

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE BENCH BANGALORE

DATED THIS THE 13TH NOVEMBER 1986

Present: Hon'ble Shri Justice K.S.Puttaswamy, Vice-Chairman
Hon'ble Shri P. Srinivasan, Member(A)

APPLICATION NO. 1088 TO 1094/86(T)

1. A.P.N. Pillai,
S/o Parameswaran Pillai,
Aged about 39 years,
Residing in a portion,
of No. 184/4,
III Main Road,
Ganganahally,
BANGALORE-560 032.
2. G.P. Nair,
S/o Govindan Nair,
Aged about 49 years,
Residing in a room in
the Vatara known as
Muniyappa Block,
Madahally Post,
Bangalore-560 032.
3. P.K. Krishnan,
S/O P.K. Chathu,
Aged about 37 years,
Residing in a room forming,
part of Deer No. 59/8,
Ex. Councillor's house,
Ganganahally,
Bangalore-560 032.
4. Arekyaswamy, aged 39 years,
S/o P. Bilavendiran,
Residing at No.62,
Vannarpet,
Bangalore.
5. Samuel Joseph,
S/o late Quseph,
Aged about 47 years,
Residing in a room at
Avalappa House,
Muregeshpalya,
Bangalore-560 047.
6. E.K. Nambiar,
S/o Late K.C. Nambiar,
Aged about 58 years,
Residing in a portion,
of Deer No.5, E No.5th Street,
Ulsoor,
Bangalore-560 008.
7. A. Ekambaran,
S/o Armugham,
Aged about 42 years,
Residing in a room forming
part of Deer No.62,
Vannarpet,
Bangalore.

P. J. V. S.
Applicants

(Shri K.N. Haridasan Nambiar, Advocate)
Vs.

1. The Union of India by
the Defence Secretary,
Ministry of Defence,
New Delhi.
2. Air Officer Commanding-in-chief,
Headquarters Training Command IAF,
BANGALORE-560 006.
3. Officer Commanding,
Headquarters Training Command,
(Unit)
Air Force,
Bangalore, 560 006.
4. Local Audit Officer,
(Air Force)
Headquarters Training Command,
(UNIT),
Bangalore-560 006.
5. K.G. John,
s/o Geeverghese,
Aged about 50 years,
Residing in a room forming part
of the Vatara Known as
Gundappa Block,
Ganganahally,
Bangalore-32.

(Shri N. Basavaraj , Advocate)

Respondents

The application has come up for hearing before
this Tribunal to-day, Member(A) made the following:-

ORDER

This composite application was filed originally
as a writ petition before the High Court of Karnataka
and was subsequently transferred to this Tribunal.
Seven applicants are now on record, the others
having withdrawn before the High Court itself.

Shri K.N. Haridasan Nambiar, learned counsel for
the applicants and Shri N. Basavaraj, learned counsel
for the respondents. According to Shri Nambiar the
interests of Respondent No.5 Shri K.G. John are similar
to those of the applicants and that is why he has

been shown as a respondent. Since he is not an applicant before us, this order will not be applicable to him.

The grievances of the applicants who are all working as civilian employees in the office of the third respondent is that Children's Education Allowance (CEA for short) to which they were entitled and which they were in fact drawing was stopped with effect from March 1979 and that by an order dated 18.2.83 respondents have ordered recovery of the allowance already drawn by them. The prayer in the application is that the order directing recovery of allowance already drawn should be struck down and a direction should be issued to the respondents to pay the C.E.A. to all the applicants in accordance with the rules from March 1979 onwards. The Third Pay Commission recommended grant of Children's Education Allowance to Central Government employees whose pay was less than Rs. 1200/- per month. Rules for grant of such allowance have also been drawn up. According to these rules, Government servants drawing a pay of less than Rs. 1200/- who have children studying in primary, secondary or higher secondary schools are entitled to the allowance if the children are getting their education at a place other than the headquarters of the Government servant. The grant of allowance is subject to the condition that the school which the child of the Government servant attends is of the requisite standard and a further condition that a school of the requisite standard is not available at the station at which the Government

servant is posted. The applicants before us hail from Kerala, Andhra Pradesh and Tamil Nadu. Their children are studying in various standards from Standard I onwards, in their respective home States. They were being paid Children's Education Allowance at the rates applicable upto March 1979. We are informed that around March 1979, there was an audit objection to the effect that schools of the requisite standard being available in Bangalore where all the applicants are working, they were not eligible for CEA in respect of their children studying at places away from Bangalore. This objection was taken on the basis of an interpretation of the rules on the subject. All the applicants thereafter represented to the authorities against stoppage of the CEA and the matter was under correspondence. Eventually Respondent No.3 passed an order dated 18.2.1983 ordering recovery of CEA already granted to all the applicants before us and this order is challenged in the application.

Shri Haridasan Nambiar, learned counsel for the applicants, contends that the stoppage of the CEA from March 1979 onwards and the order directing recovery of allowance already paid were both against the rules governing the subject. He pointed out that the facility for education in Malayalam medium was available in Bangalore only upto Standard IV, in Tamil and Telugu medium only upto Standard VI. A person who would like his child to complete his school education ^{in his} mother tongue upto

the higher secondary level cannot be expected to keep the child at Bangalore upto Standard IV and VI and face the risk of his not getting admission thereafter in Standard V in Kerala and in Standard VII in Tamilnadu and Andhra Pradesh. ⁱⁿ Malayalam, Tamil and Tamil medium schools there. For the sake of continuity of education, the children have perforce to study in their own home State from the beginning. When interpreting the words 'a school of the requisite standard', what should be considered is whether the school situated in the headquarters of the official coaches upto the school final or higher secondary stage in the medium of the official's mother tongue and not merely upto the end of the primary school or upto the middle standard or to some other midway standard. Applying this test, schools of requisite standard were not available for the education of the children of the applicants before us who hail from Kerala, Andhra Pradesh and Tamilnadu. That being so, the allowance paid to them should have continued uninterrupted and no recovery should have been ordered.

Shri N. Basavaraj, learned counsel for the respondents strongly resists the claim of Shri Nambiar. He points out that according to the information obtained by the respondents from the Director of Public Instruction, Karnataka State, schools of the requisite standard upto Standard VI in Tamil and Telugu and upto Standard IV in Malayalam

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were available in Bangalore and therefore in respect of children studying upto Standard VI in Tamil and ^{in Malayalam medium,} Telugu medium and upto Standard IV, the CEA could not be allowed. Therefore, according to learned counsel the stoppage of the allowance after March 1979 and recovery of allowance drawn earlier were rightly ordered.

We have given the matter careful thought. We agree with Shri Nambiar that to constitute a school of requisite standard, the school should teach students in the medium of their mother tongue upto the school final or higher secondary stage: otherwise children cannot have continuity of education and will also face the prospect of seeking admission for further study in schools in their home state after a certain standard which may not always be possible. Interpreting the rules in the spirit in which they have been framed, namely, to encourage low income groups of Government servants to educate their children at least upto the school final or higher secondary stage, we have no hesitation in holding that even though educational facilities in the medium of their mother tongue was available upto a certain standard in Bangalore, the applicants were entitled to the CEA in respect of their children who were schooling in their home state. We therefore quash the order dated 18.2.1983 (Annexure K) and further direct the respondents to pay the applicants appropriate CEA in accordance with the rules

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