

CENTRAL ADMINISTRATIVE TRIBUNAL

BANGALORE BENCH

Commercial Complex (BDA)
Indiranagar
Bangalore - 560 038

Dated : 27 DEC 1988

APPLICATION NOS. 1538, 1562, 1691 to 1751/88(F)

Applicants

Shri C.M. Hoogar & 62 Ors

v/s The Deputy Director, CGHS, Bangalore

To

<u>Applicants</u>	<u>Respondent</u>
1. Shri C.M. Hoogar Pharmacist Central Govt. Health Scheme Dispensary No. 9, Gangenahalli Bangalore - 560 032	7. Smt Akkayamma Female Attendant Central Govt. Health Scheme Dispensary No. 6, Jayanagar Bangalore - 560 011
2. Shri V. Pichandi Lower Division Clerk Central Govt. Health Scheme Dispensary No. 9, Gangenahalli Bangalore - 560 032	8. Shri D. Raghuramaiah Safaiwala Central Govt. Health Scheme Main Office - Office of the Deputy Director Jayanagar IIIrd Block Bangalore - 560 011
3. Shri K.S. Prasad Pharmacist Grade - I Central Govt. Health Scheme/ Stores Section Office of the Deputy Director Jayanagar IIIrd Block Bangalore - 560 011	9. Shri H. Muniswamy Safaiwala Central Govt. Health Scheme Office of the Deputy Director Jayanagar III Block Bangalore - 560 011
4. Kum B.R. Padma Female Attendant Central Govt. Health Scheme Dispensary No. 3 Basavanagudi Bangalore - 560 004	10. Shri K.A. Raghunath Pharmacist Central Govt. Health Scheme Stores Office of the Deputy Director Jayanagar III Block Bangalore - 560 011
5. Shri Jaisimha Packer Central Govt. Health Scheme Stores Office of the Deputy Director Jayanagar IIIrd Block Bangalore - 560 011	11. Shri M.S.K. Math Pharmacist Grade - I Central Govt. Health Scheme Stores Office of the Deputy Director Jayanagar III Block Bangalore - 560 011
6. Shri Mahendra Kumar Lower Division Clerk Central Govt. Health Scheme Dispensary No. 3, Basavanagudi Bangalore - 560 004	12. Smt G.V. Jayalakshmi Central Govt. Health Scheme Dispensary No. 6, Jayanagar Bangalore - 560 011

13. Shri J. Mani
Pharmacist Grade - I
Central Govt. Health Scheme
Dispensary No. 6, Jayanagar
Bangalore - 560 011

14. Shri T. Muralikrishnan
Pharmacist Grade - I
Central Govt. Health Scheme
Dispensary No. 6, Jayanagar
Bangalore - 560 011

15. Smt Saraswathy
Female Attendant
Central Govt. Health Scheme
Dispensary No. 6, Jayanagar
Bangalore - 560 011

16. Smt V. Punitha
Lower Division Clerk
Central Govt. Health Scheme Main Office
Office of the Deputy Director
Jayanagar III Block
Bangalore - 560 011

17. Shri Prakash Shetty
Lower Division Clerk
Central Govt. Health Scheme
Dispensary No. 6, Jayanagar
Bangalore - 560 011

18. Smt P. Manorama
Staff Nurse
Central Govt. Health Scheme
Dispensary No. 6, Jayanagar
Bangalore - 560 011

19. Shri V. Armugam
Chowkidar
Central Govt. Health Scheme
Dispensary No. 4, Ulsoor
Bangalore - 560 008

20. Shri Siddaramaiah
Peon
Central Govt. Health Scheme
Dispensary No. 3, Basavanagudi
Bangalore - 560 004

21. Smt B.N. Vedavathi
Ayurvedic Pharmacist
Central Govt. Health Scheme
Dispensary No. 3,
Basavanagudi
Bangalore - 560 004

