

CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE BENCH
* * * * *

Commercial Complex (BDA)
Indiranagar
Bangalore - 560 038

Dated : 9 AUG 1988

IA I IN APPLICATION NO.

260

/ 87(F)

W.P. NO.

Applicant(s)

Shri S. Nagaraj

v/s

Respondent(s)

The DG, Health Services, New Delhi & another

To

1. Shri S. Nagaraj
Artist
National Tuberculosis Institute
No. 8, Bellary Road
Bangalore - 560 003

4. The Director
National Tuberculosis Institute
No. 8, Bellary Road
Bangalore - 560 003

2. Shri H.N. Narayan
Advocate
No. 85, 1st Block
Kumara Park West
Bangalore - 560 020

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

3. The Director General of Health Services
Govt. of India
Nirmal Bhawan
New Delhi - 110 011

Subject : SENDING COPIES OF ORDER PASSED BY THE BENCH

Please find enclosed herewith the copy of ORDER/ ~~SEARCH/ INDEXED/ FILED/~~ passed by this Tribunal in the above said application(s) on 5-8-88.

Encl : As above

dc

DEPUTY REGISTRAR
(JUDICIAL)

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

S. Nagaraj

V/s The DG, Health Services, New Delhi & another

H.N. Narayan

Order Sheet (contd)

A.No. 260/RR.87.

M.S. Padmajaiah

Date	Office Notes	Orders of Tribunal
	<i>John 5.8.88</i>	<p><u>KSPV/PSM(A)</u> 5.8.88.</p> <p><u>Order on I.A.No.1</u> (Application for extension of time):</p> <p>In this IA, the respondents have sought for further extension of time by another four months to comply with our order made on 5.4.1988. In this IA, the respondents have set out various circumstances, which justify the extension of time. The applicant, who is in person, in our opinion, very rightly does not oppose the grant of a reasonable time. We are satisfied that the facts and circumstances justify the extension of time till 30.9.1988.</p> <p>We, therefore, allow I.A.No.1 in part, and extend time till 30.9.1988 for complying with the directions in the case.</p>



Sd/-

VICE CHAIRMAN

Sd/-

MEMBER(A)

TRUE COPY

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

REGISTERED

CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE BENCH
* * * * *

Commercial Complex(BDA)
Indiranagar
Bangalore - 560 038

Dated : **15 APR 1988**

APPLICATION NO

260

/ 87(F)

W.P. NO.

Applicant

Shri S. Nagaraj

To

1. Shri S. Nagaraj
Artist
National Tuberculosis Institute
No. 8, Bellary Road
Bangalore - 560 003

2. Shri H.N. Narayan
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No. 85, 1st Block
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Central Govt. Stng Counsel
High Court Building
Bangalore - 560 001

Respondent

v/s The DG Health Services, New Delhi & another

Subject : SENDING COPIES OF ORDER PASSED BY THE BENCH

Please find enclosed herewith the copy of ORDER/~~MAX/MAXIMX~~ ORDER
passed by this Tribunal in the above said application on 5-4-88.

Encl : As above

9C
R.S. Venkatesh
DEPUTY REGISTRAR
(JUDICIAL)

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE BENCH: BANGALORE

DATED THIS THE FIFTH DAY OF APRIL, 1988.

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

and

Hon'ble Shri P. Srinivasan

.. Member (A)

APPLICATION NO.260 OF 1987

Shri S. Nagaraj
Major, Artist,
National Tuberculosis Institute
No.8, Bellary Road
Bangalore - 560 003.

.. Applicant

(Shri H.N. Narayan, Advocate)

Vs.

1. The Director General of Health
Services, Government of India
Nirmam Bhavan, New Delhi.

2. The Director
National Tuberculosis Institute
No.8, Bellary Road
Bangalore - 560 003.

.. Respondents

(Shri M.S. Padmarajaiah, Advocate)

This application having come up for hearing
today, Hon'ble Member (A) made the following:

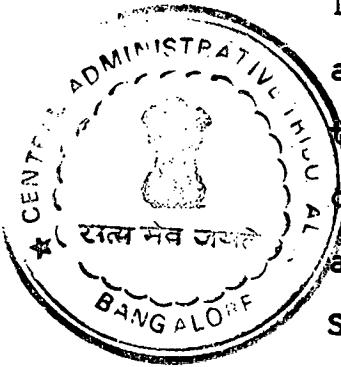
O R D E R

The applicant who has been working as an
Artist in the National Tuberculosis Institute ('NTI'
for short) since 1969, complains that though he has
been performing additional duties right from the
beginning by way of maintaining Audio Visual and Publicity
Equipment supplied by World Health Organisation (WHO)
and the ~~UNESCO~~ ^{UNESCO}, he has not been granted Special Pay to
compensate for the additional responsibilities shouldered
by him.

