

REGISTERED

CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE BENCH

Commercial Complex (BDA)
Indiranagar
Bangalore - 560 038

Dated :

18 OCT 1988

APPLICATION NO.

643

/ 87(F)

W.P. NO.

Applicant(s)

Shri A.C. Lakshman

To

Respondent(s)

V/s

The Secretary, Dept of Personnel & Admn
Reforms, Govt. of Karnataka, Bangalore & 2 Ors

1. Shri A.C. Lakshman, IFS
Conservator of Forests
Bellary Circle
Bellary
2. Shri H.K. Vasudeva Reddy
Advocate
KESVY & CO., Advocates
139, 5th Cross, Gandhinagar
Bangalore - 560 009
3. The Secretary
Department of Personnel &
Administrative Reforms
(Service & Cabinet)
Govt. of Karnataka
Vidhana Soudha
Bangalore - 560 001

4. The Accountant General
(Accounts), Karnataka
Bangalore - 560 001
5. The Chairman
Mysore Lac & Paint Works Limited
Post Box 82
Thilak Nagar
Mysore - 570 015
6. Shri S.M. Babu
State Govt. Advocate
C/o The Advocate General (KAT Unit)
BDA Commercial Complex
Indiranagar
Bangalore - 560 038

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(x) on 14-10-88.

Encl : As above

SECTION OFFICER

(JUDICIAL)

CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE

DATED THIS THE 14TH DAY OF OCTOBER, 1988

Present | Hon'ble Shri Ch. Ramakrishna Rao, Member (J)
and
| Hon'ble Shri L.H.A. Rego, Member (A)

APPLICATION NO. 643/1987

Shri A.C. Lakshman,
S/o Cheluvegowda,
Aged 49 years,
Conservator of Forests,
Shimoga.

..... Applicant.

(Shri H.K. Vasudeva Reddy, Advocate)

v.

1. State of Karnataka by its
Secretary, Dept. of Personnel
and Administrative Reforms,
(Services & Cabinet),
Vidhana Soudha,
Bangalore.
2. The Accountant General
(Accounts) Karnataka,
Bangalore.
3. The Mysore Lac & Paint Works Ltd.,
Post Box No.82, Thilak Nagar,
Mysore by its Chairman. Respondents.

(Shri S.M. Babu, Advocate for Res. 1)

This application having come up for hearing to-day,
Shri Ch. Ramakrishna Rao, Hon'ble Member (J) made the
following:


ORDER

This is an application filed under Section 19 of
the Central Administrative Tribunals Act, 1985. The
facts giving rise to this application may be summarised
thus:



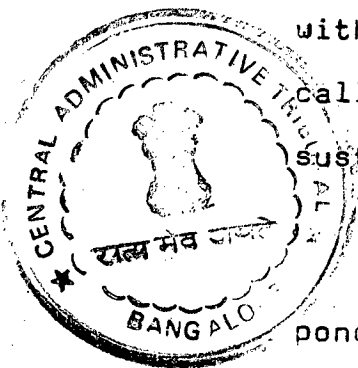
The applicant, an officer of the Indian Forest Service (IFS, for short) was appointed as Chairman and Managing Director (CH & MD, for short) of the Mysore Lac & Paints Works Ltd, Mysore (Respondent 3:R3) by order dated 7.6.1980 issued by the Government of Karnataka (Respondent 1:R1). The Accountant General (Accounts) Karnataka (Respondent 2:R2) issued a letter dated 11.1.1984 addressed to R1, pointing out that the applicant had drawn excess payment from June 1980 to July 1982 on account of House Rent Allowance (HRA) and City Conveyance Allowance (CCA) aggregating to Rs.28,600/- and a sum of Rs.2325/- on account of DA on tour and proposing issue of instructions for effecting recoveries from the applicant of the over-paid amounts. R1 accordingly addressed a letter dated 16.1.1987 to R2, authorising recovery of Rs.28,600 from the pay of the applicant, towards excess payment made and remittance of the same to the account of R3 (Annexure E). Regarding the proposed recovery of Rs.2325/- R1 stated, that the decision would be communicated separately. The applicant made a representation on 25.5.1984 denying that any excess payments were made to him and requesting that the proposed recovery be dropped. This evoked no response and therefore, the applicant has filed this application for quashing the order dated 16.1.1987.

2. Shri H.K.V. Reddy, learned counsel for the applicant, strenuously contends that the order dated 16.1.1987 militates against the terms of deputation



of his client to R3 (terms, for short) as embodied in the order dated 7.6.1980 (Annexure A) and elaborates his argument on these lines. Clause 2 of the terms states that the applicant shall be entitled to receive from R3, pay and DA at the rates admissible from time to time, under the State Government. Nothing has been stated regarding HRA & CCA and he is, therefore, entitled to the same benefits, which he was receiving prior to his deputation, in terms of Clause 13 of the terms. He was occupying Government quarters before his deputation commenced and 10% of his pay was being deducted on account of HRA. A staff car was made available for his use, which was denied to him after he joined R3 on deputation. The allowances paid to the applicant from June 1980 to July 1982 were therefore justified and R2 erred in calling upon R1 to effect recovery of over-payment on these two counts. Alternatively, the applicant is entitled to HRA and CCA at the scale payable to the Directors of R3, since he was given the benefit of rates of Travelling Allowance (TA) and Daily Allowance (DA) for journeys on duty, within the State at the scale admissible to the Directors of R3, in which case, the amounts drawn by his client, relatable to HRA & CCA were within the limits prescribed. The recovery of the so-called excess payments is therefore, illegal and unsustainable.