22. Smt L. Sudha
Pharmacist
Central Govt. Health Scheme
Dispensary No. 3
Basavanagudi
Bangalore - 560 004

23. Shri B.G. Seetharama Sastry
Pharmacist
Central Govt. Health Scheme
Dispensary No. 3
Basavanagudi
Bangalore - 560 004

24. Shri G.C. Suresh
Pharmacist
Central Govt. Health Scheme
Dispensary No. 3
Basavanagudi
Bangalore - 560 004

25. Shri P.P. Shirthady
Pharmacist
Central Govt. Health Scheme
Dispensary No. 5
Rajajinagar
Bangalore - 560 010

26. Shri G.D. Naidu
Pharmacist
Central Govt. Health Scheme
Dispensary No. 6
Jayanagar
Bangalore - 560 011

27. Shri B.M. Radhakrishna
Pharmacist
Central Govt. Health Scheme
Dispensary No. 5
Rajajinagar
Bangalore - 560 010

28. Smt D. Chandra Kantham
Staff Nurse
Central Govt. Health Scheme
Dispensary No. 6
Jayanagar
Bangalore - 560 011

29. Shri K. Srikantha
Pharmacist
Central Govt. Health Scheme
Dispensary No. 2
Malleswaram
Bangalore - 560 003

30. Shri N. Kondaiah
Safaiwala
Central Govt. Health Scheme
Dispensary No. 9
Gangenahalli
Bangalore - 560 032

31. Shri M.R. Srinivasa
Pharmacist
Central Govt. Health Scheme
Dispensary No. 7
Sadashivanagar
Bangalore - 560 003

32. Shri M.S. Kumaraswamy
Central Govt. Health Scheme
Dispensary No. 2
Malleswaram
Bangalore - 560 003

33. Shri K. Vijayachandra
Upper Division Clerk
Office of the Deputy Director
Central Govt. Health Scheme
Jayanagar III Block
Bangalore - 560 011

34. Shri S. Venkatesulu
Pharmacist
Central Govt. Health Scheme
Dispensary No. 2
Malleswaram
Bangalore - 560 003

35. Shri Dhananjaya
Pharmacist
Central Govt. Health Scheme
Dispensary No. 2
Malleswaram
Bangalore - 560 003

36. Shri M. Shivanna
Dresser
Central Govt. Health Scheme
Dispensary No. 9
Gangenahalli
Bangalore - 560 032

37. Smt T.S. Vani
Staff Nurse
Central Govt. Health Scheme
Dispensary No. 7
Sadashivanagar
Bangalore - 560 003

38. Shri V.S. Ramamurthy
Peon
Central Govt. Health Scheme
Dispensary No. 7
Sadashivanagar
Bangalore - 560 003

39. Shri N.C.S. Rajeevalochana
Lower Division Clerk
Central Govt. Health Scheme
Office of the Deputy Director
Jayanagar III Block
Bangalore - 560 011

40. Shri D.A. Thyagaraju
Pharmacist
Central Govt. Health Scheme
Dispensary No. 9
Gangenahalli
Bangalore - 560 032

41. Shri G. Varadhan
Pharmacist
Central Govt. Health Scheme
Dispensary No. 9
Gangenahalli
Bangalore - 560 032

42. Shri B.V. Gombi
Pharmacist
Central Govt. Health Scheme
Dispensary No. 9
Gangenahalli
Bangalore - 560 032

43. Smt P. Manimegalai
Dresser
Central Govt. Health Scheme
Dispensary No. 6
Jayanagar
Bangalore - 560 011

44. Shri N. Shankarappa
Central Govt. Health Scheme
Dispensary No. 6
Jayanagar
Bangalore - 560 011

45. Smt K. Satyadevi
Staff Nurse
Central Govt. Health Scheme
Poly Clinic
Infantry Road
Bangalore - 560 001

46. Shri Srinivasa Gotagunaki
C/o Shri H. Basava Raju
Advocate
M.S.K.S. Building
Opp : Varadachar Kalakshetra
Sirur Park Road, Seshadripuram
Bangalore - 560 020

47. Shri R. Venugopal
Pharmacist
Central Govt. Health Scheme
Dispensary No. 4
Ulsoor
Bangalore - 560 008

48. Shri Narasimhaiah
Group 'D'
Central Govt. Health Scheme
Dispensary No. 2
Mallewaram
Bangalore - 560 003

49. Shri S. Krishnamurthy
Office Superintendent
Central Govt. Health Scheme
Office of the Deputy Director
Jayanagar III Block
Bangalore - 560 011

