

CENTRAL ADMINISTRATIVE TRIBUNAL  
BANGALORE BENCH  
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Commercial Complex (BDA)  
Indiranagar  
Bangalore - 560 038

Dated : 8 JUL 1988

APPLICATION NO.

778

/87(F)

W.P. NO.

Applicant(s)

Shri M.R. Ganesan  
To

Respondent(s)

V/s The Controller General of Defence Accounts,  
New Delhi & 2 Ors

1. Shri M.R. Ganesan  
D-20/2, D.A.D. Quarters  
Cambridge Layout  
Bangalore - 560 008
2. Dr M.S. Nagaraja  
Advocate  
35 (Above Hotel Swagath)  
1st Main, Gandhinagar  
Bangalore - 560 009
3. The Controller General of Defence Accounts  
West Block V  
R.K. Puram  
New Delhi - 110 066
4. The Financial Adviser  
Defence Services  
Ministry of Defence  
South Block  
New Delhi - 110 011
5. The Secretary  
Ministry of Home Affairs  
North Block  
New Delhi - 110 001
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~~/INTERIM ORDER  
passed by this Tribunal in the above said application(s) on 1-7-88

Encl : As above

DEPUTY REGISTRAR  
(JUDICIAL)

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL  
BANGALORE

DATED THIS THE 1st DAY OF JULY, 1988.

Present : Hon'ble Sri Justice K.S.Puttaswamy Vice-Chairman.

Hon'ble Sri L.H.A.Rego

Member (A)

APPLICATION No. 778/1987(F)

M.R.Ganesan,  
No.D.20/2 D.A.D.Quarters  
Cambridge layout,  
Bangalore - 8.

... Applicant

( Dr.M.S.Nagaraja

... Advocate )

vs.

1. The Controller General of  
Defence Accounts, West  
Block V, R.K.Puram,  
New Delhi - 66.

2. The Financial Adviser,  
Ministry of Defence,  
Government of India,  
Raksha Bhavan,  
New Delhi - 11.

3. The Union of India,  
represented by the  
Secretary to the Government  
of India, M/o Home Affairs,  
New Delhi - 1.

... Respondents

( Shri M.S.Padmarajaiah ... Advocate )

This application has come up before the  
Tribunal today. Hon'ble Vice-Chairman made the  
following :

O R D E R

In this application made under Section 19  
of the Administrative Tribunals Act, 1985 (the Act)  
the applicant has challenged Order No.F.27(109)/C/82  
dated 4.6.1987 (Annexure A-15) of Government  
affirming Order No.AN/XIII/13700(3)/2/Vol.I dated  
2.2.1982 (Annexure A-7) of the Controller General  
of Defence Accounts (CGDA).



2. When the applicant was working as an Accounts Officer, in the office of PAO, ASC (Supply), Bangalore he was granted House Building Advance (HBA) on or about 10.10.1973 for constructing a house at Ambattur Extension of Madras City. In conformity with that sanction and the Rules and orders regulating the same, the applicant executed the requisite documents thereto, had drawn the HBA advances from Government and had also constructed a building at Ambattur.

3. But the authorities taking the view that in the drawal of the amounts and the construction of the building, there were various violations, the CGDA initiated disciplinary proceedings on 10.6.1982 (Annexure-B) against the applicant under Rule 16 of the Central Civil Services (Classification, Control and Appeal) Rules, 1965 (Rules) on the charge and statement of imputations (Charge) annexed to his Memorandum of that date (Annexure A-2). The charge levelled by the CGDA against the applicant reads thus :



That the said Sri M.R.Ganesan, while serving as SO(A) under the CDA, SC, Pune, was sanctioned HBA of Rs.31,400/- for construction purposes by the Ministry of works and Housing. The first instalment thereof was paid to Sri. Ganesan on 21.11.75. In accordance with Rule 7 (a)(ii) of the HBA Rules, the construction of the house was required to be completed within 18 months of the payment of the first instalment for construction, ie., by 20.5.77. Sri M.R.Ganesan however completed the construction of the house in July, 77 but he did not seek any extension of time for completion of the house as contemplated in Rule 7 (a)(ii) of the HBA rules.

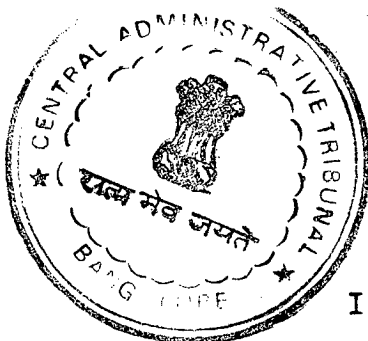
Apart from this, Sri Ganesan also failed to report the completion of the house till 21.11.79 when he applied for final withdrawal from GP Fund accumulations for additional construction.

