

CENTRAL ADMINISTRATIVE TRIBUNAL

BANGALORE BENCH

Commercial Complex (BDA)
Indiranagar
Bangalore - 560 038

Dated : 19 DEC 88

APPLICATION NO.

1205 /88 (F)

W.P. NO.

Applicant(s)

V.K. Rao

To

Respondent(s)
Dr. Director of Accounts, Postal,
Bangalore & 2 Oxs.

1. Shri V.K. Rao,
Senior Accountant,
Office of the Dr. Director
of Accounts, Postal,
Bangalore-1.

4. The Director General of
Accounts, Postal,
Dakshin Bhawan,
Sonsad Marg, N. Delhi - 1

2. Shri S.K. Srinivasan, Adv.
c/o Dr. M.S. Naiganya, Advocate,
No. 35, II Floor, I Main Road,
Gandhinagar,
Bangalore - 560 009.

5. The Secretary,
Min. of Communications,
Sanchay Bhawan,
New Delhi - 110001.

3. The Deputy Director of
Accounts, Postal,
Bangalore - 1.

6. Shri D.S. Padmaja Iyer,
Counsel, Govt. Standing
Counsel,
High Court Building,
Bangalore - 560001.

Subject : SENDING COPIES OF ORDER PASSED BY THE BENCH

Please find enclosed herewith the copy of ORDER/STAT/INTERIM ORDER
passed by this Tribunal in the above said application(s) on 16 Dec 88.

*Received
K. N. Rao
19-12-88*

Encl : As above

As per
SECTION OFFICER
REGISTRAR
(JUDICIAL)

9c

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE BENCH: BANGALORE

Dated this the 16th day of December, 1988

Before

THE HON'BLE MR. L.H.A.REGO .. MEMBER(A)

APPLICATION NO.1205 OF 1988(F)

Sri V.K.Rao,
aged 52 years,
S/o Sri M.K.Rao,
14, 12th Cross,
Ashok Nagar,
BANGALORE-50.

Senior Accountant
Office of the Dy.Director of
Accounts, Postal,
Bangalore-1.

.. Applicant

(By Shri S.K.Srinivasan for Dr.Nagaraja
Advocates for the applicant)

-vs.-

1. The Deputy Director of Accounts
Postal, Bangalore-1.

2. The Director General of Accounts
Postal, Dakthar
Sansad Marg, New Delhi.

3. Union of India
by its Secretary
Ministry of Communication
NEW DELHI-1. .. Respondents.

(By Shri M.S.Padmarajaiah, Sr.Standing Counsel
for Central Government, for respondents).

....?



This application coming on for hearing,
Hon'ble Mr.L.H.A.REGO, MEMBER(A), made the
following:

O_r_d_e_r

The applicant prays herein, that the respondents(R) be directed, to fix his pay under Fundamental Rule (FR) 22(c), consequent on his promotion, from the post of Junior Accountant to that of Senior Accountant, as in the case of Sri R.Santhanam, decided by this Tribunal on 12-11-1986, in Application No.4 of 1986(T) and to grant him all consequential relief.

2. The following is the matrix of this case: The applicant entered service as Lower Division Clerk, in the office of R-1, on 28-11-1961 and was promoted as Upper Division Clerk, on 3-7-1973. In course of time, he was promoted as Junior Accountant, in the pay-scale of Rs.330-10-380-EB-12-500-EB-15-560. He was further promoted as Senior Accountant, in the pay scale of Rs.425-15-500-EB-15-560-20-700, with effect from 1-7-1980. Consequent to his promotion as Senior Accountant, his initial pay was fixed by R-1, by his letter dated 25-2-1983. (Annexure A-1), at Rs.455/- per mensem, with his next date of increment as 1-7-1981, in accordance

16

with

with the orders, contained in Letter dated 16-1-1980 of R-2.

3. The applicant states, that he was drawing basic pay at Rs.452/- per mensem, in the scale of Junior Accountant, at the time he was promoted as Senior Accountant, but claims, that his pay on promotion, to the grade of Senior Accountant, ought to have been fixed under FR-22(c). Instead, he alleges, that his pay was fixed by R-1, at Rs.455/- per mensem, under FR-22(a)(1), treating the post of Senior Accountant, as one, which did not carry duties and responsibilities of greater importance.