2. Shri H.N. Narayan, learned Counsel for the



applicant, submits that though Audio-Visual and Publicity Equipments were supplied by WHO and the UNESCO to NTI, the Institute had no staff to operate the said equipments and to maintain them; therefore, the applicant was entrusted with these duties from 1969 onwards continuously and was in fact sent for training for this purpose in 1976, which he completed in March 1976. The Director, NTI, had in fact, recommended the case of the applicant for grant of Special Pay in his letter dated 4-5-1978 addressed to the Director General of Health Services ('DGHS'), New Delhi. The Deputy Director (Administration) in the Office of the DGHS also prepared a note based on the recommendations of the Director, NTI and suggested that approval be accorded for grant of 20 per cent of the basic pay of the applicant as Special Pay. The applicant was making representations from time to time on this account. But, he was not given any reply. In this situation, he filed a Writ Petition No.19169/79 before the High Court, which on transfer to this Tribunal was taken on file as Transferred Application No.786/86. Disposing of this application by an order dated 5.9.1986, we directed the respondents in that application, viz., the Union of India, The DGHS and the Director, NTI, to expedite a decision in respect of the applicant's claim for Special Pay taking into account the recommendations made by the authorities below. Complying with that order, the Director, NTI, issued a Memorandum on



23.8.1987 to the effect that since the applicant was not doing any other duties in addition to the normal duties of his own post, his request for grant of Special pay or honorarium could not be acceded to.

3. According to Shri H.N. Narayana, the decision to turn down the applicant's request for grant of Special Pay was unjustified, particularly when the Director, NTI, had specifically stated that the applicant was shouldering additional responsibilities apart from his own duties as Artist and the Deputy Director in the Office of the DGHS had also recommended grant of Special Allowance to the applicant. In the face of these facts, the decision not to grant the applicant the Special Pay, was arbitrary.

4. Shri Padmarajaiah vehemently opposed the contentions of Shri Narayana. He denied that the applicant was asked to shoulder additional responsibilities by way of maintaining Audio-visual and Publicity Equipments on a regular basis. He submits that if occasionally ^{the applicant} ~~he~~ had been asked to set up a projector that would not justify grant of Special Pay. The definition of 'Special Pay' as per FR-9(25) requires that a person should be entrusted with ^{the} additional responsibilities on a regular basis and not as a temporary measure on one or two occasions. Even if the Director, NTI had recommended Special Pay, that did not conclude the matter because

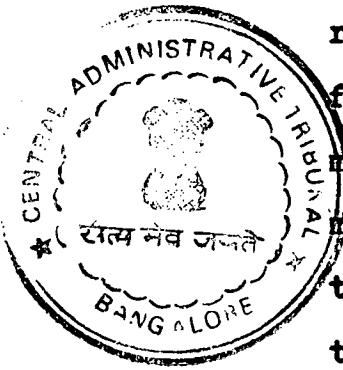


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the higher authority who was more competent to pronounce on the matter concluded that the applicant was not entrusted with ~~the~~ additional work and was not entitled to the Special Pay on that account.

In any event, in 1979, the applicant himself addressed a letter to the DGHS that he would discontinue performing the additional duties in future till he was given a favourable reply in regard to the grant of Special Pay.

5. We have considered the rival contentions very carefully. We cannot easily brush aside the contemporary correspondence produced by the applicant, which show that the then Director, NTI recognised that the applicant was carrying on additional duties on a regular basis and was therefore entitled to Special Pay. We have perused the correspondence file produced by the respondents. By his letter dated 4.5.1979 addressed to the DGHS, the Director, NTI, wrote that the applicant was entrusted with the duties of maintaining Audio-Visual and Publicity Equipments on a permanent basis. Moreover, in their reply to the application, the respondents have stated that the applicant was deputed for training in Planning and Preparation of Audio-Visual materials by photographic and non-photographic methods in the year 1976 at Delhi. He completed the training on 10.3.1976. They go on to state that since the workload in the post of Artist (the post held by the applicant) had been considerably reduced, it was felt that the idle manpower of the Artist - meaning the applicant - could be used for helping the faculty



members in operating the overhead projector during their lectures. The respondents also state that the applicant refused to do the work since 1978. All this gives the unmistakable impression that the applicant was doing some work in connection with the Audio-Visual Equipments from some time in March 1976 after he completed the training at Delhi. Though it is stated in the respondents' reply that the applicant refused to do the work since early 1978, we find from the file produced by them that the applicant specifically refused to continue doing the work in his letter dated 6.3.1979. We would prefer to rely on this letter, which leads to the conclusion that between April 1976 and February 1979 the applicant was in fact performing additional duties in connection with the Audio-Visual and Publicity Equipments. Whatever may have been the nature of those duties, they were not attached to the post of Artist which the applicant held. Bearing this in mind, we are satisfied that the conditions for grant of Special Pay prescribed in FR-9(25) are fulfilled in the case of the applicant for the period from 1.4.1976 to 28.2.1979 and that for this period, the applicant will be entitled to Special Pay at the rate of 20 per cent of his basic pay.



6. In the result, we direct the respondents to grant the applicant Special Pay at the rate of 20 percent of his basic pay for the period from 1.4.1976 till 28.2.1979 and pay him the arrears on that account within 3 months from the date of

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receipt of this order. We also make it clear that the applicant is not entitled for Special Pay for any period prior to 1.4.1976 or after 28.2.1979.

7. The application is disposed of on the above terms. Parties to bear their own costs.



Set-1
VICE CHAIRMAN 5/4/1979
Set-1
MEMBER (A) 7/4/1979

TRUE COPY

R.V. Subash
DEPUTY REGISTRAR (JDL)
C. 75/77
CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE