

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL  
BANGALORE BENCH : BANGALORE.

DATED THIS THE FOURTH DAY OF DECEMBER, 1986.

Present: Honourable Shri Justice K.S. Puttuswamy,  
Vice-Chairman,

and

Honourable Shri L.H.A. Rego, Member.

APPLICATION No. 1306/86 (T)

Between: (W.P. No. 8475/84)

Sri S. Doraiswamy,  
Major, Assistant Engineer,  
Valuation Cell,  
Income Tax Department,  
Bank of Baroda Buildings,  
Coimbatore-641 018.

.....Applicant.

(Shri M.S. Purushottam Rao, Advocate)

and

1. Union of India, rep. by  
its Secretary to Govt.,  
Ministry of Works & Housing,  
Nirman Bhavan,  
New Delhi-110 011.
2. Directorate General of Works,  
Office of the Directorate of Works,  
Central Public Works Dept.,  
New Delhi.
3. The Departmental Promotion Committee,  
Office of the Directorate of Works,  
C.P.W.D.,  
New Delhi.
4. Executive Engineer,  
Central Division,  
C.P.W.D.,  
PUNE-411 009.
5. Superintending Engineer (Valuation),  
Income Tax Dept.,  
Hyderabad.
6. Superintending Engineer (Valuation),  
Income Tax Dept.,  
Chardia Bhavan,  
Mount Road,  
Madras-600 006.

7. The Inspecting Assistant Commissioner,  
Range-III,  
United India Buildings,  
Avanasi Road,  
Coimbatore.
  8. K.P. Balan.
  9. Kasturilal.
  10. R.P. Sharma.
  11. P.L. Sharma.
  12. P.N. Ajbani.
  13. P.C. Bardoli.
  14. G.S. Gupta.
- ....Respondents.

C/o Directorate General of Works,  
O/o Directorate of Works,  
C.P.W.D., Nirmana Bhavan,  
NEW DELHI.110 011.

(Shri M.Vasudeva Rao, Advocate, for  
Respondents 1 to 7)

The application having come up for hearing before  
this Tribunal today, Hon'ble Shri Justice K.S. Puttaswamy,  
Vice-Chairman, made the following:

ORDER

In this transferred application received from the  
High Court of Karnataka under Section 29 of the Adminis-  
trative Tribunals Act, 1985 (the Act), the applicant has  
sought for a direction to the respondents to promote him  
as an Assistant Engineer from the post of Junior Engineer  
with effect from 9.3.1973 with all consequential benefits  
flowing from the same.

2. The case has a chequered history. But in view of  
the memo filed by the applicant and Order No. 313/86

dated 11.11.1986 made by the Director General of Works, Central Public Works Department, New Delhi ('the DGW'), that touch on the questions raised in this application, it is not necessary for us to notice the chequered history.


3. When this case was taken up for hearing today, Shri M.S. Purushottam Rao, learned counsel for the applicant, has filed a memo, which reads thus:

" The applicant submits that by an order No. 109 of 1986 dated 25.4.1986 the applicant has been given deemed date of promotion w.e.f. 31.12.1973 in the cadre of Assistant Engineer. The main relief sought for was to give the promotion w.e.f. 9.3.1973.

In view of the above, the relief claimed in petition is partly granted by the Respondents. In order to avoid unnecessary controversies in the matter, the applicant submits that he will be satisfied with the promotion ordered.

In so far as consequential relief is concerned, the department has denied the actual payment of financial benefits. Hence the applicant prays for an order directing the Respondents to work out and pay the financial benefits allowed by law by virtue of promotion w.e.f. 31.12.1973 with a direction to draw and pay the same within a stipulated period that this Honourable Tribunal deems fit in the interest of Justice."


In this memo, the applicant is satisfied with the notional promotion given to him from 31.12.1973 to the cadre of Assistant Engineer (AE). With this, the grievance of the applicant for promotion no longer calls for examination.



