

REGISTERED

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

Dated : 26 APR 1988

APPLICATION NO 1011 / 87(F)

W.P. NO. \_\_\_\_\_

Applicant

Shri B.M. Abu Baker  
To

Respondent

V/s The Secy, M/o Personnel, Admn Reforms,  
Pension, New Delhi & 4 Ors

1. Shri B.M. Abu Baker  
No. 626, 3rd Cross  
3rd Block, Koramangala  
Bangalore - 560 034
2. Shri K.S. Savanur  
Advocate  
No. 21-C, Nandidurga Road  
Jayamahal Extension  
Bangalore - 560 046
3. The Secretary  
Ministry of Personnel, Administrative  
Reforms, Public Grievance & Pension  
Department of Personnel & Training  
North Block  
New Delhi - 110 001
4. The Chief Secretary  
Govt. of Karnataka  
Vidhana Soudha  
Bangalore - 560 001
5. The Secretary  
Govt. of Karnataka  
Department of Finance  
Vidhana Soudha  
Bangalore - 560 001
6. The Under Secretary  
Govt. of Karnataka  
DPAR (Services - I)  
Bangalore - 560 001
7. The Accountant General  
Karnataka  
Palace Road  
Bangalore - 560 001
8. Shri M. Vasudeva Rao  
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/~~STAX/INTERIM ORDER~~  
passed by this Tribunal in the above said application on 14-4-88.

Encl : As above

DEPUTY REGISTRAR  
(JUDICIAL)

CENTRAL ADMINISTRATIVE TRIBUNAL  
BANGALORE

DATED THIS THE 14TH DAY OF APRIL, 1988

Present: Hon'ble Shri Justice K.S. Puttaswamy, Vice-Chairman  
and  
Hon'ble Shri P. Srinivasan, Member (A)

APPLICATION NO. 1011/1987

Shri B.M. Abu Baker,  
(Retd) No.626, 3rd cross,  
3rd Block, Koramangala,  
Bangalore.

... Applicant.

(Shri K.S. Savanur, Advocate)

v.

1. The Union of India  
by its Secretary to Govt.  
M/o Personnel, Administrative  
Reforms and Public grievance  
and Pension, Department of  
Personnel and Training,  
North Block, New Delhi.
2. The State of Karnataka,  
by its Chief Secretary,  
Vidhana Soudha,  
Bangalore.
3. The Secretary to Government,  
Finance Department,  
Vidhana Soudha,  
Bangalore.
4. The Under Secretary to  
Government, DPAR(Services-1)  
Bangalore.
5. The Accountant General  
in Karnataka, Bangalore.

... Respondents.

Shri M. Vasudeva Rao, C.G.A.S.C.  
for Respondents 1 and 5)

This application having come up for hearing to-day,

Vice-Chairman made the following:

O R D E R

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



2. Shri S.M. Abu Baker, the applicant before us initially joined service in the erst-while Princely State of Mysore. On that state merging with the Indian Union, he was selected to the Indian Administrative Service (IAS). On securing more than one promotion in that service and holding more than one cadre posts the applicant was posted as the Chairman of the then Mysore Revenue Appellate Tribunal, now called as 'Karnataka Appellate Tribunal (KAT)' from 1.12.1960, which post he held till he retired from service on 3.7.1961 on attaining superannuation.

3. On his retirement from service the pension admissible to the applicant under the All India Services (Death-cum-retirement benefit) Rules, 1958 ('Pension Rules'), as they then stood computing his substantial pay at Rs.1455.85p but excluding his officiating pay of Rs.850/- drawn by him as the Chairman of the KAT was granted to him on 5.8.1961 and he has been drawing the pension so granted to him ever since then as revised from time to time.

But late in 1984, the applicant claimed that the officiating pay' of Rs.850/- he had drawn as the Chairman of the KAT should also be reckoned and his pension revised from 4.7.1961 and the difference due thereon from that date be paid to him which has not been acceded to by the Union Government and its subordinates. Hence this application.



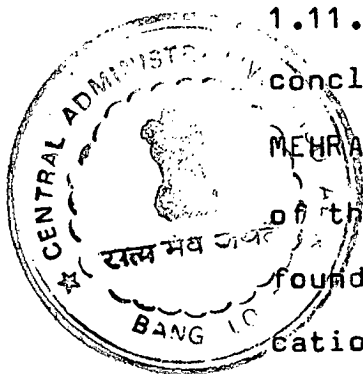
5. Respondents 1 and 5 or the Union of India had resisted this application and have filed their reply. The State of Karnataka and its subordinates who have been duly served have remained absent and are unrepresented.

