

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE BENCH BANGALORE

DATED THIS THE 24th DAY OF APRIL 1987

Present : Hon'ble Sri Ch. Ramakrishna Rao - Member (J)

Hon'ble Sri P. Srinivasan - Member (A)

APPLICATION Nos. 553 & 554 of 1986

1. C.K. Nagendra Prasad
Upper Division Clerk
Office of the Regional Provident
Fund Commissioner, Bangalore 25

2. C.K. Gundappa
Upper Division Clerk
Office of the Regional Provident
Commissioner, Bangalore 25 - Applicants
(Sri S.B. Swethadri, Advocate)

and

1. Regional Provident Fund Commissioner
No.8, Raja Ram Mohan Roy Road,
Bangalore 25

2. Central Provident Fund Commissioner
9th Floor, Mayur Bhawan,
Connaught Place, New Delhi 1

3. Secretary,
Ministry of Labour &
Chairman, Central Board of Trustees,
Employees Provident Fund Organisation,
Shram Shakti Bhawan, New Delhi - 1 - Respondents
(Sri M.S.Padmarajaiah, Senior C.G.S.C.)

This composite application came up for hearing
before this Tribunal and Hon'ble Sri Ch. Ramakrishna
Rao, Member (J) to-day made the following

O R D E R

This composite application filed by two applicants
which originated as writ petitions before the High
Court of Karnataka were numbered as w.p. Nos. 1890 & 91
of 1985 and on transfer, it has been taken on the
register of this Tribunal as two applications and
are numbered as 553 and 554 of 1986.

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2. The applicant in A.No. 553/86 (referred to as 'the first applicant') was appointed as Lower Division Clerk ('LDC') on 19.4.1975 and subsequently promoted as Upper Division Clerk ('UDC'). He was regularised in the cadre of UDC on 24.9.1980. The applicant in A.No. 554/86 (referred to as 'the second applicant') was appointed as LDC on 28.8.1967 and promoted subsequently as UDC. He was regularised in the cadre of UDC on 11.10.1979. The grievance of the applicants is that in the seniority list ('SL') of UDCs dated 1.1.1983 ~~exceeded~~ several persons junior to them in the cadre of LDCs have been shown as senior to them. The further grievance of the first applicant is that he was not permitted to appear for the qualifying examination ('the examination') held for filling up 50% of the posts of UDCs and this has adversely affected his ~~examination~~ position in the SL. The applicants have, therefore, filed this application praying that the respondents be directed not to give effect to the SL dated 1.1.1983 (Annexure 'F').

3. Taking up the grievance of the first applicant that he was not permitted to appear for the examination, the respondents in their statement of objections have stated that the Employees Provident Fund (Staff & Conditions of Service) Regulations, 1962 did not provide for an LDC appearing ~~in~~ ~~exceeded~~ the examination after promotion ~~except~~ to the post of UDC on regular basis. We are satisfied with the reason given by the respondents for not permitting the first applicant to appear for the examination.

4. Turning next to the grievance of the applicants regarding the rank assigned to them in the SL, R1 in his reply dated 29.6.1983/4.7.1983 (Annexure 'C') informed the applicant that "their seniority will be refixed, if necessary, on the basis of judgement in w.p. 20043 of 1980 as and when delivered" The w.p. referred to in the aforesaid reply which was subsequently transferred to this Tribunal (renumbered as A.No. 310/86 (T)) was partly allowed by this Tribunal on 14.11.1986 on the ground that the SL in the application had not been validly prepared and required to be redone in the light of the legal position enunciated in our order. In that view of the matter, we quash the SL dated 1.1.1983 and direct R1 to prepare a fresh provisional SL superseding the previous SL and circulate the same among the candidates including the applicants.

5. As the facts and grounds urged in this application are similar to those in A.No. 310/86(T) disposed of by this Tribunal on 14.11.1986, we quash the SL and direct R1 to prepare a provisional SL superseding the SL challenged in this application within a period of two months from the date of receipt of this order. The same may be circulated among the concerned candidates including the applicants and in the light of objections, if any received, the SL shall be finalised.

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6. The other grounds urged in this application have been dealt with in the order dated 14.11.1986 to which one of us was a partyin A.No. 310/86(T) and we do not, therefore, consider it necessary to deal with them afresh in this application.

7. In the result the application is partly allowed. No order as to costs.

Ch. Amarnath
Member (J) 24/4/87

P. F. S. B.
Member (A) 24/4/87

D.NO. 5090-91/87/Sec- IVA

SUPREME COURT OF INDIA
NEW DELHI

Dated 8-8-1988.

From:

The Additional Registrar
Supreme Court of India
New Delhi

To

The Central Administrative Tribunal,
Bangalore (Karnataka)

PETITION FOR SPECIAL LEAVE TO APPEAL (CIVIL) NO 13393-94 OF 1987.

(Petition Under Article 136 of the Constitution of India
for Special Leave to Appeal to the Supreme Court from
the ~~judgment and~~ Order dated 24-4-1987. of the

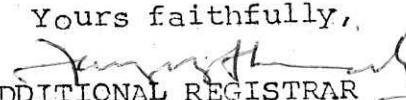
~~High Court of~~ Central Administrative Tribunal, Bangalore Bench,
Bangalore (Karnataka). in App. No. 553 A 554 of 1986)

Regional Provident Fund Commissioner.Petitioner
vs

C.K.Nagendra & Ors.Respondent.

Sir,

I am to inform you that the Petition above-mentioned
for Special Leave to Appeal to this Court was filed on behalf
of the Petitioner above-named from the ~~judgment and~~ Order
Central Administrative Tribunal, Bangalore Karnataka
of the ~~High Court~~ noted above and that the same ~~was~~ were
dismissed by this Court on the 9th day of May,
1988.

Yours faithfully,

for ADDITIONAL REGISTRAR

Sl. No. 57 in
SLP Register.

AS/
ns/13.5.88/ivA