

REGISTERED

CENTRAL ADMINISTRATIVE TRIBUNAL

BANGALORE BENCH

Commercial Complex(BDA)
Indiranagar
Bangalore - 560 038

Dated : 4 APR 1988

APPLICATION NO 732 / 87(F)

W.P. NO. /

Applicant

Shri K.S. Kalidas

v/s

Respondent

The Secy, M/o Communications, Dept of Posts,
New Delhi & 2 Ora

To

1. Shri K.S. Kalidas
229, K.H.B.C.S. Lay-out
III Stage, IV Block
Basaveshwaranagar
Bangalore - 560 079

2. Shri M. Narayanaswamy
Advocate
844 (Upstairs), V Block
Rajajinagar
Bangalore - 560 010

3. The Secretary
Ministry of Communications
Department of Posts
New Delhi - 110 001

4. The Post Master General
Karnataka Circle
Bangalore - 560 001

5. The Registrar
Indian Institute of Science
Bangalore - 560 012

6. Shri M.S. Padmarajaiah
Central Govt. Stng Counsel
High Court Building
Bangalore - 560 001

Carma 5-4-88 Subject : SENDING COPIES OF ORDER PASSED BY THE BENCH

Please find enclosed herewith the copy of ORDER/~~REMARK~~/ORDER
passed by this Tribunal in the above said application on 21-3-88.

AP
SECTION OFFICER
~~REMARK~~
(JUDICIAL)

Encl : As above
OC

CENTRAL ADMINISTRATIVE TRIBUNAL: BANGALORE

DATED THIS THE 21ST DAY OF MARCH, 1988.

PRESENT:

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

And

Hon'ble Mr. L.H.A.Rego, Member (A).

APPLICATION NUMBER 732 OF 1987

K.S.Kalidas,
Retired Principal Scientific
Officer, Indian Institute of Science,
r/o 229, K.H.B.C.S., Lay-out, III Stage,
IV Block, Basaveshwaranagar,
BANGALORE 79 .. Applicant.

(By Sri M.Narayanaswamy, Advocate)

v.

1. The Union of India,
represented by its Secretary,
Ministry of Communications,
Department of Posts,
NEW DELHI.
2. The Post-Master General,
Karnataka Circle, BANGALORE.

The Registrar,
Indian Institute of Science,
BANGALORE.

.. Respondents.

(By Sri M.S.Padmarajaiah, SCGSC)

 This application having come up for hearing this day, Vice-Chairman made the following:

ORDER

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

2. From 1-8-1949, the applicant was working as an Upper Division Clerk ('UDC') in the Postal Department of Government of India. When so working in pursuance of an advertisement issued by the Registrar, Indian Institute of Science, Bangalore (Registrar) - Respondent-2, the applicant, applied for the post

post of a Technical Assistant (Translation) (TA) through proper channel. On a consideration of his application, the applicant was selected for the ^{said} post in the Institute. On that and with the permission granted by the Department, the applicant joined service in the Institute on 6-5-1966 from which date, he was working in the Institute till he retired from service on 1-8-1986 in the normal course.

3. On his retirement from service in the Institute the applicant has been granted pension and other terminal benefits reckoning only the service rendered by him in the Institute, but excluding the service rendered by him in the Postal Department. On this, the applicant moved the Institute and Government - Respondents 1 and 2 to grant him pro-rata pension for the period he had rendered service in the Postal Department from 1-8-1949 to 5-5-1966 and pay him the higher pension thereto due to him. But, the respondents have declined to accede to the same. Hence, this application.

4. Among others, the applicant has urged that under the Central Civil Services (Pension) Rules, 1972 ('Rules') or the earlier Rules in force and the Office Memorandum No.8(1)/72/Estt. dated 21-4-1972 and O.M.No. 28/10/84-Pension. Unit dated 29-8-1984 (Annexure-B) he was entitled to for pro rata pension for the service rendered in the Postal Department and the denial of the same was illegal.

