

CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE BENCH

REGISTERED

Commercial Complex(BDA)
Indira Nagar,
BANGALORE- 560 038.

Dated

6 MAY 1987

Application No. 194/87 /AS(F)

WP No. _____

Applicant

Shri.C.S.L.Rao

To

1. Shri.C.S.L.Rao,
Senior Clerk,
Office of the Aerodrome Officer,
R/o. L-6, G.P.R.A. Quarters,
Vijaynagar,
Bangalore- 60.
2. Shri.S.M.Babu,
242, V Main, Gandhinagar,
Bangalore- 9.
3. The Director-General of Civil Aviation,
Block II & III East, R.K.Puram,
New Delhi.
4. The Regional Director,
National Air-port Authority,
Madras Regional,
Madras Airport,
Madras- 27.
5. Aerodrome Officer,
National Airport Authority, Bangalore- 17.
6. Controller of Airworthiness,
Civil Aviation Department,
Bangalore Airport,
Bangalore.
7. Shri.M.R.Vasudeva Rao,
Central Govt. Standing Counsel,
High Court Buildings,
Bangalore- 560 001.

Jan 25/87
SUBJECT: Sending copies of Order passed by the Bench in
Application No. 194/87(F)

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8/5/87
Please find enclosed herewith the copy of the Order/
Interim Order passed by this Tribunal in the above said Application
No. 194/87 on 22-4-87.

Hari
SECTION OFFICER
(JUDICIAL)

6/6
Encl: as above.

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE BENCH, BANGALORE
DATED THIS THE 22ND DAY OF APRIL, 1987

Present : Hon'ble Shri Ch. Ramakrishna Rao ... Member(J)
Hon'ble Shri P. Srinivasan ... Member(A)
Application No. 194/87

Sri C.S.L.Rao,
S/o. C.N.Sripadachar,
aged about 57 years,
Senior Clerk,
Office of Aerodrome Officer,
R/o. L-6, G.P.R.A. Quarters,
Vijayanagar,
BANGALORE - 60. .. Applicant

(Shri S.M.Babu, Advocate)

vs.

1. Director-General of Civil Aviation,
Block II & III East, R.K.Puram,
NEW DELHI.
2. The Regional Director,
National Air-Port Authority,
Madras Regional, Madras Airport,
MADRAS - 27.
3. Aerodrome Officer,
National Airport Authority,
BANGALORE - 17.
4. Controller of Airworthiness,
Civil Aviation Department,
Bangalore Airport,
BANGALORE.

.. Respondents.

(Shri. M.Vasudevarao, Advocate)

The application has come up for hearing before this
Tribunal today. The Member ^(A) made the following :-

O R D E R

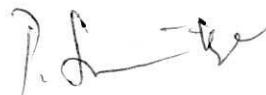
This is an application made under Section 19 of the
Administrative Tribunals Act, 1985.

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The applicant who was working as a Senior Clerk in the Aerodrome office at Bangalore under the Civil Aviation Department was placed under suspension with immediate effect by an order dated 7.10.1985 (Annexure-A) by the Regional Director of the said Department, Madras Region. This order is challenged in this application. The applicant wants a direction from this Tribunal to the respondents to revoke the impugned order of suspension and to give him a posting as Senior Clerk. The second prayer in the application is for a direction to the respondents to treat the period of his suspension from 7.10.1985 till date as a period spent on duty and to pay him the difference between the pay of the post and the subsistence allowance actually paid to him.

By way of interim relief, during the pendency of this application, the applicant wanted the subsistence allowance which was being paid to him at the rate of 50% of his pay to be increased to 75%, as the period of suspension had already exceeded six months and under Fundamental Rule 53(1) the respondents should have undertaken a review of the subsistence allowance after the expiry of the said 6 months, but did not do so. By an order dated 9-3-1987 we had directed the respondents to raise the subsistence allowance to 75% prospectively, giving opportunity to the respondents to move this Tribunal for vacation or modification of



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the said order. The respondents have not sought for vacation or modification of our order till date. However, in their reply to the application dated 20th April, 1987 the respondents have questioned the validity of our interim order as amounting to granting the final relief to the applicant.

When the matter came up for hearing to-day Sri. S.M.Babu, learned counsel for the applicant, fairly conceded that the prayers in the original application would become infructuous by 30th of this month as the applicant is due to superannuate by that date. He, therefore, did not press these prayers. However, he contended that the applicant was entitled to some incidental reliefs arising out of this application itself. The respondents had not reviewed the subsistence allowance payable to the applicant after the expiry of 6 months from the date of suspension as required under FR-53 and when this was pointed out, this ~~XXXXXX~~ Tribunal had directed the increase of subsistence allowance to 75% prospectively from 19-3-1987 the date of our interim order. The respondents in their reply have stated that the review of the subsistence allowance should have been undertaken by the Regional Director, Civil Aviation Department, Madras with effect from 1-6-1986, but that had not been done. This according to Sri Babu would clearly indicate that the applicant was entitled to the increased subsistence allowance atleast from 1-6-1986 itself. He, therefore, pleads that this Tribunal should allow subsistence allowance of 75% of pay to the applicant from 1-6-1986.

