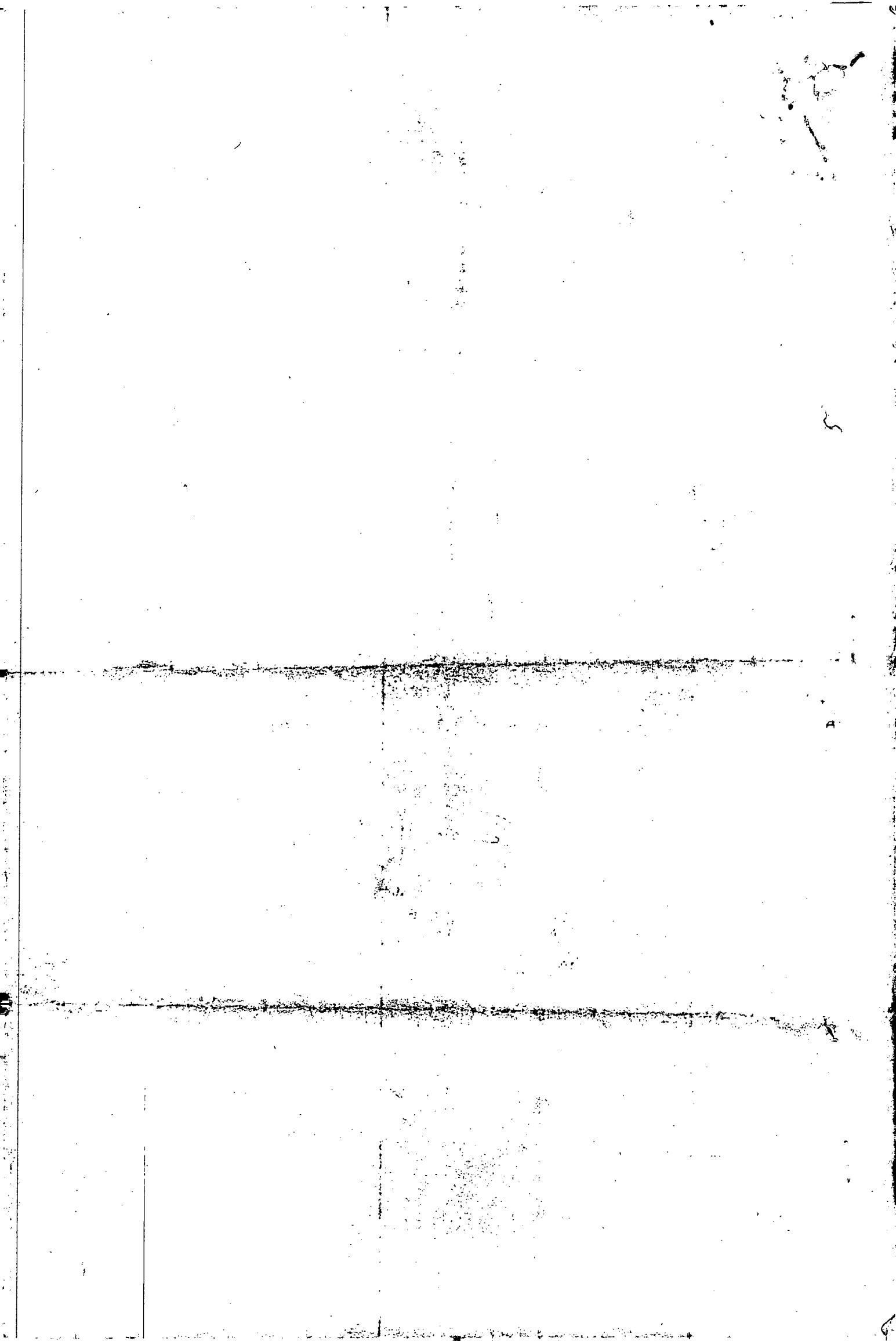
(T.V. RAMANAN)
MEMBER(A)

Sd/-

(P.K. SHYAMSUNDER)
VICE CHAIRMAN

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R. Sankar
SECTION OFFICER 16/2/94
CENTRAL ADMINISTRATIVE TRIBUNAL
ADDITIONAL BENCH
BANGALORE
16/2



CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE BENCH

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

Complaint Petition No. 26/94 is

Dated:- 7 JUL 1994

APPLICATION NUMBER: 21 of 1994

APPLICANTS:

Sri. M. Nagaraj vs. Sh. Shukla, Chairman, Railway Board,
I.O. New Delhi and Others.

RESPONDENTS:

1. Sri. M. Narayanaswamy,
Advocate, No. 844 (upstairs)
1715-G, Main, V-Block,
Rajajinagar, Bangalore-10.

2. Sri. A.N. Venugopala Gowda,
Advocate, 8/2, upstairs,
R.V. Road, Bangalore-4.

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 23-06-94

Issued on
8/7/94

R.

of

S. Shukla
for DEPUTY REGISTRAR
JUDICIAL BRANCHES.

CENTRAL ADMINISTRATIVE TRIBUNAL,
BANGALORE BENCH.

CONTEMPT APPLICATION NO. 26/ 1994
IN
ORIGINAL APPLICATION NO. 21/ 1994

THURSDAY, THE 23RD DAY OF JUNE, 1994

Shri V. Ramakrishnan

... Member (A)

Shri A.N. Vujjanaradhya

... Member (J)

Shri M. Nagaraj,
s/o late Shri Muniyappa,
aged about 28 years,
Bungalow Peon,
Addl. Divisional Railway Manager,
358, Seshadri Road, B'llore-9,
now residing at site No.2,
Kannamangala Village and Post,
Devanahalli Taluk,
Bangalore District.

... Petitioner

(By Advocate Shri M.N. Swamy)

Vs.

1. Shri Shukla,
Chairman,
Railway Board, Rail Bhavan,
New Delhi.

2. Shri S.C. Sen Gupta, Major,
Divisional Railway Manager,
Southern Railways, B'llore Division,
Bangalore-23.

3. Shri Mohan A. Menon, Major,
Divisional Personnel Officer,
Southern Railway, B'llore Dvn.,
Bangalore-23.

... Respondents

(By Advocate Shri A.N. Venugopal,
Standing Counsel for Central Govt.)

ORDER

Shri A.N. Vujjanaradhya, Member (J)

Shri M.N. Swamy for the applicant submits that as mentioned in the reply of the respondents, the directions of the Tribunal are complied with and therefore, he submits that the proceedings may be dropped. Because of the compliance of the directions of the Tribunal,

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Proceedings are dropped.

R. G. Shantay
SECTION OFFICER

CENTRAL ADMINISTRATIVE TRIBUNAL

ADDITIONAL BENCH (A.N. Vujjanaradhya)

BANGALORE

Member (J)

SD - (V. Ramakrishnan)

Member (J)