6. Shri K.S. Savanur learned Counsel for the applicant, contends that the applicant, who held the post of Chairman, KAT from 1.12.1960 till 3.7.1961, drawing a pay of Rs 2250/- on a substantive basis which is also accepted and recommended by the Government of Karnataka in its communications dated 20.3.1985 (Annexure-F) and 26th September, 1987 (Annexure-K) the officiating pay of Rs 850/- also drawn by him for the entire period of his service as Chairman, must also be reckoned for computation of pension under the Pension Rules from 3.7.1961 and all financial benefits due to him thereon be extended to him.

7. Shri M. Vasudeva Rao, learned Additional Standing Counsel for Central Government appearing for respondents 1 and 5, refuting the contention of Shri Savanur, contends that the claim agitated by the applicant really arose prior to 1.11.1982 and therefore, this Tribunal had no jurisdiction to entertain and adjudicate the same as ruled by the Principal Bench of this Tribunal in V.K. MEHRA - vs. - THE SECRETARY, MINISTRY OF INFORMATION AND BROADCASTING, NEW DELHI (ATR 1986 CAT 203) reiterated by us in Smt. KSHAMA KAPUR vs. UNION OF INDIA (1987 (4) A.T.C. 329). In the very nature of things, it is necessary to examine this objection of Shri Rao first.



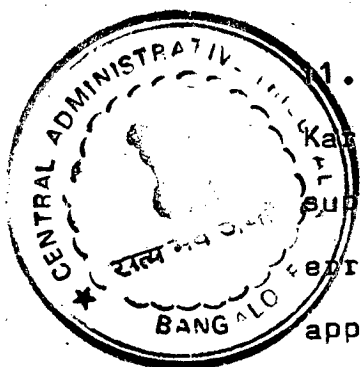
8. When the applicant retired from service on 3.7.1961 the pension admissible to him under the Pension Rules was computed and granted to him from 4.7.1961. He has been drawing the pension so sanctioned to him ever since then as revised from time to time. While sanctioning that pension, there is no dispute than the authority took into consideration only the substantive pay of Rs 1455/- which he was drawing and excluded the officiating pay of Rs 850/- he was drawing as the Chairman of the KAT. Every one of the revisions in pension including the one granted to him, from 1.4.1979, in pursuance of the decision of the Supreme Court in D.S. NAKARA & ORS. - vs. UNION OF INDIA (1983 S.C.C. (L&S) 145) were all based on the pension sanctioned in August 1961. On these facts, there cannot be any doubt that the claim of the applicant settled in August 1961 and in any event well before 1.11.1982. Any decision rendered prior to 1.11.1982, cannot be entertained by this Tribunal is concluded by the rulings of this Tribunal, in V.K. MEHRA's and Smt. KSHAMA KAPUR's cases. On the ratio of these rulings, the objection of Shri Rao is well founded. We cannot therefore entertain this application. But notwithstanding this conclusion, we propose to examine the case on merits.



9. In his application for pension made on 1.7.1961, which is signed by him, the applicant himself had stated that the average emoluments to be reckoned for purpose of pension was only Rs 1,455.85p. He has not

claimed that the officiating pay of Rs 850/- drawn by him as the Chairman of the KAT must be reckoned as now claimed by him. The applicant cannot turn round and urge for reckoning the officiating pay. We are also of the view that Rule 23 of the Pension Rules, as it then stood, justified his claim made on 1.7.1961, which had also been rightly accepted by the authority in sanctioning the pension then.

10. Shri Savanur is undoubtedly right in relying on the recommendation made by the Government of Karnataka on 20.3.1985 (Annexure-F) and on 26.9.1987 (Annexure-K) in which it had supported the claim of the applicant. But we find that those recommendations made by the Government of Karnataka, run counter to the very application made by the applicant and the records maintained by the Accountant General of Karnataka produced before us. On this view, we cannot place any reliance on the recommendations made in the years 1985 and 1987 and hold that the officiating pay of Rs 850/- should be reckoned for purpose of pension.



11. In its recommendations, the Government of Karnataka had pointed out that Rule 20 of the MCSR's supported the case of the applicant. This is clearly erroneous as that Rule had no application to the applicant governed by the Pension Rules. We have, therefore, no hesitation in rejecting the recommendations of the Government of Karnataka.

12. As all the contentions urged by the applicant fail, this application is liable to be dismissed. We, therefore, dismiss this application. But, in the circumstances of the case, we direct the parties to bear their own costs.



Sd/-  
VICE-CHAIRMAN  
14/4/20

Kms/Mrv.

TRUE COPY

DEPUTY REGISTRAR (JDL)  
CENTRAL ADMINISTRATIVE TRIBUNAL  
BANGALORE  
26/7

Sd/-  
MEMBER (A)