4. The applicant refers to the decision, rendered by this Tribunal, on 12-11-1986, in R.SANTHANAM's case (Annexure A-2), cited above, where, the latter was given the benefit of FR 22(c), in the fixation of his pay, on promotion to the post of Senior Accountant. He asserts, that his case is, on all fours, with that of R.Santhanam and therefore, claims, that he too, must be given the benefit of FR 22(c), in the fixation of his pay, on promotion to the post of Senior Accountant. He states, that he submitted a representation in this regard, on 13-7-1989(Annexure A-3) to R-1,

Ad
but



but the same was summarily rejected by the latter, on 29-7-1988(Annexure A-4) on the premise, that there were no Government orders, to extend the benefit conferred on R.Santhanam and two others placed similarly like him.

5. Aggrieved, the applicant has come before me for redressal, through this application.

6. The respondents have filed their reply, resisting the application.

7. Shri S.K.Srinivasan, learned Counsel appearing on behalf of Dr.M.S.Nagaraja for the applicant, reiterated the grounds urged in the application, relying strongly, on the ratio of the decision of this Tribunal, in SANTHANAM's case referred to above, on the ground, that the case of his client, was exactly identical and therefore prayed, that the benefit of that decision be extended to his client.

8. Shri M.S.Padmarajaiah, learned Counsel for the respondents, while not denying that the present case was identical to SANTHANAM's case, submitted, that the Government of India, Ministry of Finance, had introduced a non-functional selection grade, in Groups 'C' and 'D', to the extent of 10 per cent of the cadre strength, in order to

alleviate

alleviate stagnation, without however entailing higher responsibility. Consequently, he clarified, the pay of the applicant, in the post of Senior Accountant, was fixed in accordance with the special formula, devised by the Union Ministry of Finance, in its Order dated 10-1-1977, which prescribed, that the pay of the applicant, be fixed at the same stage, in the selection grade, as drawn in the lower cadre and if there was no such stage, in the selection grade, in the next stage of pay in that grade, but not under FR 22(c). The object underlying this formula, Sri Padmarajaiah explained, was to prevent stagnation in the lower cadre of Junior Accountant, as aforementioned, but not to upgrade the post. He asserted, that the duties of the Junior and Senior Accountants, were interchangeable, which in itself showed, that appointment to the post of Senior Accountant, did not entail higher responsibility.

9. Shri Padmarajaiah stated, that the respondent-department, had filed a Special Leave Petition in the Supreme Court, against the decision of this Tribunal in SANTHANAM's case, referred to above, and the matter was still pending.

10. The



10. The claim of the applicant to fix his pay under FR 22(c), on his appointment to the post of Senior Accountant, he stressed, was not tenable, as he did not fulfil the prerequisites, as specified in the said rule.

11. I have examined carefully the averments of either side. It is not in dispute, that the case of the applicant, is on all fours with that of SANTHANAM's case. If so, the decision rendered by this Tribunal in that case, should squarely govern the case of the applicant mutatis mutandis, on the principle, that in like cases, the judgment should be the same - de similibus idem est judicium.

12. For the reasons stated by this Bench in SANTHANAM's case, the duties required to be performed in the post of Senior Accountant are manifestly, of a higher responsibility, as compared to that of a Junior Accountant and even the pay scale of the post of Senior Accountant, is distinctly higher. Thus the appointment of the applicant, to the post of Senior Accountant, assumes the nature of promotion, involving higher responsibility and consequently, entitles him to the benefit of FR 22(c), in the fixation of his pay in the post of Senior Accountant.

13. In the result, I hold that the ratio of the decision in SANTHANAM's case referred to above, applies to the present case, mutatis mutandis.

14. The application is therefore allowed, as above, with a direction that this order be complied with, within a period of two months from the date of its receipt. No order as to costs.



TRUE COPY

Sd/-
(L.H.A. REGD/
MEMBER(A)).

R. Shy 19/12/88
SECTION OFFICER
CENTRAL ADMINISTRATIVE TRIBUNAL
ADDITIONAL BENCH
BANGALORE

kms.

CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE BENCH
* * * * *

Commercial Complex (BDA)
Indiranagar
Bangalore - 560 038

Dated : 26 MAY 1989

CONTEMPT

PETITION (CIVIL)

APPLICATION NO (S) 36
IN APPLICATION NO. 1205/88(F)
W.P. NO (S) _____/89

Applicant (s)

Shri V.K. Rao

To

v/s

The Deputy Director of Accounts (Postal),
Bangalore & sub

1. Shri V.K. Rao
14, 12th Cross
Ashok Nagar
Bangalore - 560 050

2. Dr M.S. Nagaraja
Advocate
35 (Above Hotel Swagath)
1st Main, Gandhinagar
Bangalore - 560 009

3. The Deputy Director
of Accounts (Postal)
Karnataka Circle
Bangalore - 560 001

4. The Director General Accounts (Postal)
Department of Posts
Ministry of Communication
Oak Tar Bhawan
New Delhi - 110 001

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

Subject : SENDING COPIES OF ORDER PASSED BY THE BENCH

Please find enclosed herewith a copy of ORDER/STAY/INTERIM ORDER
passed by this Tribunal in the above said application(s) on 24-5-89.
C.P. (Civil)

Encl : As above

R. Venkatesh
DEPUTY REGISTRAR
(JUDICIAL)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE BENCH : BANGALORE

DATED THIS THE TWENTY FOURTH DAY OF MAY 1989

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

Hon'ble Shri L.W.A. Rego ... Member (A)

C.P. (CIVIL) NO. 36/1989

Shri V.K.Rao,
14, 12th Cross,
Ashoknagar,
Bangalore-560 050. ... Petitioner

(Dr.M.S. Nagareja .. Advocate)

v.

Shri C.S. Narasimhan,
The Deputy Director of Accounts (Postal),
Bangalore-560 001.

Shri P.S. Raghavachari,
Director General, Accounts (Postal),
Department of Posts,
Ministry of Communication,
Dektar Bhavan, New Delhi-110 001. ... Respondents

(Shri M.S.Padmarajaiah . Advocate)

This petition came up before this Tribunal today. Hon'ble Vice-Chairman made the following:

O R D E R

In this petition made under Section 17 of the Administrative Tribunals Act, 1985 (the Act) and the Contempt of Courts Act (CC Act) 1971, the petitioner has moved this Tribunal to punish the respondents for non-implementation of an order made in his favour by this Tribunal on 16.12.1988 in A No.1205/88.

2. Shri M.S. Padmarajaiah, learned Senior Standing Counsel appearing for the respondents filed a Memo stating that the authorities have implemented the order made in favour of the petitioner in letter and spirit and that payments that are due to him in terms of the order will also be made with expedition.



Shri Padmarajaiah has also produced before us the orders made by the Deputy Director General (Accounts)(Postal), Karnataka Circle, Bangalore, on 11.5.1989 and 23.5.1989, in implementation of the orders made by this Tribunal in favour of the petitioner. We have perused the same. We are satisfied that the authorities have implemented the order made in favour of the petitioner in letter and spirit. We have also no doubt that the respondents will make payments in terms of the orders made on 11.5.1989 and 23.5.1989. From this it follows that these contempt proceedings are liable to be dropped. We, therefore, drop these contempt proceedings. But in the circumstances of the case we direct the parties to bear their own costs.



Sd —

VICE CHAIRMAN

24/5/1989

Sd —

MEMBER (A)

TRUE COPY

Parvatheshwaran
DEPUTY REGISTRAR (JDL)
CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE

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SECTION II
SUPREME COURT OF INDIA
NEW DELHI.
DATE:- 15/05/95

RECEIVED
The Registrar
Supreme Court of India
NEW DELHI.

To
The Registrar
High Court of

Central Administrative Tribunal at Bangalore

Fee by post
Rs 19/95

Enter in SLP Register, Main Register, add to file
& note. No need to E

PETITION FOR SPECIAL LEAVE TO APPEAL CIVIL NO. 4747
(Petition under Article 132(1) of the Constitution of India from the Judgment and Order dated 11/23/95/16/2/95 at the High Court of Judicature at Central Administrative Tribunal at Bangalore in,

1205/80

BY. DIRECTOR OF ACCOUNTS (POSTAL) & CTS. ... PETITIONER(S)

VS

SRI V.K. RAJ

... RESPONDENT(S)

SIR,

For

5/5

I am directed to inform you that the petition above mentioned filed in the Supreme Court was dismissed by the Court on 25/03/95

Yours truly

Patna

for Registrar

COPY TO
MR. C.V. SULFA RAJ (Adv)

Not circulated