

CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE BENCH

Commercial Complex(BDA)
Indiranagar
Bangalore - 560 038

Dated : 29 APR 1988

APPLICATION NO

179

/88(F)

W.P. NO.

Applicant

Shri C. Narasimhaiah

To

Respondent

V/s The Secretary, M/o Railways, New Delhi
& 2 Ors

1. Shri C. Narasimhaiah
No. 104, Kassim Sait Lane
Goodshed Road
Arasikere
Hassan District
2. Shri M.S. Anandaremu
Advocate
No. 128, Cubbonpet Main Road
Bangalore - 560 002
3. The Secretary
Ministry of Railways
Rail Bhavan
New Delhi - 110 001
4. The General Manager
Southern Railway
Park Town
Madras - 600 003
5. The Divisional Railway Manager
Southern Railways
Mysore Division
Mysore
6. Shri K.V. Lakshmanachar
Advocate
No. 4, 5th Block
Briand Square Police Quarters, Mysore Road, Bangalore - 560 002

Subject : SENDING COPIES OF ORDER PASSED BY THE BENCH

Please find enclosed herewith the copy of ORDER/~~STAY~~/MAYBE IN ORDER
passed by this Tribunal in the above said application on 6-4-88.

Encl : As above

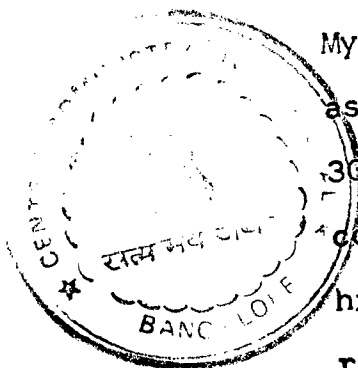
DEPUTY REGISTRAR
(JUDICIAL)

Page 'A' in

response to his earlier representation dated 28.7.1983 which the respondents had rejected.

5. Shri M.S. Anandaramu, learned Counsel appeared for the applicant and Shri K.V. Laxmanachar learned Counsel for respondents and they have been heard.

6. It will be necessary at this stage to fill in some more details. The applicant was earlier working as Driver Grade 'A' in the scale of Rs 550-700. In 1982, he was asked to give an option whether he would volunteer for the post of DLI in the scale of Rs 550-750 in the Mysore Division. He volunteered for the post in his letter dated 30.5.1982 (Annexure-A) addressed to the DME, Mysore and accordingly he was appointed as DLI on adhoc basis and took charge of that post on 3.9.1982. While he was thus officiating in the post of DLI, he was given a proforma promotion in his parent department from the post of Driver Grade 'A' to the post of Driver Grade 'A' Special, in the scale of Rs 550-750 by an order dated 28.1.1984 (Annexure-B), but he continued to work even thereafter as DLI. In a representation dated 21.3.1984 addressed to the DME, Mysore, the applicant submitted that he was working as DLI purely on adhoc basis and was due to retire on 30.9.1985. He desired to go back as Driver so that he could get higher emoluments in pay and allowances and higher pensionary benefits on retirement. He, therefore, requested that he be posted as Driver 'A' Special in his parent department. In fact, even earlier on 28.7.1983, before his proforma promotion as Driver 'A'



Special, he had written to the DME requesting that he be posted back as Driver 'A' in his parent cadre, but the DME disposed of this application with the following observation:

"Let the position improve or finalise the selection".

Since he did not receive any ~~further~~ reply to his representation dated 21.3.1984, he made another representation on 18.7.1985 seeking promotion to the grade of Rs 700-900 as DLI (we have made reference to this representation and its rejection by letter dated 12.6.1986). Further requests made by him, after his retirement, for fixing his pay in the scale of Rs 700-900 as DLI were also in vain. An alternative request of his was that he be treated as having worked as Driver 'A' Special before his retirement and the running allowance which he would have drawn if he had so ^{Med} working be taken into account for determining his retirement benefits, like Pension and Gratuity which also was turned down by the impugned letter dated 8.1.1988, to which also we have referred earlier.



