

CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE BENCH

Second Floor,
Commercial Complex,
Indiranagar,
BANGALORE - 560 030.

Dated: 28 APR 1995

APPLICATION NO. 171 of 1995.

APPLICANTS: V. Loganathan, Bangalore-23.

V/S,

RESPONDENTS: The Commanding Officer, Air Force Station,
Bangalore-75 and another.

To

1. Sri. Ashok B. Hinchigeri, Advocate,
No. 4708, Seventh Floor, High Point-IV,
Palace Road, Bangalore-560 001.
2. Sri. M. S. Padmarajaiah, Senior Central
Govt. Standing Counsel, High Court Bldg,
Bangalore-560 001.

Received for Serial NO - 1.

N. Khale

28/4/95

Advocate for applicant.

Subject:- Forwarding copies of the Orders passed by the
Central Administrative Tribunal, Bangalore-38.

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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 17th April, 1995.

*Issued on
28/04/95*

g/c *tr*
DEPUTY REGISTRAR
JUDICIAL BRANCHES.

ORIGINAL APPLICATION NUMBER 171 OF 1995

MONDAY, THIS THE 17TH DAY OF APRIL, 1995.

Mr. Justice P.K. Shyamsundar,

.. Vice Chairman.

Mr. T.V. Ramanan,

.. Member (A)

V. Loganathan,
S/o Sri Varadan,
Aged about 30 years,
Unemployed, residing at
Binnypet, D-1 Block,
House No. 856, Bangalore-560 023.

.. Applicants.

(By Advocate Shri Ashok B. Hinchigeri)

v.

1. The Commanding Officer,
Air Force Station,
Bangalore-560 075.
2. V. Loganathan,
Father's name not known,
C/o Shivanna, A-4-15,
DRDO Complex, C.V. Ramannagar,
Bangalore-560 093.

.. Respondents.

(By Standing Counsel Shri M.S. Padmarajaiah)

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ORDER

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

Heard the learned counsel for the applicant and the learned Standing Counsel for the respondents who has asked us to grant him some more time to file an objection statement and to produce the records. Since we ^{we} are reluctant to grant the learned Standing Counsel any more time, he seeks leave to produce the office copy of the objection statement which is yet to be filed and that is because his client had not signed the same. However, we permitted the learned Standing Counsel to place on record the draft reply in which it is admitted that the respondent-Airforce administration was actually taken for a ride by respondent-2 who came and masqueraded before them as V. Loganathan



although he was really not V.Loganathan. The case of the Airforce administration is that not being able to discover the true identity of the persons who sought for appointment as Anti Malaria Lascar it had committed a mistake that in consequence justice had actually suffered. Therefore, to set things right, we are told that the administration had issued a show cause notice to the wrong Loganathan asking him to show cause as to why action should not be taken to remove him but that matter is pending at that stage. We are also told that in the meanwhile the wrong Loganathan is being prosecuted in a Criminal Court for impersonating the applicant V.Loganathan, the genuine candidate who had offered himself as a candidate to the post of Anti Malaria Lascar, notified by the Airforce administration.

2. But, ^{then} ~~in the meanwhile~~ due to a faux pas committed by the applicant Loganathan who approached the High Court of Karnataka in a writ petition under Article 226 of the Constitution in W.P.No.36478 of 1993 and had actually succeeded in getting an order from Saldanha, J. who allowed the writ petition by an order dated 18th day of October, 1994 and directed the termination of the services of the wrong Loganathan and ordered to replace him by V.Loganathan, the applicant. The learned Judge in no uncertain terms held that the other man had taken the Airforce administration for a ride and had secured the appointment earmarked for the applicant Loganathan. The objection taken to jurisdiction to interfere in these matters in which only this Tribunal is empowered, the learned Judge though did notice the said objection treated it as not meriting any serious consideration being a litigation ^{arising} ~~stretched~~ on the fraud committed on the administration by the wrong Loganathan.

3. Be that as it may, although the applicant had succeeded in getting ^{an} the order from Saldanha, J. the Airforce administration

having preferred an appeal before the Division Bench of the High Court ~~and~~ ^{has} therein succeeded in getting the order made by Saldanha, J. set aside on the ground of want of jurisdiction. Even in the order of the Division Bench, there are observations which clearly go to show that the Airforce administration had been deceived by the wrong Loganathan in obtaining the appointment order. But the Bench felt convinced with the case of lack of jurisdiction to interfere with the matter and therefore, vacated the order of Saldanha, J. leaving it open to the applicant/Loganathan to approach this Tribunal for appropriate reliefs. Hence, it is the applicant Loganathan is before us and so also the other Loganathan who has been certified by the High Court to be an imposter and hence not entitled to hold the job. The said Loganathan who is respondent-2 before us, also served with the notice of the Tribunal has remained absent throughout and even to-day he is absent. We place him *ex parte*.

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4. Although the learned Standing Counsel insisted that we should allow the administration to take appropriate action after receiving the response from respondent-2 Loganathan vis-a-vis the show cause notice issued to him, we think it unnecessary to protract this matter any further. Respondent-2/Loganathan is a party to the order passed by Saldanha, J. in the writ petition and was also a party before the Division Bench in Writ Appeal No.2679 of 1994. He ^{also} never appeared before us to justify and support his selection having been properly made and that he had not deceived the administration by practicing any fraud on it despite allegations to that effect in the application. ~~That~~ allegations are not denied by him. Per contra the Airforce administration affirms the case of fraud committed

by respondent-2 on them. Although the findings recorded before the High Court both in the court of first instance and thereafter the appellate bench are, according to the learned Standing Counsel liable to be treated as *corem non judice*, nonetheless we should take notice of the fact that at both levels respondent-2 Loganathan was held to have impersonated the real Loganathan and had walked away with the job by committing fraud. As a matter of fact the Airforce administration genuinely apprehends and is fully convinced that it had accommodated an imposter as against the real claimant i.e., the applicant. In the circumstances, regard being had to the fact that respondent-2 Loganathan who is now in the job having deceived the Airforce administration by masquerading as the true claimant, we find this is not a case in which a show cause notice was called for or merited. The order appointing respondent-2 as Anti Malaria Lascar being vitiated by fraud without more it has got to yield even without the formality of a show cause which we consider to be wholly unnecessary and uncalled for.

5. In the result, we therefore allow this application and quash the order, if any, appointing respondent-2 as Anti Malaria Lascar. We direct the administration to appoint the applicant to the aforesaid post. His appointment will be marked to the date on which the appointment of respondent-2 was made. Regards any monetary benefits the applicant will make a separate application to the administration and seek the same from them. No costs.



TRUE COPY

Section Officer

Central Administrative Tribunal
Bangalore Bench
Bangalore

Sd-

MEMBER(A)

Sd-

VICE-CHAIRMAN