

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL

BANGALORE BENCH: BANGALORE

DATED THIS THE 2ND DAY OF DECEMBER, 1986

PRESENT:

Hon'ble Mr. Justice K.S. Puttaswamy, .. Vice-Chairman.

And

Hon'ble Mr. P. Srinivasan, .. Member(A).

APPLICATION NUMBER 1479 OF 1986.

M. Veeraraghavan,
Aged 58 years, Son of late
Murugesan Pillai, No. 7
West of Chord Road, II Stage,
Rajajinagar, Mahalaxmipuram Lay-out,
Bangalore-560 086. .. Applicant.

(By Dr. M.S. Nagaraj, Advocate).
v.

The Accountant General (Accounts),
Karnataka,
Bangalore 560 001. .. Respondent.
(By Sri N. Basavaraju, Standing Counsel)

--

This application coming on for hearing this day Vice-Chairman made the following:

ORDER

In this transferred application received from the High Court of Karnataka under Section 29 of the Administrative Tribunals Act of 1985 ('the Act'), the applicant has sought for a direction to the respondents to give him retrospective promotion from April, 1981 with all consequential benefits.

2. Prior to 8-4-1981, the applicant was working as a Selection Grade Auditor in the office of the Accountant General (Accounts), Bangalore (AG). On 8-4-1981, the applicant was promoted by the AG as a Supervisor with a direction that he should await a separate posting order thereto. On receipt of the same the applicant represented to the AG on 9-4-1981 to exempt him from posting to outside Audit Department or to field duty and post him only to 'central

office'. For various reasons, the narration of which is not very necessary to notice the said request of the applicant was not granted by the AG till the applicant retired from service on 31-7-1984 on attaining superannuation. On 28-5-1985, the applicant approached the High Court under Article 226 of the Constitution for a declaration that he stood promoted on 8-4-1981 and for all consequential benefits.


3. Among others, the applicant has urged that on receipt of his representation dated 9-4-1981, the AG did not give him a posting as he was bound to and, therefore, he must be deemed to have been promoted from 8-4-1981, worked in that capacity and retired in that very capacity on 31-7-1984.

4. In his statement of objections filed before the High Court, the respondent has asserted that the applicant did not avail the promotion given to him and did not report for duty and therefore, he was not entitled for the reliefs sought by him.

5. Dr. M. S. Nagaraja, learned counsel for the applicant, contends that the AG had deliberately refused to give an order of posting to his client and prevented him from working as a Supervisor till he retired from service on 31-7-1984 and therefore, this Tribunal should declare that the applicant had accepted the promotion of a Supervisor and had retired in that capacity till he retired from service on 31-7-1984.

6. Sri N. Basavaraju, learned counsel for the respondents contends that the applicant had deliberately refused to accept the promotion and had not worked as a supervisor, which disentitles him for the reliefs sought in his application.

7. Admittedly with due regard to the rules and orders in force the AG had promoted the applicant to the post of a Supervisor on 8-4-1981. Whoever is at fault, one thing that is crystal clear is that the applicant did not take charge of the post of a Supervisor either



at the Central office or any other office of the AG and did not work in that capacity till he retired from service on 31-7-1984. When that is so, it is some what odd for this Tribunal to declare ^{that} the applicant had accepted the promotion given to him by the AG and had worked as a Supervisor till he retired from service. On this short ground the claim of the applicant cannot be upheld by us.

8. We will however assume that all the assertions made by the applicant in his application and the passionate submissions made by Dr. Nagaraja are correct. But, even then, it is manifest that the applicant has not been diligent in asserting his rights and had allowed the matters to drift till he retired from service and thereafter also for nearly 10 months. We are of the view that on these circumstances we should decline to examine the grievance of the applicant and assist him also for which reason we decline to examine as to who is really at fault and express our opinion.

9. In the light of our above discussion, we hold that this application is liable to be dismissed. We, therefore, dismiss the application. But, in the circumstances of the case, we direct the parties to bear their own costs.

[Signature]
VICE-CHAIRMAN *2/12/86*

[Signature] *2/12/86*
MEMBER(A).

np/