7. Shri M.S. Anandaramu, learned Counsel for the applicant, submitted that when the applicant was deputed from his post of Driver 'A' in his parent cadre to the post of DLI in 1982 on an adhoc basis, he was entitled to repatriation to his parent cadre as and when he wanted to be so repatriated. The applicant's request for such repatriation by his letter dated 28.7.1983 should have been acceded to by the respondents and their action in refusing to do so was illegal. That being so, the applicant lost

running allowance which he would have got as Driver which would have been taken into account for his pension, gratuity and other retirement benefits. Such running allowance was not admissible to him as DLI. In the alternative, the respondents should have at least promoted him to the grade of Rs 700-900 in the post of DLI as a compensation for the loss of running allowance by not being repatriated to his parent department. Therefore, for the purpose of working out the applicant's pension, gratuity and other retirement benefits on his retirement on 30.9.1985, the applicant should have been deemed to have been working as Driver Grade-A Special prior to his retirement and running allowance which he would have got in that post should have been taken into account for working out his retirement benefits or in the alternative his pension and other benefits should have been worked out as if he had been promoted to the higher grade of Rs 700-900 as DLI before retirement.



8. Shri K.V. Laxmanachar resisted the claims made on behalf of the applicant by Shri Anandaramu. The applicant cannot claim retirement benefits on the basis of events that had not happened viz., as if he had been repatriated to his parent cadre in the post of Driver Grade 'A' Special and had drawn running allowance in that post or as if he had been promoted to the grade of Rs 700-900 as DLI. Retirement benefits have to be worked out on the basis of actual pay and allowances received

by the applicant during the 10 months period prior to his retirement and not on any other imaginary basis.

9. It will by now be evident that the applicant is indeed asking for retirement benefits on a wholly imaginary basis. While a person on deputation on adhoc basis has a right to ask for repatriation to his original post, the decision to repatriate him is eventually that of the authorities. The authorities could have had their own reasons for not acceding to such a request in this case. We cannot at this stage question the wisdom of the authorities in not allowing the applicant to be repatriated to his parent cadre as Driver Grade-A in 1983 or as Driver Grade-A Special in 1984 or 1985 nor can we question the decision of the authorities refusing the applicant's request for adhoc promotion to the grade of Rs 700-900 in the post of DLI itself. No person can claim adhoc promotion as a matter of right. This being so, the applicant not having drawn running allowance immediately prior to his retirement which would have to be taken into account for working out his retirement benefits and not having drawn higher pay in the scale of Rs 700-900 as DLI, he is clearly not entitled to claim that the running allowance which he might have drawn or on account of the higher pay he could have drawn in the higher scale, if promoted, be taken into account to work out his retirement benefits. That being so, this application deserves to be dismissed.



P. J. ...

We, therefore, dismiss it. Parties to bear their own costs.

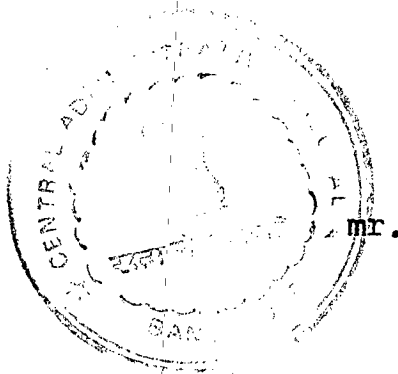
Sd/-

(K.S. PUTTASWAMY)
VICE CHAIRMAN

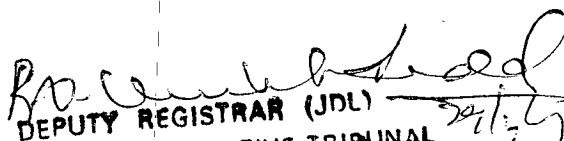
6/4/86

Sd/-

(P. SIRNIVASAN)
MEMBER (A)