50. Shri K.N. Jayachandra
Lower Division Clerk
Office of the Deputy Director
Central Govt. Health Scheme
Jayanagar III Block
Bangalore - 560 011

51. Shri B.N. Nanjundaswamy
Lower Division Clerk
Office of the Deputy Director
Central Govt. Health Scheme
Jayanagar III Block
Bangalore - 560 011

52. Shri Srikrishna S.
Pharmacist
Central Govt. Health Scheme
Dispensary No. 8
Indiranagar
Bangalore - 560 038

53. Smt Natchithiram
Staff Nurse
Central Govt. Health Scheme
Dispensary No. 9
Gangenahalli
Bangalore - 560 032

54. Shri H. Veeraiah
Group 'D'
Central Govt. Health Scheme
Dispensary No. 9
Gangenahalli
Bangalore - 560 032

55. Smt M. Kamalamma
Female Attendant
Central Govt. Health Scheme
Dispensary No. 9
Gangenahalli
Bangalore - 560 032

56. Smt P. Saraswathi
Dresser
Central Govt. Health Scheme
Dispensary No. 7
Sadashivanagar
Bangalore - 560 003

57. Shri Muragesh
Peon
Central Govt. Health Scheme
Dispensary No. 9
Gangenahalli
Bangalore - 560 032

58. Smt H.A. Sushela
Lower Division Clerk
Central Govt. Health Scheme
Dispensary No. 7
Sadashivanagar
Bangalore - 560 003

59. Shri John Mathew
Pharmacist
Central Govt. Health Scheme
Dispensary No. 7
Sadashivanagar
Bangalore - 560 003

60. Shri G. Keshava
Pharmacist
Central Govt. Health Scheme
Dispensary No. 1
Infantry Road
Bangalore - 560 001

61. Shri G.V. Reddy
Pharmacist
Central Govt. Health Scheme
Dispensary No. 1
Infantry Road
Bangalore - 560 001

62. Shri D. Ushadevi
Lower Division Clerk
Central Govt. Health Scheme
Dispensary No. 7
Sadashivanagar
Bangalore - 560 003

63. Shri V. Ramakrishnaiah
Safaiwala
Central Govt. Health Scheme
Dispensary No. 5
80 Feet Road, Rajajinagar
Bangalore - 560 010

64. Shri H. Basava Raju
Advocate
M.S.K.S. Building
Sirur Park Road.
Seshadripuram
Bangalore - 560 020

65. The Deputy Director
Central Govt. Health Scheme
No. 21/2/2A, 9th Main,
3rd Block (West)
Jayanagar
Bangalore - 560 011

66. Shri M. Vasudeva Rao
Central Govt. Stng Counsel
High Court Building
Bangalore - 560 001

Subject : SENDING COPIES OF ORDER PASSED BY THE BENCH

Enclosed herewith please find a copy of the ORDER passed by this Tribunal
in the above said applications on 30-11-88.

Hari
SECTION OFFICER
(JUDICIAL)

Encl : As above

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE BENCH: BANGALORE

DATED THIS THE 30TH DAY OF NOVEMBER, 1988

PRESENT: HON'BLE SHRI JUSTICE K.S. PUTTASWAMY... VICE-CHAIRMAN
HON'BLE SHRI L.H.A. REGO ... MEMBER (A)

APPLICATION NOS. 1538/1562/1691 TO
1751/88

1. Sri C.M. Hoogar,
Pharmacist,
Central Govt. Health Scheme
Dispensary No.9, Ganaganahalli,
Bangalore-560 032.

Applicant in
A.No. 1538/88

2. V. Pichandi,
s/o Shri. Velayudhan,
Aged 36 years,
Occupation: Lower Division Clerk,
C.G.H.S. Disp. No.9,
Central Government Health Scheme,
Ganganhalli, Bangalore- 560 032.

Applicant in
A.No.1562/88

3. Shri K.S. Prasad,
s/o Late K.S. Jois, Age 37 years,
Pharmacist, Gr.I,
C.G.H.S., Stores Section,
Office of the Deputy Director,
IIIrd Block, Bangalore-560 011.