5. In their reply, Respondents 1 and 2 have resisted the claim of the applicant. Respondent-3 has filed a separate reply, inter alia asserting that



the primary liability for payment of pension was on Respondents 1 and 2 and if they were to make payments of the same in terms of the Rules and orders, it will make necessary payment of enhanced pension reckoning the service rendered by him from 1-8-1949 to 5-5-1966 in the Postal Department.

6. Sri M.Narayanaswamy, learned counsel for the applicant contends that the denial of pro rata pension to his client for the period of his service in the Postal Department by respondents 1 and 2 who are primarily responsible for the same was opposed to the Rules and executive orders issued thereto by Government from time to time and in particular O.M.Nos.8(1)-/72/Estt. dated 21-4-1972 and 28/10/84-Pension Unit dated 29-8-1984.

7. Sri M.S.Padmarajaiah, learned senior Central Government Standing Counsel appearing for respondents 1 and 2, contends that the appointment of the applicant in the Institute was not in the public interest and therefore, he was not entitled to payment of any pension for the service he had rendered in the Postal Department prior to his resignation.



8. Respondent-3, who has filed a separate reply is absent and is unrepresented.

9. When the applicant made his application for the post of TA in the Institute, he submitted the same through proper channel. On receipt of that application, the Post Master General, Bangalore (PMG) while forwarding the same to the Institute stated thus:-

"An application dated 2-2-1966 submitted by Shri K.S.Kalidas seeking appointment to the post of Technical Assistant (Translation) your office is forwarded herewith for favour of disposal.

The services of the official can be spared in case he is selected for the post applied for".

When the applicant was selected for the post, in pursuance of this statement of the PMG, the department readily relieved him and, thereafter only the applicant joined service in the Institute on 6-5-1966 and continued to work there till he attained the age of superannuation under the Rules regulating his service conditions in the Institute.

10. On these facts and the correspondence that had ensued, it is difficult to hold that the applicant did not join the Institute in the public interest and only in his own interest.

11. But, we will even assume that the applicant did not join the Institute in the public interest as claimed by respondents 1 and 2 before us and examine the claim on that basis.

12. The distinction, if any, between public and private interest that earlier existed had been done away with by Government itself in O.M. dated 21-4-1972 and 29-8-1984. On this view, the claim of the applicant for pro rata pension for the service rendered in the Postal Department cannot also be denied.

13. An examination of the Rules and the two Office Memoranda dated 21-4-1972 and 29-8-1984 show that the applicant was entitled for pro rata pension for the service rendered by him in the Postal Department from 1-8-1949 to 5-5-1966 and the denial of the same



same is illegal, inequitable and unjust.

14. In order to accept the higher post in the Institute, the applicant had to formally tender resignation for the post he held in the Postal Department. This resignation cannot be treated as a resignation in the normal sense of forfeiting the past service rendered, at any rate, for purposes of pension. The resignation was a technical resignation to accept a higher post. Even this objection of respondents 1 and 2 has no merit and we reject the same.

15. In the light of our above discussion, we make the following orders:

- (1) We declare that the applicant was entitled to for pro rata pension for the period of service rendered by him in the Postal Department from 1-8-1949 to 5-5-1966.
- (2) We direct respondents 1 to 3 to extend all the retirement benefits to which the applicant was entitled for the period of service rendered by him in the Postal Department from 1-8-1949 to 5-5-1966 in accordance with the Rules and the Orders regulating the same with all such expedition as is possible in the circumstances of the case and in any event within a period of four months from the date of receipt of this order.

TRUE COPY

16. Application is allowed. But, in the circumstances of the case, we direct the parties to bear their own costs.

AP/14/88
SECTION OFFICER
C. O. NO. 6
CENTRAL ADMINISTRATIVE TRIBUNAL
ADDITIONAL BENCH
BANGALORE

Sd/-
VICE-CHAIRMAN
21/3/1988

Sd/-
MEMBER(A) *1-3-88*

**CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE BENCH**

Commercial Complex (BDA)
Indiranagar
Bangalore - 560 038

Dated : 11 AUG 1988

IA I IN APPLICATION NO.