TRUE COPY


DEPUTY REGISTRAR (JDL)
CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE

CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE BENCH

Commercial Complex(BDA)
Indiranagar
Bangalore - 560 038

Dated : 29 APR 1988

APPLICATION NO 179 /88(F)

W.P. NO. _____

Applicant

Shri C. Narasimhaiah

To

Respondent

V/s The Secretary, M/o Railways, New Delhi
& 2 Ors

1. Shri C. Narasimhaiah
No. 104, Kasseim Sait Lane
Goodshed Road
Arasikere
Hassan District
2. Shri M.S. Anandaramu
Advocate
No. 128, Cubbonpet Main Road
Bangalore - 560 002
3. The Secretary
Ministry of Railways
Rail Bhavan
New Delhi - 110 001
4. The General Manager
Southern Railway
Park Town
Madras - 600 003
5. The Divisional Railway Manager
Southern Railways
Mysore Division
Mysore
6. Shri K.V. Lakshmanachar
Advocate
No. 4, 5th Block
Briand Square Police Quarters, Mysore Road, Bangalore - 560 002

Subject : SENDING COPIES OF ORDER PASSED BY THE BENCH

Please find enclosed herewith the copy of ORDER ~~STAY / MANDAMUS ORDER~~
passed by this Tribunal in the above said application on 6-4-88.

Encl : As above

DEPUTY REGISTRAR
(JUDICIAL)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL: BANGALORE BENCH

BANGALORE

Dated the 6th day of April, 1988.

Present

THE HON'BLE MR. JUSTICE K.S.PUTTASWAMY

VICE CHAIRMAN

AND

THE HON'BLE SHRI P.SRINIVASAN

MEMBER(A)

Application No.179 OF 1988(F)

C.Narasimhaiah
S/o Late Sri Chowdaiah,
61 years,
Divisional Loco Inspector,
Southern Railways,
Arsikere,
Mysore Division(now retired)
and residing at No.104,
Kassim Sait Lane, Goodshed Road,
Arsikere, Hassan District. .. Applicant

(By Shri M.S.Anandaramu, Adv..for the applicant)

-VS.-



1. The Union of India
represented by the Secretary
to Government of India,
Ministry of Railways,
'Rail Bhavan', New Delhi.
2. The General Manager,
Southern Railways,
Park Town, Madras.
3. The Divisional Railway Manager,
Southern Railways,
MYSORE Division, Mysore. .. Respondents.

(By Shri K.V.Lakshmanachar, Adv. for Railways for respts.)

The application coming on for hearing this day,

Hon'ble Shri P.Srinivasan, Member(A) made the following:

P. Srinivasan

ORDER

ORDER

This application made under Section 19 of the Administrative Tribunals Act, 1985, has come up for admission before us to-day.

2. The applicant retired from the service of the Southern Railway on 30-9-1985 on attaining the age of superannuation. He was then working as Divisional Loco Inspector (DLI) in the scale of Rs.550-750 at Arsikere. Just before his retirement, he sent a representation dated 13/18-7-1985 to the Divisional Mechanical Engineer, Mysore (DME) requesting that his case for promotion as DLI in the grade of Rs.700-900 be considered favourably. He had worked as DLI in the lower grade of Rs.550-750 faithfully from 3-9-1982, had been given proforma promotion as Driver, Special 'A' Grade and was due for superannuation in September 1985. If at that stage, he were to be promoted to the grade of Rs.700-900 as DLI, it would be "helpful to my pensionary benefits after my retirement". This representation was turned down by the DME by his letter dated 12-6-1986 (Annexure 'J' to the application) in the following words:

"Your representation submitted in June/July 1985 was forwarded to CMPE/R&L/MAS.

Your request for ad hoc promotion in grade Rs.700-900 has not been approved by Headquarters since the ad hoc promotion is not admissible against the restructured post."