4. Kum.B.R. Padma D/o
Shri B.V. Rangarao, 26 years,
Female Attendant, Dispensary,
C.G.H.S.No.3,
Basavangudi, Bangalore-4.

Shri Jaisimha,
S/O Late C.H. Narasimha Jethappa,
age 36 years, Packer, C.G.H.S.
Stores Office of the Deputy
Director, Jayanagar, Bangalore-560 011.

6. Shri Mahendra Kumar
S/o Late A. Eswara Rao,
Age 31 years, L.D.C.
C.G.H.S. Dispensary No.3,
Basavangudi, Bangalore-4.

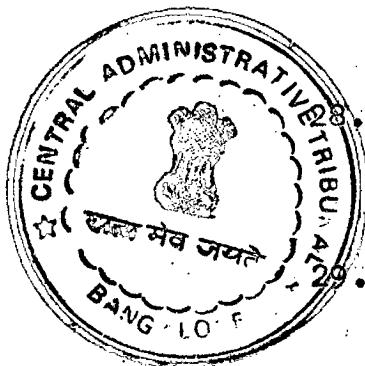
7. Smt. Akkayamma B.M.
w/o Shri M. Ramappa,
aged 40 years, Female Attendant,
C.G.H.S.No.6, Jayanagar,
Bangalore-560 011.



8. Shri D. Raghuramaiah,
S/o Late Komaiah, age 30 years,
Safaiwala, C.G.H.S. Main Office,
O/o the Deputy Director, Jayanagar,
Bangalore-560 011.
9. Shri H. Muniswamy,
S/o Late Hunumaiah, Age 37 years,
Safaiwala, O/o of the Deputy
Director, III Block, Jayanagar,
Bangalore -11.
10. Shri K.A. Raghunath S/o
Shri K.Apparamaya Sastry,
Aged 40 years, Pharmacist
C.G.H.S Stores, O/o the
Deputy Director, IIIrd Block,
Bangalore -11.
11. Shri M.S. K. Math, S/o Sri,
Shiva Basavaradhya Age 35 years,
Pharmacist Gr.I, C.G.H.S Stores,
O/o the Deputy Director, IIIrd
Block, Bangalore -11.
12. Smt. G.V. Jayalakshmi, W/o Shri
T.V. Ramappa, Age 27 years,
C.G.H.S Disp. No.6, Jayanagar,
Bangalore -11.
13. Shri J. Mani, S/o Late
Jaganathan, Age 26 years,
Pharmacist Gr.I, C.G.H.S.
Dispensary No.6, Jayanagar,
Bangalore -11.
14. Shri T. Muralikrishnan,
S/o Sri T.V. Venkariah, age 32 years,
Pharmacist Gr.I, C.G.H.S. Disp.No.6,
Jayanagar, Bangalore-11.
15. Smt. Saraswathy, W/o Shri T. Surinara-
yana, Age 40 years, Female Attendant,
C.G.H.S Dispensary No.6, Jayanagar,
Bangalore - 560 011.
16. Smt. V. Punitha,
W/o Shri C. Vilvamani, age 31 years,
L.D.C., C.G.H.S Main Office, O/o the
Deputy Director, IIIrd Block,
Jayanagar, Bangalore -11.
17. Shri Prakash Shetty,
S/o Sri Semaiah Shetty,
Age 32 years, L.D.C. C.G.H.S.
Dispensary No.6 Jayanagar,
Bangalore -11.
18. Smt. P. Manorama W/o Shri
H. Prabhakara Rao, Age 42
years, Staff Nurse, C.G.H.S.
Dispensary No.6, Jayanagar,
Bangalore -560 011.