3. Shri S.M. Babu, learned counsel for the respondents, refutes the contentions urged on behalf of the applicant and submits that clause 13 of the terms is inapplicable to the present case. Clause 2 of the terms,



which has not been fully reproduced in the application, reads as follows:

"The officer shall be entitled to receive from the Employer pay, Dearness Allowance, House Rent Allowance and other Compensatory Allowances at the rates admissible from time to time under the State Government."

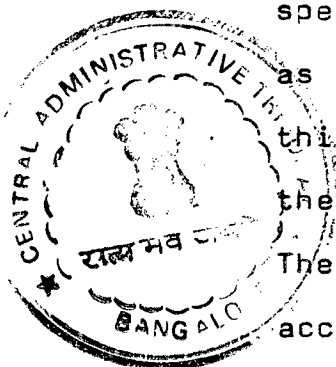
The applicant is entitled only to claim HRA & CCA at the rates admissible to officers of the State Government. The Resolution of R3 dated 29.12.1980 governs the non-official Directors of the Company but not the applicant, who is an officer on deputation. R2 had given reasons for directing recovery, and the order dated 16.1.1987 is not open to challenge.

4. We have considered the rival contentions carefully. Shri Babu is right in saying that Clause 2 of the terms relating to pay and allowances has not been fully extracted in the application and the same covers HRA and CCA. Clause 13 of the terms, which is in the nature of a residuary provision, does not therefore come into play.

5. The difficulty in the present case arises on account of the fact, that the rates at which other compensatory allowances such as the HRA & CCA have not been spelt out and it has been stated generally, that the rates admissible from time to time under the State Government would apply. It is an undisputed fact that the applicant was occupying Government quarters before he took over

charge of the post of CH & MD of R3. Consequently, 10% of the pay of the applicant was being deducted by R1, prior to his deputation to R3. As such, the applicant should continue to receive the same benefits while on deputation to R3; otherwise, there would be no incentive for him to come on deputation. The terms do not provide for Deputation Allowance except Special Pay of Rs.150/- per mensem under the IFS (Pay) Rules to the IFS cadre posts included in Schedule III(B) to the Rules. This Special Pay is relatable to the IFS cadre posts and Clause 4 expressly states that no deputation/foreign service allowance is admissible in addition to Special Pay. We, therefore, hold that the language and tenor of the terms, discountenance any variation to the disadvantage of the applicant in the matter of HRA & CCA.

6. Turning to the facts, the applicant was allowed a sum of Rs.500/- per mensem towards HRA in lieu of 10% of his pay, which was collected as licence fee in the parent department of R1. The Resolution passed at the meeting of the Board of Directors of R3, held on 29.12.80 specifies the rates of TA & DA payable to the Directors as also the HRA & CCA payable to the CH & MD. HRA, under this Resolution, was restricted to Rs.1,000/- per month in the case of rented house and CCA to Rs.600/- per month. The applicant actually drew only Rs.500/- per month on account of HRA and Rs.600/- per month on account of CCA, well within the admissible limits specified in the Resolution. This was allowed to be done for a period of two years. It was only in August 1982 that he was sanctioned



10% of pay as HRA and a staff car was provided for his use, thereby eliminating the claim of the applicant for CCA @ Rs.600/- per month.

7. Assuming that the allowances paid during the period June 1980 to July 1982 was not in conformity with the rates payable to officers of the State Government, we are of the view, that the doctrine of equitable estoppel will be attracted, since the Resolution of the Board of Directors passed on 29.12.1980 was a deliberate act calculated to clarify the rates of allowances payable to the CH & MD. We are not impressed by the argument of Shri Babu that the allowances mentioned in the Resolution applied only to non-official Directors since it is not stated so, in the Resolution. In fact, when the Resolution was passed on 29.12.1980, making it effective from 1.6.1980 to Directors and CH & MD, the incumbent of the post of CH & MD was the applicant, who was an officer working under R1 and as such, a restricted interpretation would render the purpose for which the Resolution was passed wholly otiose. It is not suggested in the reply filed on behalf of R1 & R2, that the Resolution was not passed by R3 in good faith or to benefit only the applicant. The thrust in the reply is that the case of the applicant is governed by the rules applicable to the officers of the State and not the Directors and CH & MD of R3.

8. After considering the pros and cons, we are satisfied that the sum of Rs.500/- per month paid to the applicant by R3, in lieu of 10% of pay which was deducted as rent for Government quarters he was occupying, is quite

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reasonable. Likewise, the sum of Rs.600/- per month which was paid to the applicant by R3 as CCA in lieu of the staff car used by him while working under R1 is not excessive. We accordingly hold that the recovery directed in the order dated 16.1.1987 (Annexure E) is not warranted by law and, therefore quash the same.

9. In the result the application is allowed.
Parties to bear their own costs.

Sd/-

MEMBER (J) 14.10.00

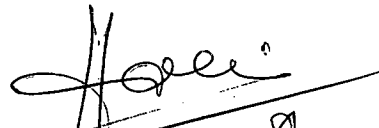
Sd/-

MEMBER (A) 14.10.00



psg/Mrv.

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CENTRAL ADMINISTRATIVE TRIBUNAL
ADDITIONAL BENCH
BANGALORE