

CENTRAL ADMINISTRATIVE TRIBUNAL  
BANGALORE BENCH

APPLICATION No. 1529/86(T)

COMMERCIAL COMPLEX, (BDA)  
INDIRANAGAR,  
BANGALORE-560 038.

(WP.NO. 15300/85 )

DATED: 19-6-87

APPLICANT

Vs

RESPONDENTS

Shri S.V. Shetty

The Director of Admn, Films Divn. Bombay  
and 2 Ors

TO

1. Shri S.V. Shetty  
No. 5-D C.M.T.I. Quarters  
Bangalore - 560 022

2. Dr M.S. Nagaraja  
Advocate  
No. 35 (Above Hotel Swagath)  
1st Main Road, Gandhinagar  
Bangalore - 560 009

3. The Director of Administration  
Films Division  
Ministry of Information & Broadcasting  
24, Dr D. Deshmukh Marg  
Bombay - 400 046

4. The Secretary  
Ministry of Finance  
Department of Expenditure  
North Block  
New Delhi - 110 001

5. The Managing Director  
Central Machine Tools Institute  
Tumkur Road  
Bangalore - 560 022

6. Shri N. Basavaraju  
Advocate  
Senior Central Govt. Stng Counsel  
High Court Buildings  
Bangalore - 560 001

SUBJECT: SENDING COPIES OF ORDER PASSED BY THE  
BENCH IN APPLICATION NO. 1529/86

....

Please find enclosed herewith the copy of the Order  
passed by this Tribunal in the above said Application on

12-6-87

ENCL: As above.

for DEPUTY REGISTRAR  
(JUDICIAL)

CENTRAL ADMINISTRATIVE TRIBUNAL  
BANGALORE

DATED THIS THE 12TH DAY OF JUNE, 1987

Present : Hon'ble Shri Justice K.S. Puttaswamy, Vice-chairman  
and  
Hon'ble Shri L.H.A. Rego, Member (A)

APPLICATION NO. 1529/86

Shri S.V. Shetty,  
aged 41 years,  
S/o Sri K. Vasu Shetty,  
No. 3-D C.M.T.I. Quarters,  
Bangalore-560 022.

.... Applicant

(Dr. M.S. Nagaraja, Advocate)

v.

1. The Director of Administration,  
Films Division,  
Ministry of Information and  
Broadcasting,  
Government of India,  
24, Dr. D. Deshmukh Marg,  
Bombay 400 046.

2. The Secretary to the  
Government of India,  
Ministry of Finance,  
(Department of Expenditure),  
New Delhi.

3. The Managing Director,  
Central Machine Tools Institute,  
Tumkur Road,  
Bangalore-560 022.

.... Respondents.

(Shri N. Basavaraju, Advocate)

This application having come up for hearing to-day,  
Vice-chairman made the following.

ORDER

This is a transferred application and is received  
from the High Court of Karnataka under Section 29 of  
the Administrative Tribunals Act of 1985 ('the Act').



2. On 3.7.1962, the applicant joined service as a Lower Division Clerk (LDC), in the Films Division of the Ministry of Information and Broadcasting of Government of India and at the material time, he was working as a Superintendent at its Bombay Office. When working there, he applied to the Central Machine Tools Institute Bangalore (CMTI), a wholly owned Central Government undertaking for, the post of a Superintendent which also selected him to that post.

3. On his selection by the CMTI, the applicant moved Government, to relieve him to join service in the CMTI, however retaining <sup>his</sup> ~~his~~ lien in Government for the permissible period, which was allowed by the Chief Producer of Films Division, Bombay, by his order no. 5/7/62-EST-I dated 10.3.78 (Annexure 'A'). The lien initially allowed to be retained in this order till 10.3.1980, was extended till 10.3.1981. On his relief at Bombay office, the applicant joined service in the CMTI and <sup>has</sup> ~~has~~ since then working there, where he has ~~also~~ been permanently absorbed.

4. On his permanent absorption in the CMTI, the applicant moved Government to grant him the pro rata pensionary benefits due to him, under the Central Civil Services (Pension) Rules, 1972 (Rules), which on 21.6.84, ~~has~~ rejected the same (Annexure 'D'). On 28.9.85, the applicant moved the High Court in Writ Petition No.15300/85 for appropriate relief, which, on transfer has been registered as A.No. 1529/86.



5. In justification of their orders, respondents 1 and 2 have filed their statement of objections before the High Court.

6. Dr M.S. Nagaraja, learned counsel for the applicant, contends, that the ground on which Government had refused to grant pro rata pension to his client was illegal, unjust and inequitable.

7. Shri N. Basavaraju, learned counsel appearing for respondents 1 and, 2 sought to support the orders made by Government.

8. When the applicant joined service in the CMTI, he had completed 12 years of service or the minimum 10 years of service in the Central Government, to entitle him for pension under the Rules.

9. Before joining the CMTI, the applicant apprised his selection and appointment there on probation and requested the competent officer to relieve him to join service in the CMTI and also retain his lien for the permissible period, to enable him to rejoin Government service if he was not permanently absorbed there, which was allowed by the Chief Producer on 10.3.78. We are of the view, that this order must only be construed as Government really permitting the applicant to join service in the CMTI only in <sup>the</sup> public interest, <sup>when</sup> once we find that the authority had permitted the applicant, to join service only in <sup>the</sup> public interest, then the authority cannot deny the pro rata pensionary benefits to the applicant under the Rules.



10. When the applicant was on probation for 2 years in the CMTI, he had agreed to pay his pensionary contribution to Government, which had also been accepted by Government. If that is so, then Government cannot resile on the same and refuse pro rata pension to the applicant.

11. We are also of the view, that the grounds on which the Government had refused to grant pensionary benefits to the applicant are extremely technical and are not at all substantial to refuse pensionary benefits under the Rules.

12. On any view of the matter, the denial of pro rata pensionary benefits to <sup>the</sup> applicant, is illegal unjust, inequitable and cannot be upheld.

13. As before, the applicant is ready and willing to pay - his pensionary contribution for the 2 years, to Government. In this view, it is necessary to direct respondents 1 and 2 to pay pro rata pension to the applicant, recovering the pensionary contributions due from him.

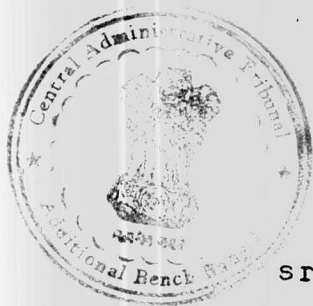
14. In the light of our above discussion, we make the following orders and directions:-

- i) We declare that the applicant is entitled for pro rata pension benefits under the Rules, on making payment of his pension contribution to Government.



- ii) We direct ~~the~~ respondents 1 and 2, to settle the pro rata pension due to the applicant under the Rules, on recovering pensionary contributions from the applicant with all such expedition as is possible in the circumstances of the case and in any event, within a period of six months from the date of receipt of this order.

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



sr/Mrv.

Sd/-

Vice-chairman

12/08

Sd/-

Member (A) 12.6.1987

- True copy -

AP 19/6/87  
SECTION OFFICER  
CENTRAL ADMINISTRATIVE TRIBUNAL  
ADDITIONAL BENCH  
BANGALORE