19. Shri V. Armugan, S/o Late V. Venkata S amy, aged 35 years, Chowkidar, C.G.H.S. Disp. No.4, Ulsoor, Bangalore -560 008.
20. Shri Siddaramaiah, S/o Shri Puttamade Gowada, aged 33 years, Peon, C.G.H.S. Disp. No.3. Basavangudi, Bangalore -4.
21. Smt. B.N. Vedavathi, W/o, Shri S.R. Rudrappa Age Major, Ayurvedia Pharmacist, C.G.H.S Disp. No. 3, Basavangudi, Bangalore -4.
22. Smt. L. Sudha, W/o Shri K.R. Renukhaiah, Aged 34 Pharmacist, C.G.H.S. Disp.No.3 Basavangudi, Bangalore -4.
23. Shri B.G. Seetharama Sastry, S/o B. Ganesha Sastry Aged 37 Pharmacist C.G.H.S. Disp.No.3, Basavangudi, Bangalore-4.
24. Shri G.C. Suresh S/o Dr G.R. Chandrasekhar Age 33 Pharmacist C.G.H.S. Disp. No.3 Basavangudi Bangalore -560 004.
25. Shri.P.P. Shirthadiy S/o Late s. Vasudevapai, Aged 43 Pharmacist C.G.H.S. Disp. No.5, Rajajinagar, Bangalore-10.
26. Shri G.D. Naidu, S/o Shri V. Venkatswamy Naidu, aged 31 years, Pharmacist, C.G.H.S Disp. No.6, Jayanagar Bangalore-11-
27. Shri B.M. Radhakrishnma S/o B.M. Muniyappa Aged 27 years, Pharmacist, C.G.H.S Disp.No.5, Rajajinagar, Bangalore 10.
Smt. D. Chandra Kantham W/o Shri M. Ramaswamy Aged 33 , Staff Nurse, C.G.H.S Disp.No.6, Jayanagar, Bangalore -11.
28. Shri K. Srikantha, S/o Shri Kirshnamurthy, Aged Major, Pharmacist, C.G.H.S Disp.No.2, Malleswaram, Bangalore .3.
30. Shri N. Kondaiah, S/o Shri, Adamaiah, Age major, Safaiwala, C.G.H.S Dispensary No. 9, Gangannahalli, Bangalore 32.
31. Shri M.R. Srinivasa, S/o Rangappa, Major, Pharmacist C.G.H.S, Disp. No.7, Sadashivanagar, Bangalore - 3.



32. Shri M.S. Kumaraswamy, S/o Late M.K.S. Seetharamaiah, Major, C.G.H.S Disp.No.2, Malleswaram, Bangalore -3.

33. Shri K. Vijayachandra, S/o Late K. Ramarao, Major, U.D.C., O/o Deputy Director, C.G.H.S.III Block, Jayanagar, Bangalore -560 011.

34. Shri S. Venkatesalu, S/o Late Nagaiah Major, Pharmacist, C.G.H.S Disp. No.2. Malleswaram, B'lore-3.

35. Shri Dhananjaya, S/o Chandre Reddy, Major, Pharmacist, C.G.H.S. Disp. No. 2, Malleswaram, Bangalore-3.

36. Shri M. Shivanna, S/o Shri G. Malliah, Major, Dresser, C.G.H.S. Disp.No. 9, Ganganahalli, Bangalore-32.

37. Smt. T.S. Vani, W/o Shri Chandrasekhar Major Staff Nurse, C.G.H.S Disp. No.7, Sadashivanagar, Bangalore -3.

38. Shri V.S. Ramamurthy, S/o Sampanginaidu, Major, Peon, C.G.H.S Disp. No.7, Sadashivnagar, Bangalore -560 003.

39. Shri N.C.S. Rajeevalochana, S/o N.C. Ranganath, Major, L.D.C. C.G.H.S. O/o the Deputy Director, Jayanagar, Bangalore -11.