4. At the hearing, Shri M. Vasudeva Rao, learned Additional Standing Counsel for the Central Government, appearing for respondents 1 to 7, has placed before us the Order dated 11.11.1986 made by the DGW touching on the payment of consequential benefits also. That order, to the extent that is material, reads as follows:

" The revised supplementary seniority lists of Assistant Engineer (Civil) and Assistant Engineer (Electrical), from 1973 onwards were issued vide Office Order No. 30/18/85-ECI/23 and No. 30/18/85-ECI/22 dated 25.4.86. In these seniority lists, those Assistant Engineers who were selected through the DPC have been assigned deemed dates of promotion. DG(W) is now pleased to order that in all such cases, where the deemed dates of promotion are prior to the actual dates of promotion, the pay of the concerned officers in the grade of Assistant Engineer shall be fixed notionally from the deemed date of promotion. No arrears shall, however, be admissible prior to the date of actual promotion. All Superintending Engineers/Executive Engineers are requested to fix the pay accordingly."

In this order, the DGW had directed that consequential benefits should be made available to persons promoted from the date of their actual promotion. Before us, respondents 1 to 7 do not dispute that the applicant was actually promoted as an AE on 21.2.1977. If that is so, on the very terms of the order made by the DGW, the applicant was entitled for payment of consequential benefits from 21.2.1977. Shri Purushottam Rao, in our opinion, very rightly, does not ask us to examine the grievance of the applicant for any period prior to 21.2.1977.




In this view, the grievance of the applicant on consequential benefits also no longer survives for consideration.

5. But Shri Purushottam Rao, however, seeks for a direction to respondents 1 to 7 to make available the arrears of salary within a reasonable time, and in any event, within three months. We are of the view that this request is reasonable.

6. In the light of our above discussion, we direct the respondents 1 to 7 to make available the emoluments due to the applicant in pursuance of the order dated 11.11.1986 of the DGW on and from 21.2.1977 with all such expedition as is possible in the circumstances of the case, and in any event, within three months from the date of receipt of the order of this Tribunal.

7. Application is disposed of in the above terms. But, in the circumstances, we direct the parties to bear their own costs.

dms.

  
VICE CHAIRMAN  
14/12/86

  
MEMBER. (A) + 12/86

REGISTERED

CENTRAL ADMINISTRATIVE TRIBUNAL  
BANGALORE BENCH  
.....

Commercial Complex(BDA),  
Indiranagar,  
Bangalore- 560 038.

Dated: 27 Nov 87.

CONTEMPT OF COURT  
APPLICATION NO

44 / 87 ~~H~~

W.R.No. IN D.No. 1306/86(T)

APPLICANT

Vs

RESPONDENTS

S. Doraiswamy  
To

Director General of Works, CPWD,  
New Delhi and 2 Ors.

1. Sri S. Doraiswamy,  
Assistant Surveyor of Works  
( " Engineer - Civil),  
Office of the Superintending Engineer,  
Bangalore Central Circle,  
Central P.W.D., 55/35, 2nd Main,  
Vyalikaval, Bangalore - 3.
2. Sri H. S. Surendra, Advocate  
C/o Sri M. S. Purushotham Rao, Advocate,  
497, Avenue Road, B'lore - 2.
3. The Director General of Works,  
Central P.W.D., Narayan Ashwan,  
New Delhi - 110011.
4. The Superintending Engineer, Central PWD,  
Bangalore Central Circle,  
55/35, 2nd Main, Vyalikaval, Bangalore - 3.

5. The Inspecting Assistant -  
Commissioner,  
Income Tax Range - 3,  
United India Building,  
Arambarshi Road,  
Carmhalar - 641 018.

6. Sri M. Varadava Rao,  
Advocate (CGSC),  
High Court Building  
Bangalore - 1.

Subject: SENDING COPIES OF ORDER PASSED BY THE BENCH

Please find enclosed herewith the copy of ORDER/STAY/

~~INTERIM ORDER~~ passed by this Tribunal in the above said application  
on 23 Nov 87.

Encl: as above.

*B. V. Venkatesh Reddy*  
DEPUTY REGISTRAR  
(JUDICIAL)

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL  
BANGALORE BENCH: BANGALORE

Dated: the 23rd day of November, 1987.

Present

THE HON'BLE MR. JUSTICE K.S. PUTTASWAMY

THE HON'BLE SHRI L.H.A. REGO ..