732

✓/87(F)

W.P. NO.

Applicant(s)

Shri K.S. Kalidas

• 10

v/s

Respondent(s)

The Secy, M/o Communications, Dept of Posts,
New Delhi & 2 Ors

1. Shri K.S. Kalidas
229, K.H.B.C.S. Layout
III Stage, IV Block
Basaveshwaranagar
Bangalore - 560 079
2. Shri M. Narayanaswamy
Advocate
844 (Upstairs)
V Block, Rajajinagar
Bangalore - 560 010
3. The Secretary
Ministry of Communications
Department of Posts
New Delhi - 110 001

4. The Post Master General
Karnataka Circle
Bangalore - 560 001
5. The Registrar
Indian Institute of Science
Bangalore - 560 012
6. Shri M.S. Padmarajaiah
Central Govt. Stng Counsel
High Court Building
Bangalore - 560 001

Subject : SENDING COPIES OF ORDER PASSED BY THE BENCH

Please find enclosed herewith the copy of ORDER/STAY/INDEX/REORDER by this Tribunal in the above said application(s) on 9-8-88.

8.88

above

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DEPUTY REGISTRAR
(JUDICIAL)

**In the Central Administrative
Tribunal Bangalore Bench,
Bangalore**

K.S. Kalidas

V/s The Secy, M/o 732/87(E)
Communications, Dept of Posts, New Delhi & ORS
Order Sheet (contd)

M. Narayanaswamy

M.S. Padmajaiah

Date	Office Notes	Orders of Tribunal
8.8.88		<p>See</p> <p>Enc</p>
9.8.1988		<p>KSPVC/PSM</p> <p><u>Orders on IA No.1 - application for extension:</u> Applicant by Shri M.R. Shailendra. Respondents by Shri MSP. In this IA the Respondents have sought for extension of time by another three months from the expiry of time granted by us on 21.3.1988. We have perused the application. We are satisfied that the facts and circumstances justify grant of a reasonable extension. We are of the view that it would be reasonable to grant another two months time to comply with the order made by us. We, therefore, allow IA No.1 in part and allow time by another two months for complying with the order made by us in these case.</p> <p>Sd/- PVC</p> <p>Sd/- M(A)</p> <p>TRUE COPY</p> <p><i>Parivartita</i> DEPUTY REGISTRAR (JD) CENTRAL ADMINISTRATIVE TRIBUNAL BANGALORE</p>

REGISTERED

CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE BENCH
* * * * *

Commercial Complex (BDA)
Indiranagar
Bangalore - 560 038

Dated : 28 OCT 1988

IA II IN APPLICATION NO.

732

87(F)

W.P. NO.

Applicant(s)

Shri K.S. Kalidas

To

1. Shri K.S. Kalidas
229, K.H.B.C.S. Layout
III Stage, IV Block
Basaveshwaranagar
Bangalore - 560 079

2. Shri M. Narayanaswamy
Advocate
844 (Upstairs)
V Block, Rajajinagar
Bangalore - 560 010

3. The Secretary
Ministry of Communications
Department of Posts
New Delhi - 110 001

V/s Respondent(s)
The Secy, M/o Communications, Dept of Posts,
New Delhi & 2 Ors

4. The Post Master General
Karnataka Circle
Bangalore - 560 001
5. The Registrar
Indian Institute of Science
Bangalore - 560 012
6. Shri M.S. Padmarajaiah
Central Govt. Stng Council
High Court Building
Bangalore - 560 001

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(s) on 21-10-88

gssed
W. Kalidas
28-10-88

Encl : As above

AP. by
SECTION OFFICER
~~RECORDED/RECEIVED~~
(JUDICIAL)

**In the Central Administrative
Tribunal Bangalore Bench,
Bangalore**

ORDER SHEET.