40. Shri D.A. Thyagaraju, S/o Shri D.C.A. Shetty, Major, Pharmacist, C.G.H.S Disp. No.9, Ganganahalli, Bangalore-32.

41. Shri G. Varadhan, S/o Late Jaganath Naicker Age 34 Y Pharmacist, C.G.H.S Disp.No.9, Bangalore -32.
S/o

42. Shri B.V. Gombi, /Shri Vittal R.Naik Major, Pharmacist, C.G.H.S Disp.No. 9, Bangalore -32.

43. Smt. P. Manimegalai, W/o Shri P. Chandrasekhar, Age 38 years, Dresser, C.G.H.S. Disp. No.6, Jayanagar, Bangalore-11.

44. Shri N. Shankarappa, S/o L. Narayanappa, Aged 28 years, C.G.H.S. Jayanagar, Bangalore-11.

45. Smt. K. Satyadevi, W/o Shivadas, Staff Nurse, Major, C.G.H.S. Poly Clinic, Infantry Road., Bangalore-1.

46. Shri Srinivasa Gotagunaki, S/o Lakshmama guraki, Major, Pharmacist, C.G.H.S Disp. No. Bangalore .

47. R. Venugopal, S/o Late Ramaswamy Mudaliar, Pharmacist, C.G.H.S. Disp. No.4, Ulsoor, Bangalore-8.



48. Narasimhaiah,
S/o Shri Braiah,
Major, Group 'D'.
C.G.H.S. Disp.No.2,
Malleswaram, Bangalore-560 003.

49. Shri S. Krishnamurthy,
S/o Late S Venkateshappa Age 52,
Major, Office Supdt.,
Office of the Deputy Director,
Bangalore - 11.

50. Shri K.N. Jayachandra,
S/o Shri K. Nagappa, Age 37
Major, L.D.C., O/o Deputy
Director, C.G.H.S., Bangalore-11.

51. Shri B.N. Nanjundaswamy,
S/o Late B.Mahadeva Sastry,
Age 37 years, L.D.C., O/o
Deputy Director, C.G.H.S. Jayanagar,
Bangalore,- 11.

52. Shri S. Srikrishna,
S/o Shri M. Subramaian, Age 27,
C.G.H.S. Dispensary No.8,
Pharmacist, Indiranagar,
Bangalore -78.

53. Smt. Natchithiram, Major,
Wife of Late Riehard Rajkumar,
Staff Nurse, C.G.H.S.,
Dispensary No.9, Ganganahalli,
Bangalore-560 032.

54. Shri H. Veeraiah, S/o,
Shri Homebgowada, Major, Group 'D',
Official, C.G.H.S. Dispensary No.9,
Ganganahalli, Bangalore -32.

55. Smt. M. Kamalamma, W/o
Shri Swamy Gowada, Major, Female Attendant,
C.G.H.S. Disp. No.9, Ganganahalli,
Bangalore - 32.

56. Smt. P. Saraswathi, W/o Shri Francis, Major,
Dresser, C.G.H.S Disp No.7 Disp.No.7,
Sadashivanagar, Bangalore-3.

57. Shri Muragesh, S/o NarayanaSwamy,
Age 27 years, Peon, C.G.H.S Disp.No.9,
Ganganahalli, Bangalore-32.

58. Smt. H.A. Susheela, D/o Shri H.A.
Achappa, Major, L.D.C. C.G.H.S.,
Disp. No.7, Sadashivanagar,
Bangalore -560 003.

59. Shri John Mathew, S/o Shri S.J.Mathew,
Major, Pharmacist, C.G.H.S Disp, No.7,
Sadashivanagar,
Bangalore - 3.



- : 6 :-

60. Shri G. Keshava, S/o
Shri Rao, Major, Pharmacist,
C.G.H.S. Dispensary No.1,
Infantry Road, Bangalore-1.
61. Shri G.V. Reddy,
S/o Shri Changappa Reddy,
Pharmacist, C.G.H.S.
Dispensary No.1, Infantry Road,
Bangalore -1.
62. Shri D. Ushadevi, D/o S.Velukutty,
Major, L.O.C. Central Govt. Health
Scheme, Dispensary No.7,
Sadashivanagar, Bangalore-3.
63. Shri V. Ramakrishnaiah,
Major, Safaiwala, Central Govt.
Health Scheme, Disp.No.5, 80
Feet Road, Rajajinagar,
Bangalore-560 010.

Applicants

(Applicants 3 to 63 are applicants in
1691 to 1751)

(Sri H. Masavaraju....Advocate)

Vs.

1. The Deputy Director,
Central Govt. Health Scheme,
No.21/2/2A, 9th Main, 3rd Block (West),
Jayanagar, Bangalore-560 011.