VICE CHAIRMAN

MEMBER(A)

CONTEMPT OF COURT APPLICATION NO.44 OF 1987

S. Doraiswamy S/o K.R. Suryanarayanappa  
Assistant Surveyor of Works  
(Asst. Engineer-Civil)  
Office of the Superintending Engineer,  
Bangalore Central Circle,  
Central P.W.D., 55/35, 2nd Main,  
Vyalikaval, Bangalore-560 003.

Complainant

(By Shri H.S. Surendra, Adv. for complainant)

-vs.-

1. The Director General of works  
Central P.W.D., Nirman Bhavan,  
New Delhi-110 0011

2. The Superintending Engineer,  
Central P.W.D.  
Bangalore Central Circle,  
55/35, 2nd main, Vyalikaval  
Bangalore-3.

3. The Inspecting Assistant -  
Commissioner, Income Tax Range-3,  
United India Building,  
Aavanashi Road, Coimbatore-641 018

Accus

(Shri M. Vasudev Rao, Standing Counsel for  
Government, for the Accused)





This Application coming on for hearing this day, HON'BLE VICE CHAIRMAN made the following:

ORDER

This is an application made by the petitioner under Section 17 of the Administrative Tribunals Act, 1985, and Contempt of Courts (Central) Act, 1971 (Acts).

2. In Application No.1306 of 1986, which was a transferred application, the applicant working as an Assistant Engineer in the Central Public Works Department (CPWD), claimed diverse reliefs. On 4-12-1986, we disposed of the same with the following directions:

"In the light of our above discussion, we direct the respondents 1 to 7 to make available the emoluments due to the applicant in pursuance of the order dated 11-11-1986 of the DGW on and from 21-2-1977 with all such expedition as is possible in the circumstances of the case, and in any event, within three months from the date of receipt of the order of this Tribunal."

In compliance of these directions, the contemners had made available to the petitioner certain benefits, but have declined to grant certain other benefits for the reasons stated in an order made thereto bearing Official Memorandum No.32/1966/77-EC,III, dated 22-6-1987 (Annexure-M). The petitioner claims that this order and the consequent denial of benefits has in derogation of the

order





order made in his favour and constitutes contempt under the Acts.

3. Shri H.S.Surendra, learned Counsel for the petitioner, contends that the order made by this Tribunal had not been complied by the contemnners in letter and spirit and the same constitutes contempt under the Acts.

4. Shri M.Vasudeva Rao, learned Counsel for the Contemnners, contends that the contemnners had in letter and spirit complied with the order made by this Tribunal and that any grievance on the order made on 22-6-1987 had only to be agitated in a separate application under Sec.19 of the Act.

5. We have carefully read our order made in Application No.1306/86 and the orders made by the contemnners in pursuance of the said order.

6. Shri Surendra, does not rightly disputes that the contemnners had complied with the order made in favour of the applicant, at any rate in part. On the other claims the contemnners have furnished their own reasons in the order dated 22-6-1987, which they coaim was in compliance with the order made by this Tribunal. We cannot say that in making the order dated 22-6-1987 and denying certain benefits for the reasons stated

therein



*[Handwritten signature]*

therein that the contemnors had deliberately flouted as not complied with the order made by this Tribunal.

7. Whether the order made on 22-6-1987 is legal or not, cannot be examined in Contempt of Court proceedings. We ~~now~~<sup>need</sup> hardly say that its validity has to be examined only in a separate and independent application made under Sec.19 of the Act. On this view these proceedings are liable to be dropped.

8. In the light of our above discussion, we hold that these Proceedings are liable to be dropped. We, therefore, drop these Contempt of Court Proceedings. But, this does not prevent the applicant to challenge the order made on 22-6-1987 in a separate application on all such grounds as are available to him in law.

9. In the circumstances of the case, we direct the parties to bear their own costs.

Sd/-  
(K.S. PUTTASWAMY)  
VICE CHAIRMAN.

23/11/87

Sd/-  
(L.H.A. REGO)  
MEMBER(A).

23.11.87

-True copy-



By *[Signature]*  
DEPUTY REGISTRAR  
CENTRAL ADMINISTRATIVE TRIBUNAL  
ADDITIONAL BENCH  
BANGALORE  
27/11