The

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

Dated: 18 JUL 1988

REVIEW APPLICATION NO 55 /88 ()
IN APPLICATION NO. 179/88(F)
W.P.No. _____APPLICANT

Vs

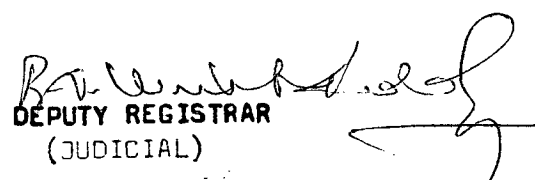
RESPONDENTS

Shri C. Narasimhaiah

The Secy, M/o Railways, New Delhi & 2 Ore

To

1. Shri C. Narasimhaiah
No. 104, Kassim Sait Lane
Goodshed Road
Arasikere
Hassan District
2. Shri M.S. Anandaramu
Advocate
128, Cubbonpet Main Road
Bangalore - 560 002

Subject: SENDING COPIES OF ORDER PASSED BY THE BENCHPlease find enclosed herewith the copy of ORDER/~~STAY~~/
Review~~INTERIM ORDER~~ passed by this Tribunal in the above said applicationon 13-7-88.Encl: as above.

DEPUTY REGISTRAR
(JUDICIAL)

CENTRAL ADMINISTRATIVE TRIBUNAL: BANGALORE

DATED THIS THE 13TH DAY OF JULY, 1988.

PRESENT:

Hon'ble Mr. Justice K.S. Puttaswamy,

.. Vice-Chairman.

And

Hon'ble Mr. L.H.A. Rego,

.. Member(A).

REVIEW APPLICATION NUMBER 55 OF 1988

C. Narasimhaiah,
S/o late Sri chowdaiah,
aged about 61 years,
Divisional Loco Inspector,
Southern Railways,
Arsikere, Mysore Division,
(now retired) and residing at
No. 104, Kassim Sait Lane,
Goodshed Road, Arsikere,
Hassan District.

.. Applicant.

(By Sri M.S. Ananda Ramu, Advocate)

v.

1. The Union of India,
represented by the Secretary
to Government, Ministry of
Railways, 'Rail Bhavan',
New Delhi.
2. The General Manager,
Southern Railways,
Park Town, Madras.
3. The Divisional Railway Manager,
Southern Railways,
Mysore Division, Mysore.

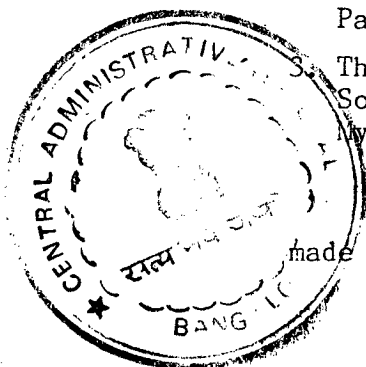
.. Respondents.

—
This application having come up for hearing to-day, Vice-Chairman
made the following:

ORDER

In this application made under Section 22(3)(f) of the Administrative Tribunals Act, 1985 ('the Act') the applicant has sought for a review of an order made by a Division Bench of this Tribunal dismissing his Application No. 179 of 1988 made under Section 19 of the Act.

2. In A.No. 179 of 1988, the applicant had claimed diverse



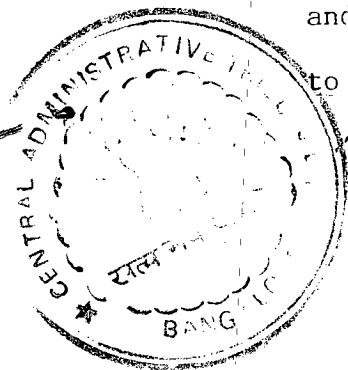
reliefs. On an examination of them, the Bench had rejected the application on merits.