Respondent

(Shri M. Vasudeva Rao....Advocate)

This application having come up for
hearing before this Tribunal to-day, Hon'ble Shri
Justice K.S. Puttaswamy, Vice-Chairman, made the
following :

O R D E R

As the questions that arise for determination
in these applications made under Section 19 of the



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Administrative Tribunals Act, 1985 ('the Act') are common, we propose to dispose of them by a common order.

2. All the 63 applicants before us are working either as Group-C or Group-D employees in one or the other dispensary or office unit of the Central Government Health Scheme ('CGHS') - a Department of the Government of India - situated in Bangalore City.

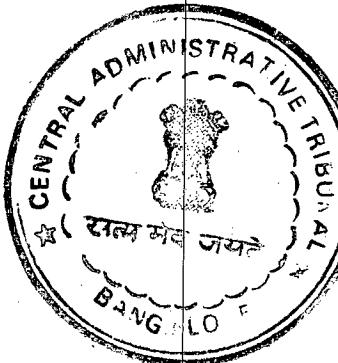
3. For the months of May and June, 1988 there were no deductions in the salaries paid or payable to the applicants. But, in their respective salaries paid for the month of July, 1988, there were deductions for period varying from 1 to 6 days relating to the month of May, 1988. On those deductions one Shri C.M. Hoogar, applicant in Application No.1538 of 1988, who happens to be the General Secretary of the All India Central Government Health Scheme Employees Association, Bangalore ('Association') represented to the Deputy Director, Central Government Health Scheme, Bangalore ('Director') - respondent urging for refund of the amounts deducted from the respective salaries of the applicants and others paid in July 1988. Very rightly treating the same, as individual representations made by the applicant and others, the Director has made an identical order on 18.8.1988 against each of the applicants and others. In these separate but identical applications the applicants have challenged the orders made against them on

more than one ground and have sought for a direction to the respondent to refund the respective amounts recovered from them.

4. In a common reply, the respondent has justified the orders made against the applicants and the recoveries made from each of them.

5. Shri H. Basavaraju, learned counsel for the applicants, contends, that the deductions made and the consequent orders made on 18.8.1988 by the Director treating the periods referred to in the respective orders as dies non, without affording them an opportunity of hearing, was violative of one of the basic components of the principles of natural justice viz., audi alteram partem and was illegal and therefore, we should direct refund to the respective applicants forthwith. In support of his contention Shri Basavaraju strongly relies on the ruling of the Supreme Court in STATE OF ORISSA v. Dr. (Miss.) BINA PANI DEI AND OTHERS (AIR 1967 SC 1269), a Division Bench ruling of the Chandigarh Bench of this Tribunal in RAMJI DASS V. UNION OF INDIA AND OTHERS (AIR 1986 (2) CAT 455) and circular instructions issued by Government reiterating the very principles enunciated by the Courts on the point.

6. Shri M. Vasudeva Rao, learned Additional Central Government Standing Counsel appearing for the respondent, refuting the contention of Shri Basavaraju sought to support the



recoveries and the orders made by the Director.

7. In the salaries payable and paid to the applicants for the months of May and June, 1988, there were no deductions and therefore, they had no grievance with the same. But, in the salaries paid to them for the month of July, 1988 there were deductions relating to the month of May, 1988 for which reasons are stated by the Director in her orders made on 18-8-1988 against the applicants. One such order made against the applicant in Application No. 1538 of 1988, adopted in all other cases, with details concerning each of them, reads thus:

No.B-12012/1/88/BNG/CGHS/5807

Office of the Deputy Director
Central Government Health Scheme,
21/2/2A, 9th Main, 3rd Block West,
Jayanagar, Bangalore-560 011.

Dated 18th August, 1988.

