

CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE BENCHAPPLICATION Nos. 67 to 69/87 & 78/87 (T)

(WP.NO. 4529 to 4531/83 & 12581/83)

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

DATED: 2-6-87

APPLICANT

Vs

RESPONDENTSShri C.S. Gopala Sharma & 3 Ors
TO


The DG, ESI Corporation, New Delhi & another

1. Shri C.S. Gopala Sharma
Audit Inspector
ESI Corporation
No. 13, Kumarapark Extn.
Bangalore - 560 001
2. Shri T. Raman Kutty
Head Clerk
ESI Corporation
No. 13, Kumarapark Extn
Bangalore - 560 001
3. Shri L. Narasimhaiah
Head Clerk
ESI Corporation
No. 13, Kumarapark Extn.
Bangalore - 560 001
4. Shri M.S. Sripada Rao
Head Clerk
ESI Corporation
Gadag

5. Shri S.B. Swethadri
Advocate
Papaiah Building
Subedar Chatram Road
Bangalore - 560 009
6. The Director General
E.S. I. Corporation
Kotla Road
New Delhi
7. The Regional Director
E.S.I. Corporation
No. 13, Kumarapark Extn.
Bangalore - 560 001
8. Shri M. Papanna
Advocate
99, Magadi Chord Road
(Near State Bank of Mysore)
Vijayanagar
Bangalore - 560 040

SUBJECT: SENDING COPIES OF ORDER PASSED BY THE
BENCH IN APPLICATION NO. 67 to 69/87 & 78/87

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Please find enclosed herewith the copy of the Order
passed by this Tribunal in the above said Application on26-5-87.ENCL: As above.

 For DEPUTY REGISTRAR
(JUDICIAL)

Copy to A. No. 78/87 file

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE BENCH : BANGALORE

DATED THIS THE TWENTY SIXTH MAY, 1987

Present:

Hon'ble Mr Justice K.S. Puttaswamy

Vice Chairman

Hon'ble Mr P. Srinivasan

Member (A)

APPLICATION NOS. 67 TO 69/87 & 78/87

1. C.S. Gopala Sharma,
Audit Inspector,
ESI Corpn., No.13,
Kumarapark Extn.,
Bangalore-1.

(Applicant in A.No.
67/87)

2. T. Raman Kutty,
Head Clerk,
ESI Corpn., No.13,
Kumarapark Extn.,
Bangalore-1.

(Applicant in A.No.
68/87)

3. L. Narasimhaiah,
Head Clerk,
ESI Corpn.,
Kumarapark Extn.,
Bangalore-1.

(Applicant in A.No.
69/87)

4. M.S. Sripada Rao,
Gadag.

(Applicant in A.No.
78/87)

(S.B. Swethadri ... Advocate)

Vs.

1. Director General,
E.S.I. Corporation,
Kotla Road,
New Delhi.

2. Regional Director,
E.S.I. Corporation,
No.13, Kumara Park Extn.,
Bangalore-560 001. ... Respondents

(Shri M. Papanna ... Advocate)

This application came for hearing today. Member
(A) made the following:-

O R D E R

These applications are by 4 persons working
as Head Clerks in the Employees' State Insurance
Corporation at Bangalore. They originated as Writ

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Petitions before the High Court of Karnataka before they were transferred to this Tribunal under Section 29 of the Administrative Tribunals Act, 1985.

2. The grievance of the applicants is that ^{when} ~~where~~ they were promoted from posts of Upper Division Clerks Incharge (UDC i/c) to posts of Head Clerk they were not given the benefit of FR 22 C. Their contention is that the post of Head Clerk carries higher responsibilities than that of UDC i/c and so they were entitled to fixation of their initial pay as Head Clerk under FR 22 C with reference to the pay drawn by them as UDC i/c immediately before such promotion.

3. All the applicants were present before us in person. Shri S.B. Swethadri, learned counsel for the applicants re-iterated what has been stated in the applications viz., that the post of Head Clerk carries higher responsibilities than that of UDC i/c and that therefore their claim should be allowed. They relied on a decision of this Tribunal in Application Nos. 170 and 171/86 rendered on 11.12.1986.

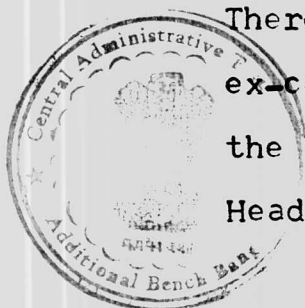
4. Shri M. Papanna, learned counsel for the respondents opposed the claim of the applicants. He contended that in the decision rendered in A.Nos. 170 and 171/86, the amendment to FR 22 referred to at page 72 of Swamy's Compilation of Fundamental Rules and Supplementary Rules VI

P. J. K.
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Edition had not been taken note of. In that amendment, it had been clarified that pay drawn in an ex-cadre post would not be considered for the purpose of fixation of initial pay under FR 22 C in another post. The post of UDC i/c, according to Shri Papanna, was an ex-cadre post and so the applicants could not claim fixation of pay on appointment as Head Clerk under FR 22 C with reference to the pay drawn by them as UDC i/c. He further contended that the appointments to posts of UDC i/c was not based on seniority but on the willingness of persons to be so posted. These appointments were made only by way of a temporary arrangement. Advantage cannot be taken by the applicants of such temporary promotion.

5. We have considered the rival contentions carefully. We do not agree with Shri Papanna that merely because the applicant held posts of UDC i/c as a temporary arrangement they are not entitled to the benefit of FR 22 C. We are unable to understand how the posts of UDC i/c can be treated as ex-cadre posts. As a matter of fact posts of UDC i/c existed at the material time in every department of Government. Therefore, we do not agree that these posts were ex-cadre posts disentitling the applicants to the benefit of FR 22 C on their appointment as Head Clerks. We have gone through the decision



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of this Tribunal in A. Nos. 170 and 171/86 and we are entirely in agreement with the decision rendered therein that the post of Head Clerk carries higher responsibilities than that of a UDC i/c and is in fact a promotional post. We ^{therefore} hold that the applicants are entitled to fixation of their initial pay as Head Clerk under FR 22 C with reference to the pay drawn by them as UDC i/c immediately before their appointment to the post. The respondents will fix the initial pay of the applicants accordingly and pay the applicants all consequential arrears flowing therefrom.

6. In the result, the applications are allowed. Parties to bear their own costs.



VICE CHAIRMAN

MEMBER (A)

sr/mr

- True Copy -

SECTION OFFICER
CENTRAL ADMINISTRATIVE TRIBUNAL
ADDITIONAL BENCH
BANGALORE