3. We have heard Sri M.S.Anandaraju, learned counsel for the applicant.

4. In making this application, there is a delay of 42 days. In I.A.No.I, the applicant had sought for condoning this delay on the ground of illness. But, in proof of the same, the applicant has not produced any evidence. In the absence of proof on the same, we cannot accept the vague plea of the applicant and hold that he had made out a sufficient cause for condoning the delay. But, notwithstanding this, we propose to examine the merits also.

5. We have ^{perused} the order in Application No.179 of 1988. We are of the view that the order dismissing the application, does not disclose any patent error to justify a review under Section 22(3)(f) of the Act, read with Order 47 Rule of the Code of Civil Procedure. On this view also, this application is liable to be rejected.

5. In the light of our above discussion, we reject I.A.No.I and the review application at the admission stage, without notices to the respondents.



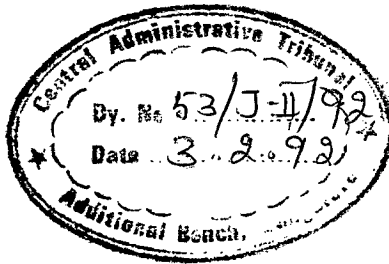
Sd/-
VICE-CHAIRMAN. 12/11

Sd/-
MEMBER (A)
(3-7-88)

TRUE COPY

dms/np-

[Signature]
CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE
18/7



D. No. 4666/88/IVA /IVA
Supreme Court of India
New Delhi.

From: The Assistant Registrar,
Supreme Court of India
New Delhi.

Dated 21.1.1992

To
The Registrar,
High Court of Karnataka
at Bangalore.

CIVIL APPEAL NO. 129 OF 1992

(High Court Appln. No. 179/88(F))

Shri Narasimaiah

...Appellant

Versus

Union of India & Ors.

.....Respondents

Sir,

In pursuance of Order XIII, Rule 6, S.C.R. 1966, I am directed by their Lordships of the Supreme Court to transmit herewith a Certified copy of the Order dated the 17th January, 1992 in the appeal above-mentioned. The certified copy of the Decree made in the said appeal will be sent later on.

Please acknowledge receipt.

Yours faithfully,

ASSISTANT REGISTRAR

/Joshi/

note:- This S.L.P. by override
instead of sending to C.A.T. has come to this
Tribunal of approved may be returned
Honble C.A.T.
D.R.
This is for No. 179/88(F) 3/2
Sufi Rao

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION
CIVIL APPEAL NO. 129 OF 1992 *Supreme Court of India*
(Arising out of SLP (C) No.12965/1988)

Carried to be a

Assistant Registrar (Judl.)

22/1/1992

C. Narasimhaiah

Versus

Union of India
and Ors.

.. Appellant

360584

.. Respondents

ORDER

Special leave granted.

Heard counsel.

The appellant is entitled to the pensionary benefit calculated on the basis of his pay and allowances to which he would have been entitled had he been permitted to revert to his parent department on July 31, 1983, i e. three days after his making representation requesting for reverting him back to his parent department. However, it is clarified that this allowance shall not be treated as over-time allowance or any other allowance on the basis of over-time work.

The appeal is disposed of with no order as to costs.

Sd/-

.....CJI.

Sd/-

.....J.
(T. Kochu Thommen)

Sd/-

.....J.
(A.S. Anand)

New Delhi,
January 17, 1992.

CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE BENCH

Commercial Complex (BDA),
Indira Nagar, Bangalore-
560 038.

File A.No.

179/88 (F)

Dated the 13/2/92

TO

1. The Registrar,
Central Administrative Tribunal,
Principal Bench, Faridkot House,
Copernicus Marg, NEW DELHI-110001.
2. The Registrar,
Central Administrative Tribunal,
Calcutta Bench, 2nd MSD Bldg., CGO Complex,
11&12th Floor, 234/4-AJC Bose Road,
CALCUTTA-700020.
3. The Registrar,
Central Administrative Tribunal,
Bombay Bench, Gulistan Bldg.,
4th Floor, Nr. Bombay Gymkhana,
Prescot Road, Opp. Bombay Municipal
Corpn. ENT Hospital, Fort, BOMBAY-400 001.
4. The Registrar,
Central Administrative Tribunal,
Allahabad Bench,
23-A, Thornhill Road,
ALLAHABAD-1.
5. The Registrar,
Central Administrative Tribunal,
Chandigarh Bench, SCO.102/103,
Sector-34A, CHANDIGARH.
6. The Registrar,
Central Administrative Tribunal,
Ernakulam Bench, Kandomkulathy Towers,
5th Floor, M.G. Road, ERNAKULAM-682 011.
7. The Registrar,
Central Administrative Tribunal,
Guwahati Bench, Rajgarh Road,
Bangagarh, GUWAHATI-781 001.
8. The Registrar,
Central Administrative Tribunal,
Patna Bench, 88-A, Srikrishna Nagar,
PATNA-800 001.

9. The Registrar,
Central Administrative Tribunal,
Jabalpur Bench, Caravan Complex,
15-Civil Lines, JABALPUR (M.P.)-482 001.
10. The Registrar,
Central Administrative Tribunal,
Madras Bench, TN Textbook Society Bldg.,
5th Floor, College Road, MADRAS-600006.
11. The Registrar,
Central Administrative Tribunal,
Jodhpur Bench, 69-Polo-1st Patta,
JODHPUR, Rajasthan. PIN-342 006.
12. The Registrar,
Central Administrative Tribunal,
Hyderabad Bench, New Insurance Bldg.,
6th Floor, Tilak Road,
HYDERABAD-500 001.
13. The Registrar,
Central Administrative Tribunal,
Ahmedabad Bench, 6th Floor,
BD Patel House, Nr. Sardar Patel Colony,
Post Navjivan, AHMEDABAD-380 014.
14. The Registrar,
Central Administrative Tribunal,
Cuttack Bench, 4th Floor, Rajaswa Bhavan,
CUTTACK-753 002.

....

Sir,

With reference to Principal Bench's circular No.14/*/89-JA/2719, dated 20-3-89, I am forwarding herewith a copy of the particulars of the orders passed by the Supreme Court of India in SLP/CA/CMP, preferred against the cases on the file of this Bench for information:-

Yours faithfully,

[Signature]
SECTION OFFICER (J.II)

Copy to:-

1. PS to Hon. Members.
2. No.F.7/90-J.II.
3. Court Officers.

9884091
14/2/92
on pay
14/2

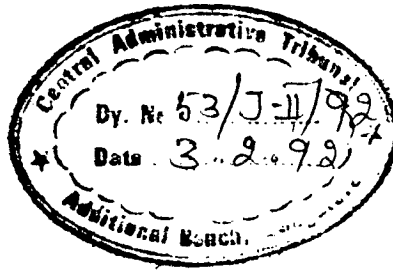
Smt M
Please use through
despatch register
[Signature]
1772

CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE BENCH

Subject : PARTICULARS OF ORDERS OF CAT, BANGALORE CHALLENGED
IN THE HON'BLE SUPREME COURT OF INDIA - REGARDING.

1. The OA/TA/CCP No. of the case appealed : 179/88 (F)
2. Name of Parties:
(a) Applicant(s)/P Petitioners : C. NARASIMHAIAH -vs-
(b) Respondent(s) : The Union of India, Secretary m/o Railways New Delhi.
3. Nature of case in brief : Promotion and consequential pensionary benefits
4. Name of the Bench which passed the impugned orders: BANGALORE BENCH
5. Whether the case was :-
(a) Allowed : DISMISSED
(b) Disallowed :
(c) Date of order : 6-4-88
(d) Bench comprising of : Honble Mr. Justice K.S. Puttaswamy
Honble Shri P. Srinivasan --- M.(A)
6. SLP/Civil Appeal No. in the Hon'ble Supreme Court : SLP (Civil) No 12965/88
CA NO 129 of 1992
7. Parties' Name before the Hon'ble Supreme Court:-
(a) Applicant(s)/Petitioners : C. NARASIMHAIAH
(b) Respondents : UOI, Secretary m/o Railways New Delhi
(c) Date of Interim Order :
(d) Nature of Order in brief (may contain the order if not too long): SLP Granted civil appeal disposed of
- (e) Whether operation of the order of the Tribunal stayed/ restricted or modified: Civil appeal disposed of

2 Banks



Sl. No. 4666/88/IVA
Supreme Court of India
New Delhi.

From: The Assistant Registrar,
Supreme Court of India
New Delhi.

Dated 21.1.1992

To

The Registrar,
High Court of Karnataka
at Bangalore.

CIVIL APPEAL NO. 129 OF 1992

(High Court Appln. No. 179/88(F))

Shri Narasimaiah

...Appellant

Versus

Union of India & Ors.

.....Respondents

Sir,

In pursuance of Order XIII, Rule 6, S.C.R. 1966, I am directed by their Lordships of the Supreme Court to transmit herewith a Certified copy of the Order dated the 17th January, 1992 in the appeal above-mentioned. The certified copy of the Decree made in the said appeal will be sent later on.

Please acknowledge receipt.

Yours faithfully,

ASSISTANT REGISTRAR

/Joshi/

Note:- This S.L.P. by override
instd. of sending to C.A.T. has come to this
Tribunal of approved may be returned
Honble C.A.T.

D.R.
This is to be 179/88(F) 3/2
S.P. Rao.

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION
CIVIL APPEAL NO. 129 OF 1992
(Arising out of SLP (C) No.12965/1988)

Certified to be a

Assistant Registrar (Judl.)
21.1.1992

Supreme Court of India

C. Narasimhaiah

Versus

Union of India
and Ors.

Appellant
360584
.. Respondents

O R D E R

Special leave granted.

Heard counsel.

The appellant is entitled to the pensionary benefit calculated on the basis of his pay and allowances to which he would have been entitled had he been permitted to revert to his parent department on July 31, 1983, i.e. three days after his making representation requesting for reverting him back to his parent department. However, it is clarified that this allowance shall not be treated as over-time allowance or any other allowance on the basis of over-time work.

The appeal is disposed of with no order as to costs.

Sd/-

.....CJI.

Sd/-

.....J.

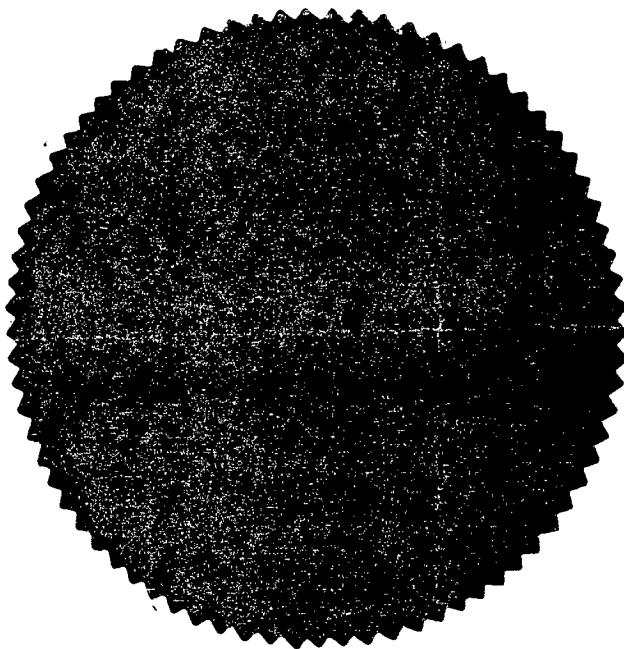
(T. Kochu Thommen)

Sd/-

.....J.

(A.S. Anand)

New Delhi,
January 17, 1992.



"SEALED IN MY PRESENCE"

[Signature]
22/11/52

.....
.....
.....
.....