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Sri M.Vasudeva Rao, learned Central Government Additional Standing Counsel appearing for the respondents, while opposing the contention of Sri Babu, points out that FR 53 did not say that the subsistence allowance would stand automatically increased after the expiry of 6 months. It only provided for a review of the subsistence allowance which could be increased only, if in the opinion of the reviewing authority the period of suspension had been prolonged for reasons not directly attributable to the Government servant. In view of this, he questions the interim order of this Tribunal passed on 19-3-1987 granting the increase of subsistence allowance as if it ~~was~~ was an automatic relief due to the applicant. However, the respondents had complied with the order of this Tribunal and had in fact given the applicant increased subsistence allowance at 75% of his pay with effect from the date of our interim order. In view of the provisions-FR 53 this Tribunal should not allow any increase ⁱⁿ the subsistence allowance from 1-6-1986 because it ~~was~~ was for the authorities concerned to review and decide the question.

We have considered the rival contentions carefully. So far as our order dated 19-3-1987 is concerned, we had clearly indicated therein that the respondents could move us for vacation or modification of our order, if that was considered necessary. On the other hand,

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we find that respondent-1 passed an order on 2-4-1987 in terms of FR-53 stating that the period of suspension had been prolonged for reasons which are not directly attributable to the applicant. In effect, therefore, the condition prescribed for increasing the subsistence allowance has been fulfilled and, therefore, our order does not need any modification in this regard. As far as the claim of increased subsistence allowance from 1-6-1986 is concerned, we agree with Sri Vasudeva Rao that it is for the authorities concerned to review the matter and if they found that the period of suspension of the applicant had been prolonged beyond 6 months for reasons not attributable to him, then to grant the increased subsistence allowance. We would, therefore, direct the authorities concerned to undertake such a review now and if they find that the suspension was prolonged beyond 1-6-1986 for reasons not attributable to the applicant to grant him increased rate of subsistence allowance from that date. The reply of the respondents clearly shows that such a review which should have been undertaken from that date itself was not undertaken. We, therefore, direct the authorities concerned to undertake such a review now.

Sri Babu also claims another incidental relief. His client is due to superannuate on 30-4-1987. He wants this Tribunal to issue a direction to the respondents to grant him all retirement benefits due to

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him thereafter since the threatened disciplinary proceedings have not yet been initiated so far, even though 18 months have elapsed since he was suspended in anticipation of such proceedings.

Sri M.Vasudeva Rao replying to Sri Babu points out that the enquiry is still going on by the C.B.I., and that is why the departmental proceedings have not so far been initiated. Depending on the findings of the inquiry by the CBI a decision will be taken as to whether the disciplinary proceedings should be initiated or not. As soon as a decision is taken on that and as soon as possible after 30-4-1987 when the applicant is due to superannuate, the respondents will take a decision about the pension payable to him. It is premature now for this Tribunal to issue any direction in regard to the retirement benefit payable to the applicant after 30-4-1987 because the respondents have not yet taken any decision in the matter till now and are not due to take such a decision till that date.

Having heard counsel on both sides, we agree with Sri Vasudeva Rao that at the present moment no direction can be issued in respect of pension payable to the applicant after his superannuation that is on 30-4-1987. However, since the threat of disciplinary proceedings has been hanging on the head of the applicant for 18 months it is only fair that the respondents should take a decision quickly as to whether they want to initiate such proceedings so that the applicant knows where he stands.

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It is not fair to leave the matter hanging on the head of the applicant for so long. We would, therefore, direct the respondents to take a decision as soon as possible about the initiation of the disciplinary proceedings against the applicant under the relevant Rules in the Central Civil Services (Classification Control and Appeal) Rules and Rule 9 of the Pension Rules if that becomes applicable and thereby end the agony of the applicant. We hope that the respondents will also take an early decision about the provisional pension payable to the applicant on his attaining the age of superannuation in terms of FR-53. Sri Babu wanted us to fix a time limit for this purpose. But, we are unable to do so because the matter is pending with another authority viz., CBI. But, all the same, as we have already mentioned, we hope that the respondents will try to expedite the matter and take a decision as early as possible.

In view of what we have stated above, the prayers in the application having become infructuous, this application ~~is~~ is, disposed of subject to the observations made above. Parties to bear their ~~own~~ own costs.

Chandrasekhar
22/4/87
MEMBER(J)

R.S. - 22/4/87
MEMBER(A)

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