2. In accordance with Rule 7(b) of the HBA Rules, the house constructed out of HBA is required to be insured immediately on its completion. Though the house construction was completed in July, 77 Sri M.R.Ganesan, A.O. got the house insured only with effect from 27.9.79 i.e., after a lapse of more than two years of completion of the house.

3. Sri M.R.Ganesan was sanctioned a sum of Rs.6,400/- by the Ministry of Works and Housing towards enhancement of the HBA to enable him to complete the incomplete items of work vide Ministry of Works and Housing No.II/17012/-32/417/75 H/III dated 19.4.77. This amount was drawn by him on 1.10.77 although as indicated above, the house had already been completed in July, 77 itself. Thus the officer drew this additional amount of Rs.6,400/- by suppressing the information regarding completion of the house.

4. Further while the enhanced amount of Rs.6,400/- sanctioned under Ministry of Works and Housing letter dated 19.4.77 was specifically intended for construction purposes only, Sri M.R. Ganesan, A.O., who drew the amount in 10/77, after completion of the construction, utilised the same for repayment of loans taken by him from private parties as per his own statement vide his application dated 26.12.80 addressed to Ministry of Works and Housing. Sri M.R.Ganesan thus utilised the enhanced amount of HBA for a purpose other than that for which it was sanctioned to him.

5. Thus by having committed the above mentioned lapses/irregularities the said Sri M.R.Ganesan has behaved in a manner unbecoming of a Government Servant, infringing thereby the provisions of Rule 3(1)(iii) of CCS (Conduct) Rules, 1964.



In answer to this the applicant filed his statement of defence (WS) denying the charge and urged that he had not violated the HBA rules and orders made

thereto.

4. On an examination of the charge, the WS and the records, the CGDA on 2.2.1982 (Annexure A-7) holding that the applicant was guilty of the charge, imposed on him the penalty of stoppage of one increment for one year without cumulative effect. Aggrieved by this order, the applicant filed an appeal before the Government, which on 22.10.1982 (Annexure A-9) had dismissed the same. Aggrieved by these orders the applicant approached this Tribunal in A.No.1294/86. On 20.2.1987 this Tribunal allowed the same and remitted the case to the appellate authority for fresh disposal. In pursuance of the order of this Tribunal the appellate authority restored the appeal of the applicant to its original file and had again dismissed the same on 4.6.1987 (Annexure A-15). Hence this application.

5. In justification of the impugned orders, the respondents have filed their reply and have produced their records.

6. Dr.M.S.Nagaraja, learned counsel for the applicant contends, that the violations, if any, in the utilisation of HBA and the construction of the building thereto, was not a defined misconduct either under the Central Civil Services(Conduct) Rules (Conduct Rules) and the Rules and, therefore, the punishment imposed on him, was unauthorised and illegal.



validity of Rule 3(i)(iii) of the Rules or all other questions urged by both sides.

11. In the light of our above discussion we allow this application and quash the impugned orders. But in the circumstances of the case, we direct the parties to bear their own costs.



an

Sd/-  
VICE CHAIRMAN 11/1

Sd/-  
MEMBER (A) 11-7-1988

TRUE COPY

DEPUTY REGISTRAR (JDL)  
CENTRAL ADMINISTRATIVE TRIBUNAL  
BANGALORE

In support of his contention Dr.Nagaraja strongly relies on the ruling of Supreme Court in A.L.Kalra v. Project Engineer Corporation of India Limited 1984 SCC (L&S) 497 and a Division Bench ruling of this Tribunal in A.No.214 and 217/87 decided on 3.9.1987 (K.SESHADRI v. G.M.TELECOM WORKERS).

7. Shri M.S.Padmarajaiah, learned Senior Standing Counsel appearing for the Respondents sought to support the impugned orders.

8. We have earlier set out the charge levelled against the applicant. We will assume for purposes of argument only that the same is even correct or proved and examine whether the same can be dealt with under the Rules or not.

9. In Seshadri's case we had occasion to examine this very question almost on similar or different facts. On an examination of the same, we have held therein that the violations in the utilisation of the HBA or the construction of the building thereon were not defined misconducts and therefore a punishment under the Rules, was impermissible. The ratio in Seshadri's case squarely governs the question in this case also.

10. On the ratio of the ruling of the Supreme Court in Kalra's case, and of this Tribunal in Seshadri's case, the impugned orders are liable to be quashed, without examining the