A reference is invited to Circular instructions issued by this office vide our letter No.B-12011/4/85/BNG/CGHS/2554 dated 19th April, 1988 which was circulated amongst the staff members indicating that absence even for part of a day would be liable to forfeit their pay for the days of absence from duty besides rendering themselves liable for disciplinary action. Inspite of the Circular instructions it is seen that the officials have participated in the pen down strike on 16th, 17th, 19th, 23rd, 24th and 25th May, 1988 and thereby absented themselves from duty willfully for part of a day on several days. According to Government of India Instruction 3 below Rule 11 of C.C.S. C.C.A Rules and Rule 17(1) of FRs periods of absence on 16th, 17th, 19th, 23rd, 24th, 25th May, 1988 have been treated as unauthorised and the salary for that day has been cut. The period of unauthorised absence treated as dies non would not count as service for purpose of Pension and Leave etc. and does not constitute break in service.

Sd/- Dr. Sheela I. Sachdev,
Deputy Director,
C.G.H.S., Bangalore.

The fact that before effecting recoveries for the periods referred to in the impugned orders or before making the impugned orders on 18-8-1988, the Director had not issued show cause notices to the applicants and had not also afforded them an opportunity of oral hearing is not rightly disputed by the respondent and is apparent from the proceedings themselves.

8. It is obvious that whenever deductions are effected from the salary payable to a civil servant for whatever reason that be, such deductions will undoubtedly result in civil consequences to him. If so, the same cannot be done without conforming to the principles of natural justice, of atleast issuing a show cause notice affording an opportunity to the concerned civil servant to state his case, before deciding the matter, which is well settled in law and is concluded by the ruling of the Supreme Court in Bina Pani Dei's case reiterated by the Chandigarh Bench in Ramji Dass case on similar facts. What is stated by the Government of India in its O.M.No.33011/2(S)84-Estt (B) dated 2-5-1985 extracted at page 66 of Swamy's compilation of Fundamental Rules and Supplementary Rules, corrected upto 1-7-87, Part I - General Rules (Except T.A. Rules) is also in conformity with the same. On the application of these principles to the fact-situations in the case, we cannot uphold the recoveries effected from the salaries of the applicants and the consequent orders made against them on 18-8-1988. On this very conclusion, we cannot uphold the contention of



Sri Vasudeva Rao that a remand will only be an exercise in futility, which also does not accord with facts. On this conclusion, we cannot ourselves examine the merits which in any event has to be done in the first instance, by the Director by conforming to the principles of natural justice. But, before that is done, we do not consider it proper to direct the refunds as strongly urged by Sri Basavaraju.

9. Sri Basavaraju does not dispute that recoveries had already been made from the salaries of the applicants for the month of July, 1988. If that is so, we consider it proper not to direct the respondent or other authorities to refund the amounts recovered from the applicants till a fresh decision is taken on the same. We need hardly say that after a decision is taken and if that decision is in favour of all or any of the applicants, then the authorities are bound to refund the amounts to the concerned applicant with expedition. We have not doubt that they will do so. But, if that decision were to be against the applicants and if they are aggrieved then, they are at liberty to approach this Tribunal with fresh applications on all such grounds as are available to them.

10. Sri Vasudeva Rao seeks one month's time to issue fresh show cause notices to the applicants. Sri Basavaraju also seeks time likewise for filing written objections or reply to the same from the date of receipt of such notices by the applicants.



We consider it proper to grant both these requests.

11. In the light of our above discussion, we make the following orders and directions:-

- 1) We quash the orders impugned in all these applications.
- 2) We reserve liberty to the respondent or such other officer who is competent to decide the matter, to issue fresh show cause notices to the applicants on or before 31-12-1988, setting out all such circumstances as are necessary for them to state on the recoveries already made from the salaries paid to him for the month of July, 1988. We grant one month's time to the applicants to file their written representations to such notices from the date of their receipt, with liberty to urge all such grounds as are available to them. The respondent is thereafter directed to complete the proceedings with expedition and in any event within 2 months thereafter.

We direct the respondent to modulate the refunds, if any, that become due to the applicants, in accordance with the aforesaid orders to be made thereafter.



-: 13 :-

12. Applications are disposed of in the above terms. But, in the circumstances of the cases, we direct the parties to bear their own costs.



Sd/-

(VICE-CHAIRMAN) 11

Sd/-

(MEMBER(A)) 30-11-88

TRUE COPY

Chale 28/12
SECTION OFFICER
CENTRAL ADMINISTRATIVE TRIBUNAL
ADDITIONAL BENCH
BANGALORE