Application No. 732 of 1987(F)

Applicant

K.S. Kalidas

v/o

The Secy, M/o Communications, Dept of Posts,
New Delhi & 2 Ora

Respondent

Advocate for Applicant

M. Narayanaswamy

Advocate for Respondent

M.S. Padmarajaiah

Date	Office Notes	Orders of Tribunal
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VC/LHAR(AM)

21-10-1988

**ORDERS ON I.A.NO.II
FOR EXTENSION OF TIME**

In this I.A., the respondents have sought for extending the time allowed by us by another 3 months.

We are satisfied that the facts and circumstances stated in I.A.II, justify the grant of reasonable extension of time. We therefore allow I.A.II and grant time to the respondents for implementing our order till 31-12-1988. I.A.II is disposed of in the above terms. But, in the circumstances of the case, we direct the parties to bear their own costs.



Sd/-
VICE CHAIRMAN

Sd/-
MEMBER(A)

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R. Shyamala (Signature)
SECTION OFFICER
CENTRAL ADMINISTRATIVE TRIBUNAL
ADDITIONAL BENCH
BANGALORE

CENTRAL ADMINISTRATIVE TRIBUNAL

BANGALORE BENCH

Commercial Complex (BDA)
Indiranagar
Bangalore - 560 038

Dated : 10 JAN 1989

IA III. IN APPLICATION NO.

732

87(F)

W.P. NO.

Applicant(s)

Shri K.S. Kalidas

To

1. Shri K.S. Kalidas
229, K.H.B.C.S. Layout
III Stage, IV Block
Basaveshwaranagar
Bangalore - 560 079

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844 (Upstairs)
V Block, Rajajinagar
Bangalore - 560 010

3. The Secretary
Ministry of Communications
Department of Posts
New Delhi - 110 001

Respondent(s)

V/s The Secretary, M/o Communications, Dept of Posts,
New Delhi & 2 Ors

4. The Post Master General
Karnataka Circle
Bangalore - 560 001
5. The Registrar
Indian Institute of Science
Bangalore - 560 012
6. Shri M.S. Padmarajaiah
Central Govt. Stng Counsel
High Court Building
Bangalore - 560 001

Subject : SENDING COPIES OF ORDER PASSED BY THE BENCH

Please find enclosed herewith the copy of ORDER/REXX/EXXERXX ORDER
passed by this Tribunal in the above said application(s) on 4-1-89.

Encl : As above

DEPUTY REGISTRAR
(JUDICIAL)

qc

R. Venkatesh

In the Central Administrative
Tribunal Bangalore Bench,
Bangalore

ORDER SHEET

Application No. 732 of 1987(F)

Applicant

K.S. Kalidas

Advocate for Applicant

M. Narayanaswamy

Respondent

V/s The Secretary, M/o Communications,
Dept of Posts, New Delhi & 2 Ors

Advocate for Respondent

M.S. Padmarajaiah

Date	Office Notes	Orders of Tribunal
		<p><u>KSP/PS : 4.1.89</u></p> <p><u>ORDERS ON IA.III - Application for extension of time.</u></p> <p>In this IA, the respondents have sought for extension of time for a period of three months from 31-12-1988 to implement the orders of this Tribunal made on 21-2-1988.</p> <p>Shri M.S. Padmarajaiah, learned Senior Central Government Standing Counsel appearing for the respondents urges for grant of time on the facts and circumstances narrated therein.</p> <p>Shri M. Narayanaswamy, learned & counsel for the applicant, vehemently opposes this application.</p> <p>We have perused IA.III and considered the rival contentions made. We are satisfied that the facts and circumstances of the case justify grant of time till 31-1-1989 as a last and final chance.</p>



p.t.o.

Date

Office Notes

Orders of Tribunal

We, therefore, allow this application and extend the time for implementing the orders of this Tribunal dated 21-3-1988 till 31-1-1989 as a last and final chance.



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Sd/-

6 VC

Sd/-

M(A)

R. Venkatesh
DEPUTY REGISTRAR (JDL)
CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE