

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

Dated : 27 MAR 1989

APPLICATION NO (S) 1885 / 88(F)  
W.P. NO (S) \_\_\_\_\_

Applicant (s)

Shri S. Doraiswamy  
To

Respondent (s)

V/s The Secretary, M/o Urban Development, New Delhi  
& 3 Ors

1. Shri S. Doraiswamy  
No. 174, II Phase  
12th Cross, 20th Main  
J.P. Nagar  
Bangalore - 560 078
2. Shri S.K. Srinivasan  
Advocate  
No. 10, 7th Temple Road  
15th Cross, Malleswaram  
Bangalore - 560 003
3. The Secretary  
Ministry of Urban Development  
Nirman Bhavan  
New Delhi - 110 011
4. The Director General (Works)  
Central Public Works Department  
Nirman Bhavan  
New Delhi - 110 011
5. The Chief Engineer  
Southern Zone II  
Central Public Works Department  
140, Marshal Road  
Egmore  
Madras - 600 008
6. The Superintending Engineer  
Bangalore Central Circle  
Central Public Works Department  
55/35, II Main Road  
Vyalikaval  
Bangalore - 560 003
7. Shri M. Vasudeva Rao  
Central Govt. Sng Counsel  
High Court Building  
Bangalore - 560 001

Subject : SENDING COPIES OF ORDER PASSED BY THE BENCH

Please find enclosed herewith a copy of ORDER/~~SENT~~/INVENTION ORDER  
passed by this Tribunal in the above said application(s) on 23-3-89.

received  
K. V. for  
28-3-89

DEPUTY REGISTRAR  
(JUDICIAL)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

BANGALORE BENCH: BANGALORE

Dated this the 23rd day of March, 1989.

Present

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

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

APPLICATION NO.1885 OF 1988(F)

S.Doraiswamy  
No.174, II Phase,  
12th Cross, 20th Main,  
J.P.Nagar, Bangalore-78 .. Applicant.

(Shri S.K.Srinivasan, Advocate for the applicant)

-vs.-

1. The Secretary,  
Ministry of Urban Development,  
representing Union of India,  
Nirman Bhavan,  
New Delhi-110 011.

2. The Director General(Works)  
Central P.W.D.,  
Nirman Bhavan,  
New Delhi-110 011.

3. The Chief Engineer,  
Southern Zone II,  
Central PWD,  
140, Marshal Road,  
Egmore,  
Madras-600 008.

.. Respondents  
(contd...)



4. The Superintending Engineer,  
Bangalore Central Circle,  
Central P.W.D.  
55/35, II Main Road,  
Vyalikaval, Bangalore-560 003. Respondents.  
(Sri M.Vasudeva Rao, Addl. Central Government  
Advocate for respondents).

This application coming on for hearing  
this day, HON'BLE MR. L.H.A.REGO, MEMBER(A),  
made the following:

ORDER

The applicant has prayed herein, for a  
direction to the respondents(R), to pay him  
honorarium of Rs.3,000/-, towards the work  
undertaken by him, in drawing up detailed esti-  
mates of building construction work, relating to the  
National Institute of Sports (NIS) and of Rs.12,988/-  
towards consultancy work, of scrutiny of estimates of  
such work, pertaining to the Indian Institute of  
Science, Bangalore (IISc), for the period from 1986-87  
to 1988-89 (approximating to 3/7th of the consultancy  
charges received by the respondents, for the said  
work) and to pass such other orders or directions, as  
deemed appropriate.

2. The salient background to this case, is as  
follows: The applicant is currently working as  
Assistant Engineer (Assistant Surveyor of Works)  
[ 'ASW' for short ], in Bangalore Central Circle

of the Central Public Works Department ('CPWD', for short), in the Planning Unit, under the Surveyor of Works, in the Organisation under R-4, which has four Divisions, each under the charge of an ASW and he is in charge of one such Division.

3. The applicant states, that a system of acceptance of private consultancy work and its implementation through the staff of the CPWD, is in vogue, in the Government of India (GOI), and that the CPWD, charges certain fee, to the institutions/customers, in respect of such consultancy work, undertaken by it. He further avers, that according to the rules prevalent, on receipt of payment by the CPWD, from the institution/customer concerned, towards this consultancy, the employees of the CPWD, who are assigned this work, are remunerated, in the proportion specified.

4. R-4, is said to have accepted the work of drawing up/scrutiny of estimates, of building construction, relating to the NIS. The applicant states, that he was entrusted this work, on condition, that his normal hours of legitimate duty, were not affected. These estimates, on further scrutiny by R-4, were to be ultimately sanctioned by the University Grants Commission ('UGC').



5. The applicant refers to the letter dated 31-7-1985(Ann.A-1), issued by the Chief Engineer(SZ), Union Ministry of Works and Housing (Works Division), New Delhi, to R-2, in regard to,delegation of enhanced financial powers of technical sanction,of detailed estimates of civil and electrical works,to the officers of the CPWD.

6. R-3, who was required to undertake the work, of drawing up detailed estimates,along with structural drawings,for construction of the Academic and Administrative Block and the Guest House for NIS, costing more than Rs.30 lakhs, is said to have directed R-4,on 15-5-1987(Ann.A3),to undertake this work, and to have informed him,that the case of grant of honorarium,may be taken up after the planning work was completed. This work is said to have been assigned to the Planning Unit, under the Surveyor of Works under R-4, in which Unit,the applicant was working. A team, comprising the applicant and two Junior Engineers, was entrusted with the work of drawing up detailed estimates, while another team consisting of an ASU, a Junior Engineer and Draughtsman,was assigned the task of completing the structural drawings. In this connection, the applicant invites attention to Ann.A3, wherein he states, R-4 had assured,that honorarium would be paid,not only to the designers but also to

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others

others, to undertake the work of drawing up estimates, in regard to the construction of the Academic and Administrative Block and the Guest House for NIS. He states, that he along with his team, completed the work of drawing up these estimates, by about the middle of September 1987, and first requested R-3 and R-4 thereafter, to sanction honorarium to them, for this work in terms of Ann.A3. In this connection, he refers to his representation dated 21-4-1988(Ann.A4) to which he says, he has not received any reply so far. According to him, the estimated cost of this work, was Rs.49.20 lakhs and the "departmental charges", according to the CPWD Manual, to be recovered from the NIS at 3/4 per cent thereof, came to Rs.36,900/-(according to Anns.A5 to A7). He claims, that he ought to have been paid the honorarium of Rs.3000/-, as his reasonable share for this work.



7. The applicant next refers to the consultancy work, undertaken by him, in respect of scrutiny of estimates of constructional work for the IISc. He is said to have been directed by R-4, to undertake this work, without <sup>the</sup> normal duties being affected. He states, that he was required to work overtime and even on public holidays, in order to complete this work on schedule.

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8. He refers to Supplementary Rules(SR) 11 and 12, as also to Fundamental Rules(FR) 9(6-A), which are said to prescribe, payment of honorarium to employees, who are required to undertake such consultancy work, from private parties. FR-9 has been extracted in para-10 of the Application.

9. The applicant further states, that the CPWD received an amount of Rs.30,305/- from the IISc, towards "departmental charges", for the said consultancy work. He refers to the scheme drawn up by the CPWD, in regard to grant of honorarium to the staff under it, required to undertake consultancy work of the like and alludes to Ann.A8(a) in this respect. He states, that he had to work overtime and even on public holidays, in order to accomplish this work on time. He is said to have submitted a representation on 20-5-1987(Ann.A9) to R-4, for grant of honorarium, but to no avail. As a result, he was constrained to issue notice to R-1, R3 and R4 on 12-10-1987(Ann.A-10), for payment of honorarium to him.

10. In reply thereto, on 28-10-1987(Ann.A-11), R-4 is seen to have informed him, that the IISc was not a private organisation but an autonomous Government body, and that the CPWD had executed several works for the IISc in the past and that the applicant

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was entrusted the work of scrutinising certain estimates, in respect of this Institution, as a part and parcel of his legitimate duty, as ASW. The applicant was further informed, that he could not claim honorarium, by way of right, as it was the discretion and power of the Head of the Department to grant the same, and that the claim of the applicant in this respect was untenable.

11. The applicant is seen to have represented to R-4 once again, in the matter, on 19-5-1988(Ann.A-12) on which R-4 recommended on 31-5-1988, to R-3, grant of honorarium to the applicant. R-3 however informed him in reply, on 5-7-1988(Ann.A-13), that no honorarium was paid to ASWs for such work, as it was a legitimate part of their normal duty. R-4 was further advised by him, to refrain from forwarding such recommendations in future. A copy of Ann.A-13, was endorsed to the applicant, by R-4.

12. Aggrieved, the applicant has come before this Tribunal, through the present application for redress.

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

14. Shri S.K.Srinivasan, learned Counsel for the applicant submitted, that the work of drawing up/scrutiny of estimates of building construction work, relating

to





to the NIS, was allotted to his client and his team-mates by R-4, according to the details furnished in para-5 of the application. He referred to Ann.A-3 to show, that R-4 had assured, that no injustice would be caused in the matter of grant of honorarium, to those who had assisted in drawing up the estimates, in regard to the NIS. R-3, he said, had committed himself in Ann.A-2 dated 15-5-1987, in this respect, by stating, that his case of honorarium may be taken up, after the planning work was completed. Neither R-4 nor R3, honoured this commitment, he alleged, despite representations from his client and thereby they belied the promise held out to him, in regard to the grant of honorarium.

15. His client, he averred, was similarly let down by R3 and R4, in the case of work of scrutiny of estimates of buildings, relating to the IISc, entrusted to him.

16. He invoked the provisions of FR-9 and SRs 11 and 12, to justify the grant of honorarium to his client, for the said work and in particular, referred to the orders of the GOI, extracted in para 10 of the application.

17. He referred to the Order dated 13-6-1985 (Ann.A-8) whereby, sanction was accorded by R-2, for grant of honorarium to the staff and officers, who had worked for

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the consultancy unit of the Central Designs Organisation(CDO) of the CPWD, for various spells, during the year 1984-85. He also alluded, to <sup>4</sup>guidelines issued by R2, in his Memo dated 7.9.1979 [Ann.A-8(a)] in regard to distribution of calibration work, of oil-storage tanks of private companies, inclusive of grant of honorarium.

18. Shri Srinivasan submitted, that even though his client was burdened with his legitimate work as ASW, in the Bangalore Central Circle, he gladly accepted the responsibility of the additional work of drawing up/scrutiny of estimates of building construction work, relating to the NIS and the IISc, assigned to him by R-4, and completed the same satisfactorily, working even on public holidays.

19. As the CPWD received "consultancy charges" from the NIS and the IISc, for this additional work undertaken by the CPWD, he pleaded, that it was proper, that a fair share of these charges, was paid to his client, by way of honorarium.

20. Shri M.Vasudeva Rao, learned Counsel for the respondents assayed to explain, that the various contentions urged by Shri Srinivasan, were ill-founded and sought to demolish the same. At the outset, he denied, that either a system of accepting private

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consultancy work, was in vogue in the CPWD Units, at Bangalore or they had undertaken such work.

21. The IISc, he said, had the status of a "deemed university", as was evident from the GOI Order No.4, below FR-51, by virtue of which, he asserted, it was an autonomous body. He submitted, that the CPWD, Bangalore, had in the past, undertaken several building construction works for the IISc, to the tune of Rs.2.68 crores. The IISc, he explained, requests the CPWD, to scrutinise the estimates of its building construction works, as a pre-requisite to obtaining financial grants from the UGC. Such work, referred to the CPWD, by autonomous bodies like the IISc., he clarified, was treated as part of normal work of the CPWD, subject however to recovery of "scrutiny charges", from the body/institute concerned, on whose behalf the work is undertaken.

22. The normal duties of an ASW, in the Survey/ Planning Unit, in the Office of a Superintending Surveyor/Superintending Engineer, he said, were to draw up preliminary and detailed estimates, structural designs etc., in respect of all works entrusted to the CPWD, as also scrutinise the same. The applicant he clarified, did not perform this work as an individual but assisted R-4, his superior, in scrutiny of the estimate, in collaboration with the applicant's team-mates. The work in the NIS and the IISc, entrusted

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to the team of the applicant, was not extra work, as claimed by the applicant, but had to be accomplished within his regular hours of normal duty, Shri Rao explained.

23. Alluding to Ann.A2 dated 15-5-1987, Shri Rao elucidated, that R-2 had not given a categorical assurance, about grant of honorarium to the applicant, for the aforesaid work, relating to the IISc but had only indicated, that the question may be taken up, on completion of the planning stage.

24. As regards works pertaining to the NIS, Shri Rao submitted, that these works were usually undertaken by Division No.II of the Bangalore Central Circle, of which the applicant was in charge and the work entrusted to him, was part of his normal duty. As the applicant was in doubt, about the grant of honorarium for this work, the Surveyor of Works he said, had discussed the matter with R-4 and recorded in Ann.A-3, that there would be no injustice to those who had worked. Shri Rao stressed, that this did not imply, categorical assurance by R-4, that honorarium would be paid to him for the said work, regardless of the relevant rules and regulations. He stated, that it ill-behoved the applicant, as a gazetted officer, that he should have imposed <sup>for</sup> pre-conditions, for discharging his legitimate official duty, and that this smacked of indiscipline.

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25. Shri Rao, then referred to the definition of the term "Honorarium", under FR 9(9), which reads thus:

"(9) Honorarium means a recurring or non-recurring payment granted to a Government servant from the Consolidated Fund of India or the Consolidated Fund of State or the Consolidated Fund of a Union Territory as remuneration for special work of an occasional or intermittent character."

26. In this context, he also alluded to the provisions of FR 46(b) and (c), in relation to FR 11, which are extracted below:

"FR.11. Unless in any case it be otherwise distinctly provided, the whole time of a Government servant is at the disposal of the Government which pays him, and he may be employed in any manner required by proper authority, without claim for additional remuneration, whether the services required of him are such as would ordinarily be remunerated from general revenues, from a local fund or from the funds of a body incorporated or not, which is wholly or substantially owned or controlled by the Government.

xx	xx	xx
xx	xx	xx

FR.46(a) Fees.—	xx	xx
	xx	xx

(b) Honoraria.— The Central Government may grant or permit a Government servant to receive an honorarium as remuneration for work performed which is occasional or

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intermittent in character and either no laborious or of such special merit as to justify a special reward. Except when special reasons which should be recorded in writing, exist for a departure from this provision, sanction to the grant of acceptance of an honorarium should not be given unless the work has been undertaken with the prior consent of the Central Government and its amount has been settled in advance.

(c) Fees and Honoraria.— In the case of both fees and honoraria, the sanctioning authority shall record in writing that due regard has been paid to the general principle enunciated in Fundamental Rule 11 and shall record also the reasons which in his opinion justify the grant of the extra remuneration."

27. Explicating the above provisions, Shri Rao submitted, that except for special reasons, to be recorded in writing, sanction to grant of honorarium was not to be accorded, unless the work was undertaken, with prior approval of the competent authority and the amount thereof was settled in advance.

28. In the present case, Shri Rao stressed, the above pre-requisites were not satisfied, which apart, he affirmed, the work entrusted to the applicant as a team, was part of his legitimate duty as ASW and was required to be performed within his regular hours of work.

29. Shri Rao denied, that honorarium for the work relating to the NIS, was proposed or paid to the

designers

designers, as stated in Ann.A-3 to the application. He further pointed out, that it was significant, that neither his team-mates, who had collaborated with him in the work of building construction estimates relating to the NIS and the IISc nor R-4, who was the ultimate authority to certify the correctness of these estimates, had claimed honorarium, as the applicant, who was the lone contender.

30. The CPWD, Bangalore, he submitted, had undertaken several works for the NIS in the past, costing Rs.11 crores. The entire project he clarified, was executed through the assistance of the various Wings of the CPWD. The applicant had discharged his duty in respect of the NIS, as a part of the organisation he said, during his normal hours of work, for which he was paid his regular salary and therefore, the question of paying him additional remuneration, by way of honorarium, did not arise, he urged. NIS was required to remit "departmental charges" to the CPWD, at the rates specified, he stated.

31. The applicant was not given express instructions by R-4, he said, to attend to the work on holidays. He was paid conveyance charges to and from work-site and connected places, in regard to the work of IISc, as a matter of grace, towards defrayal of reasonable extra expenditure incurred by him, which



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by no means, Shri Rao asserted, could be regarded as evidence, to characterise the work assigned to him, as not falling within his legitimate sphere of duty.

32. As regards GOI Order No.9, below SR 12, which reads as under, Shri Rao clarified, that it related to private consultancy work, undertaken by staff, working in Government Departments and was not relevant to the present case:

"9. Private consultancy work should not be accepted by the staff working in any Government institution including Indian Institute of Technology etc. However, the institutions concerned can take up consultancy work from private parties and entrust the work to selected staff members. The fees received for rendering consultancy work should be credited to the funds of the institution and suitable honorarium may be sanctioned to the members of the staff entrusted with this work. The honorarium paid to all the members of the team taken together should not exceed two-thirds of the fees received by the institution. Appropriate provision should be incorporated in the terms of contract where an officer is in employment on contract basis."

33. As for Ann.A-8, Shri Rao elucidated, that no honorarium was granted to the employees, out of fees, received from other sources and that for development work undertaken in the Consultancy Unit of the CDO, under CPWD, officials, both Groups 'B' to 'D', were paid nominal honorarium, for the year 1984-85.



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34. Annexure A8(a), had no relevance to the case before us, he said, as it pertained to an exclusive nature of work, such as calibration of oil-storage tanks, to be undertaken outside office hours and on holidays and the certificate of calibration, was to be issued by the officer himself, which was held as valid. In contrast, he said, the applicant was required to undertake the work, relating to building construction estimates, for the IISc and the NIS, within his normal hours of duty, not as an individual but as a team, as a part of his regular function and that too, by way of assistance to R-4, who was the ultimate authority, to approve these estimates.

35. Referring to Section 14 of the CPWD Manual, Vol. II (1972 Edition) [vide para 12 of the reply] Shri Rao clarified, that the centage "departmental charges", recovered from other Departments/Organisations, were credited to the CPWD, to cover its establishment expenditure and an employee of the CPWD, could have no claim thereon, for his share of honorarium, by way of right.

36. In the end, Shri Rao submitted, that the various contentions urged by the applicant, were devoid of merit and therefore, the application warranted dismissal.

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37. We

37. We have given due thought, to the rival pleadings and examined the relevant material placed before us. The main points that need to be resolved in this case, are as to whether the relevant rules and regulations actually provide for grant of honorarium in this case and if not, what is the effect of the so-called promise, said to have been held out in this regard, to the applicant, both by R-3 and R-4.

38. Let us first examine the relevant rules and regulations. We have extracted them in paras 25, 26 and 32 above. FR 9(9), which defines the term "Honorarium", lays emphasis, on remuneration for special work, of an occasional or intermittent character and on its payment from the Consolidated Fund. Ann.A-13 dated 5-7-1988, addressed by R3 to R4 reveals, that the estimates for building construction works, received from the IISc etc. have been sanctioned by the Circle Offices of the CPWD, even in the past and that no honorarium has been paid to ASWs, for the same, as this work formed part of their normal duty. R3 had categorically stated therein, that no honorarium was justified, in the case of the applicant, in respect of the work undertaken by him as a team, for the IISc (and presumably even for the NIS). He had further advised

R-4,



R-4, to desist from forwarding recommendations for grant of honorarium, as in the applicant's case. Were R3 firm and clear in this respect, at the very outset and had not kept the applicant in "beguiled expectation", by their vague and casual remarks, as in Annexure A2, dated 15-5-1987, without verifying the relevant rules and regulations, in regard to the question of grant of honorarium, this controversy could have been nipped in the bud. R-4 too, <sup>it</sup> seems to have lapsed into similar indiscretion - vide Ann.A3. Such vague and casual remarks by R3 and R4, are of little avail to the applicant, if the relevant rules and regulations, do not prescribe grant of honorarium, as according to the legal maxim, "things uncertain are held for nothing" - incerta pro nullis habentur. We must deprecate such vague, casual and rather misleading remarks, by the superior officers.

39. FR-11, clearly states, that "unless otherwise distinctly provided, the whole time of a Government servant is at the disposal of the Government, which pays him and that he may be employed in any manner, required by the proper authority, without claim for additional remuneration etc." In this context, we should examine FR 46(b) and (c) [para 26 above]. FR 46(b) stipulates, that the Central Government may grant or permit a Government servant, to receive honorarium, in special circumstances specified therein.

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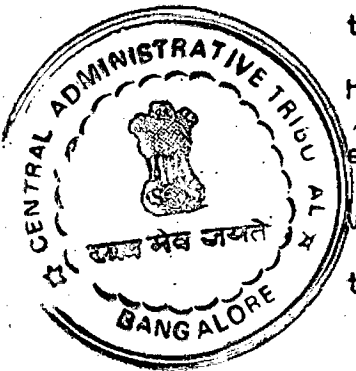
It further states, that except for special reasons which should be recorded in writing, sanction to the grant of honorarium, should not be accorded, unless the work has been undertaken, with the prior consent of the Central Government and its amount has been settled in advance (emphasis added).

40. In laying accent on the principle enunciated in FR-11, FR-46(c) prescribes, that reasons should be recorded in writing, justifying grant of extra remuneration.

41. None of the requirements spelt out in FR 46(b) and (c), read with FR-11, are seen to have been fulfilled, in the case before us. As against the above statutory requirement, R-3 has categorically stated, that work entrusted to the applicant, in regard to the IISc and NIS, fell within his normal sphere of duty and that for similar work, undertaken in the past, no such honorarium as claimed by the applicant, has been paid to the ASUs. It has been further clarified by the respondents, that the applicant was required to attend to the work within his normal hours of duty and that if at all he worked even on holidays, as stated by him, he did so, of his own volition, as there was no direction to him from R4, to that effect.

42. GOI Order No.9 below SR-12 relied upon by Shri Srinivesan, is of no avail to the applicant, as it relates to private consultancy, as rightly pointed out by Shri Rao.

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43. The instances of honoraria granted to the officers and staff in the Consultancy Unit of the CDO of the CPWD and for the work of calibration of oil-storage tanks, cited by Sri Srinivasan [para 17 - Anns. 8 and 8(a)] bear no parity to the present case, the facts and circumstances therein, being different. Annexure 8(a) distinguishes the applicant's case in regard to the nature of work, namely, calibration of oil-tanks individually undertaken and certified by the concerned official and as to the mode of assignment of work, on the basis of a roster.

44. The following are the broad guidelines drawn up, by the GOI under their Order No. 13 below FR 46 (vide Ministry of Finance Memo dated 2-12-1969) in regard to grant of honorarium:

"(13) Guidelines.— While it is not possible to enumerate the specific cases in which honorarium should not be sanctioned, the following guidelines should be kept in view by the administrative authorities in deciding each case:—

- (i) No honorarium is admissible for temporary increases in work, which are normal incidents of Government work and form part of the legitimate duties of Government servants according to the general principle, enunciated in F.R. 11.
- (ii) Honorarium should not be granted to officers engaged in work in connection with setting up of

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companies, corporations, etc., which forms part of their normal duties, even if they work after the office hours, vide Order(4) above.

(iii) No honorarium should be given when a Government servant performs duties of another sanctioned post in addition to the normal duties attached to his own post, vide Order(6) above.

(iv) No honorarium should be granted in cases where overtime allowance has been paid to the staff in connection with the same work."

45. Section 14 on the subject: "General Departmental Charges" in the CPWD Manual, Vol.II(1972 Edn.) refers to recovery of "departmental charges", when the CPWD executes works, the cost of which is met from sources, other than grant for "50 C.W.C.", on percentage basis, so as to cover the cost of its establishment etc. While the said Section speaks of adjustment of these charges, nowhere does it specify, that honorarium could be apportioned out of them, to those, who were entrusted <sup>& with</sup> and performed the work, as in the instant case.

46. The case of the applicant does not fall within the purview, of the guidelines spelt out by the GOI, in its Order No.13 below FR 46 (para 44 above).

47. In the final analysis, the picture that emerges is: that the work entrusted and performed by the applicant as a team, in regard to building construction,




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ESTIMATES  
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estimates for the NIS and the IISc, was part of his legitimate duty, as certified by R-3 and that he was required to accomplish this work within his normal hours of work; that he was not directed by the respondents, to undertake this work, beyond his normal hours of work; that the requirement of FR 46(b) and (c) read with FR-11, is not fulfilled in this case, as explained in paras 39 and 40 above; that by precedent too, the applicant can have no claim for honorarium, as such remuneration, has not been granted by the CPWD, for similar work undertaken for the IISc and NIS, in the past; that the so-called promise of honorarium, held out by R-3 and R-4, in Anns. A2 and A3 respectively, was not valid, as it was not in keeping with the relevant rules, apart from the fact, that it was of the nature of a casual and non-committal observation, by them (see: para 38 above); that GOI Order No.9 under SR 12 (see: para 32 above) has no relevance, as it relates to "private" consultancy work, whereas both IISc as well as NIS are not private bodies; that Ann.A8(a), has no application, as the nature of work and the responsibility involved, are not alike (para 34 above) and finally, that the guidelines framed by the GOI in regard to the grant of honorarium (para 44 above) are not fulfilled in this case.

48. In fine, the application is bereft of merit. We therefore dismiss the same, with no order however, as to costs.

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DEPUTY REGISTRAR (Jr)  
CENTRAL ADMINISTRATIVE TRIBUNAL  
BANGALORE

(K.S. PUTTASWAMY)  
VICE CHAIRMAN.

23/2/19

sd/-  
(L.H.A. REGO) 25.5.19  
MEMBER (A).

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

Dated : 27 MAR 1989

To

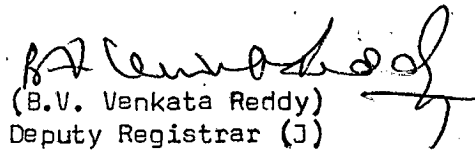
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Sir,

I am directed to forward herewith a copy of the undermentioned order passed by a Bench of this Tribunal comprising of Hon'ble Mr Justice K.S. Puttaswamy Vice-Chairman/~~XXXXXX(3)~~ and Hon'ble Mr L.H.A. Rego Member (A) with a request for publication of the order in the journals.

Order dated 23-3-89 passed in A.No. 1885/88(F).

Yours faithfully,

  
(B.V. Venkata Reddy)  
Deputy Registrar (J)

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K. Man  
28-3-89



Copy with enclosures forwarded for information to:

1. The Registrar, Central Administrative Tribunal, Principal Bench, Faridkot House, Copernicus Marg, New Delhi - 110 001.
2. The Registrar, Central Administrative Tribunal, Tamil Nadu Text Book Society Building, D.P.I. Compounds, Nungambakkam, Madras - 600 006.
3. The Registrar, Central Administrative Tribunal, C.G.O. Complex, 234/4, AJC Bose Road, Nizam Palace, Calcutta - 700 020.
4. The Registrar, Central Administrative Tribunal, CGO Complex (CBD), 1st Floor, Near Konkon Bhavan, New Bombay - 400 614.
5. The Registrar, Central Administrative Tribunal, 23-A, Post Bag No. 013, Thorn Hill Road, Allahabad - 211 001.
6. The Registrar, Central Administrative Tribunal, S.C.O. 102/103, Sector 34-A, Chandigarh.
7. The Registrar, Central Administrative Tribunal, Rajgarh Road, Off Shillong Road, Guwahati - 781 005.
8. The Registrar, Central Administrative Tribunal, Kandamkulathil Towers, 5th & 6th Floors, Opp. Maharaja College, M.G. Road, Ennakulam, Cochin - 682 001.
9. The Registrar, Central Administrative Tribunal, CARAVS Complex, 15 Civil Lines, Jabalpur (M.P.).
10. The Registrar, Central Administrative Tribunal, 88-A, B.M. Enterprises, Shri Krishna Nagar, Patna - 1 (Bihar).
11. The Registrar, Central Administrative Tribunal, C/o Rajasthan High Court, Jodhpur (Rajasthan).
12. The Registrar, Central Administrative Tribunal, New Insurance Building Complex, 6th Floor, Tilak Road, Hyderabad.
13. The Registrar, Central Administrative Tribunal, Navrangpura, Near Sardar Patel Colony, Usmanapura, Ahmedabad (Gujarat).
14. The Registrar, Central Administrative Tribunal, Dolamundai, Cuttak - 753 009 (Orissa).

Copy with enclosures also to :

1. Court Officer (Court I)
2. Court Officer (Court II)

sd/-  
(B.V. Venkata Reddy)  
Deputy Registrar (J)

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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

BANGALORE BENCH: BANGALORE

Dated this the 23rd day of March, 1989.

Present

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

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

APPLICATION NO.1885 OF 1988(F)

S.Doraiswamy  
No.174, II Phase,  
12th Cross, 20th Main,  
J.P.Nagar, Bangalore-78 .. Applicant.

(Shri S.K.Srinivasan, Advocate for the applicant)

-vs.-

1. The Secretary,  
Ministry of Urban Development,  
representing Union of India,  
Nirman Bhavan,  
New Delhi-110 011.

2. The Director General(Works)  
Central P.W.D.,  
Nirman Bhavan,  
New Delhi-110 011.

3. The Chief Engineer,  
Southern Zone II,  
Central PWD,  
140, Marshal Road,  
Egmore,  
Madras-600 008.

.. Respondents  
(contd...)

*Ad*

4. The Superintending Engineer,  
Bangalore Central Circle,  
Central P.W.D.,  
55/35, II Main Road,  
Vyalikaval, Bangalore-560 003. Respondents.

(Sri M. Vesudeva Rao, Addl. Central Government  
Advocate for respondents).

This application coming on for hearing  
this day, HON'BLE MR. L.H.A. REGO, MEMBER(A),  
made the following:

ORDER

The applicant has prayed herein, for a  
direction to the respondents(R), to pay him  
honorarium of Rs.3,000/-, towards the work  
undertaken by him, in drawing up detailed esti-  
mates of building construction work, relating to the  
National Institute of Sports (NIS) and of Rs.12,988/-  
towards consultancy work, of scrutiny of estimates of  
such work, pertaining to the Indian Institute of  
Science, Bangalore (IISc), for the period from 1986-87  
to 1988-89 (approximating to 3/7th of the consultancy  
charges received by the respondents, for the said  
work) and to pass such other orders or directions, as  
deemed appropriate.

2. The salient background to this case, is as  
follows: The applicant is currently working as  
Assistant Engineer (Assistant Surveyor of Works)  
['ASW' for short], in Bangalore Central Circle

of the Central Public Works Department ('CPWD', for short), in the Planning Unit, under the Surveyor of Works, in the Organisation under R-4, which has four Divisions, each under the charge of an ASW and he is in charge of one such Division.

3. The applicant states, that a system of acceptance of private consultancy work and its implementation through the staff of the CPWD, is in vogue, in the Government of India (GOI), and that the CPWD, charges certain fee, to the institutions/customers, in respect of such consultancy work, undertaken by it. He further avers, that according to the rules prevalent, on receipt of payment by the CPWD, from the institution/customer concerned, towards this consultancy, the employees of the CPWD, who are assigned this work, are remunerated, in the proportion specified.

4. R-4, is said to have accepted the work of drawing up/scrutiny of estimates, of building construction, relating to the NIS. The applicant states, that he was entrusted this work, on condition, that his normal hours of legitimate duty, were not affected. These estimates, on further scrutiny by R-4, were to be ultimately sanctioned by the University Grants Commission ('UGC').

*Handwritten signature/initials*

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5. The applicant refers to the letter dated 31-7-1985(Ann.A-1), issued by the Chief Engineer(SZ), Union Ministry of Works and Housing (Works Division), New Delhi, to R-2, in regard to, delegation of enhanced financial powers of technical sanction, of detailed estimates of civil and electrical works, to the officers of the CPWD.

6. R-3, who was required to undertake the work, of drawing up detailed estimates, along with structural drawings, for construction of the Academic and Administrative Block and the Guest House for NIS, costing more than Rs.30 lakhs, is said to have directed R-4, on 15-5-1987(Ann.A3), to undertake this work, and to have informed him, that the case of grant of honorarium, may be taken up after the planning work was completed. This work is said to have been assigned to the Planning Unit, under the Surveyor of Works under R-4, in which Unit, the applicant was working. A team, comprising the applicant and two Junior Engineers, was entrusted with the work of drawing up detailed estimates, while another team consisting of an ASW, a Junior Engineer and Draughtsman, was assigned the task of completing the structural drawings. In this connection, the applicant invites attention to Ann.A3, wherein he states, R-4 had assured, that honorarium would be paid, not only to the designers but also to

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others

others, to undertake the work of drawing up estimates, in regard to the construction of the Academic and Administrative Block and the Guest House for NIS. He states, that he along with his team, completed the work of drawing up these estimates, by about the middle of September 1987, and first requested R-3 and R-4 thereafter, to sanction honorarium to them, for this work in terms of Ann.A3. In this connection, he refers to his representation dated 21-4-1988(Ann.A4) to which he says, he has not received any reply so far. According to him, the estimated cost of this work, was Rs.49.20 lakhs and the "departmental charges", according to the CPWD Manual, to be recovered from the NIS at 3/4 per cent thereof, came to Rs.36,900/- (according to Anns.A5 to A7). He claims, that he ought to have been paid the honorarium of Rs.3000/-, as his reasonable share for this work.

7. The applicant next refers to the consultancy work, undertaken by him, in respect of scrutiny of estimates of constructional work for the IISc. He is said to have been directed by R-4, to undertake this work, without <sup>the</sup> normal duties being affected. He states, that he was required to work overtime and even on public holidays, in order to complete this work on schedule.

8. He refers to Supplementary Rules(SR) 11 and 12, as also to Fundamental Rules(FR) 9(6-A), which are said to prescribe, payment of honorarium to employees, who are required to undertake such consultancy work, from private parties. FR-9 has been extracted in para-10 of the Application.

9. The applicant further states, that the CPWD received an amount of Rs.30,305/- from the IISc, towards "departmental charges", for the said consultancy work. He refers to the scheme drawn up by the CPWD, in regard to grant of honorarium to the staff under it, required to undertake consultancy work of the like and alludes to Ann.A8(a) in this respect. He states, that he had to work overtime and even on public holidays, in order to accomplish this work on time. He is said to have submitted a representation on 20-5-1987(Ann.A9) to R-4, for grant of honorarium, but to no avail. As a result, he was constrained to issue notice to R-1, R3 and R4 on 12-10-1987(Ann.A-10), for payment of honorarium to him.

10. In reply thereto, on 28-10-1987(Ann.A-11), R-4 is seen to have informed him, that the IISc was not a private organisation but an autonomous Government body, and that the CPWD had executed several works for the IISc in the past and that the applicant

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was entrusted the work of scrutinising certain estimates, in respect of this Institution, as a part and parcel of his legitimate duty, as ASW. The applicant was further informed, that he could not claim honorarium, by way of right, as it was the discretion and power of the Head of the Department to grant the same, and that the claim of the applicant in this respect was untenable.

11. The applicant is seen to have represented to R-4 once again, in the matter, on 19-5-1988(Ann.A-12) on which R-4 recommended on 31-5-1988, to R-3, grant of honorarium to the applicant. R-3 however informed him in reply, on 5-7-1988(Ann.A-13), that no honorarium was paid to ASWs for such work, as it was a legitimate part of their normal duty. R-4 was further advised by him, to refrain from forwarding such recommendations in future. A copy of Ann.A-13, was endorsed to the applicant, by R-4.

12. Aggrieved, the applicant has come before this Tribunal, through the present application for redress.

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

14. Shri S.K.Srinivasan, learned Counsel for the applicant submitted, that the work of drawing up/scrutiny of estimates of building construction work, relating

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to the NIS, was allotted to his client and his team-mates by R-4, according to the details furnished in para-5 of the application. He referred to Ann.A-3 to show, that R-4 had assured, that no injustice would be caused in the matter of grant of honorarium, to those who had assisted in drawing up the estimates, in regard to the NIS. R-3, he said, had committed himself in Ann.A-2 dated 15-5-1987, in this respect, by stating, that his case of honorarium may be taken up, after the planning work was completed. Neither R-4 nor R3, honoured this commitment, he alleged, despite representations from his client, and thereby they belied the promise held out to him, in regard to the grant of honorarium.

15. His client, he averred, was similarly let down by R3 and R4, in the case of work of scrutiny of estimates of buildings, relating to the IISc, entrusted to him.

16. He invoked the provisions of FR-9 and SRs 11 and 12, to justify the grant of honorarium to his client, for the said work and in particular, referred to the orders of the GOI, extracted in para 10 of the application.

17. He referred to the Order dated 13-6-1985 (Ann.A-8) whereby, sanction was accorded by R-2, for grant of honorarium to the staff and officers, who had worked for

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the consultancy unit of the Central Designs Organisation(CDO) of the CPWD, for various spells, during the year 1984-85. He also alluded, to <sup>the</sup> guidelines issued by R2, in his Memo dated 7.9.1979 [Ann.A-8(a)] in regard to distribution of calibration work, of oil-storage tanks of private companies, inclusive of grant of honorarium.

18. Shri Srinivasan submitted, that even though his client was burdened with his legitimate work as ASW, in the Bangalore Central Circle, he gladly accepted the responsibility of the additional work of drawing up/scrutiny of estimates of building construction work, relating to the NIS and the IISc, assigned to him by R-4, and completed the same satisfactorily, working even on public holidays.

19. As the CPWD received "consultancy charges" from the NIS and the IISc, for this additional work undertaken by the CPWD, he pleaded, that it was proper, that a fair share of these charges, was paid to his client, by way of honorarium.

20. Shri M.Vasudeva Rao, learned Counsel for the respondents assayed to explain, that the various contentions urged by Shri Srinivasan, were ill-founded and sought to demolish the same. At the outset, he denied, that either a system of accepting private

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consultancy work, was in vogue in the CPWD Units, at Bangalore or they had undertaken such work.

21. The IISc, he said, had the status of a "deemed university", as was evident from the GOI Order No.4, below FR-51, by virtue of which, he asserted, it was an autonomous body. He submitted, that the CPWD, Bangalore, had in the past, undertaken several building construction works for the IISc, to the tune of Rs.2.68 crores. The IISc, he explained, requests the CPWD, to scrutinise the estimates of its building construction works, as a pre-requisite to obtaining financial grants from the UGC. Such work, referred to the CPWD, by autonomous bodies like the IISc., he clarified, was treated as part of normal work of the CPWD, subject however to recovery of "scrutiny charges", from the body/institute concerned, on whose behalf the work is undertaken.

22. The normal duties of an ASW, in the Survey/ Planning Unit, in the Office of a Superintending Surveyor/Superintending Engineer, he said, were to draw up preliminary and detailed estimates, structural designs etc., in respect of all works entrusted to the CPWD, as also scrutinise the same. The applicant he clarified, did not perform this work as an individual but assisted R-4, his superior, in scrutiny of the estimate, in collaboration with the applicant's team-mates. The work in the NIS and the IISc, entrusted

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to the team of the applicant, was not extra work, as claimed by the applicant, but had to be accomplished, within his regular hours of normal duty, Shri Rao explained.

23. Alluding to Ann.A2 dated 15-5-1987, Shri Rao elucidated, that R-2 had not given a categorical assurance, about grant of honorarium to the applicant, for the aforesaid work, relating to the IISc but had only indicated, that the question may be taken up, on completion of the planning stage.

24. As regards works pertaining to the NIS, Shri Rao submitted, that these works were usually undertaken by Division No.II of the Bangalore Central Circle, of which the applicant was in charge and the work entrusted to him, was part of his normal duty. As the applicant was in doubt, about the grant of honorarium for this work, the Surveyor of Works he said, had discussed the matter with R-4 and recorded in Ann.A-3, that there would be no injustice to those who had worked. Shri Rao stressed, that this did not imply, categorical assurance by R-4, that honorarium would be paid to him for the said work, regardless of the relevant rules and regulations. He stated, that it ill-behoved the applicant, as a gazetted officer, that he should have imposed <sup>le</sup> ~~for~~ pre-conditions, for discharging his legitimate official duty, and that this smacked of indiscipline.

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25. Shri Rao, then referred to the definition of the term "Honorarium", under FR 9(9), which reads thus:

"(9) Honorarium means a recurring or non-recurring payment granted to a Government servant from the Consolidated Fund of India or the Consolidated Fund of State or the Consolidated Fund of a Union Territory as remuneration for special work of an occasional or intermittent character."

26. In this context, he also alluded to the provisions of FR 46(b) and (c), in relation to FR 11, which are extracted below:

"FR.11. Unless in any case it be otherwise distinctly provided, the whole time of a Government servant is at the disposal of the Government which pays him, and he may be employed in any manner required by proper authority, without claim for additional remuneration, whether the services required of him are such as would ordinarily be remunerated from general revenues, from a local fund or from the funds of a body incorporated or not, which is wholly or substantially owned or controlled by the Government.

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xx	xx	xx

FR.46(a) Fees.--	xx	xx
	xx	xx

(b) Honoraria.— The Central Government may grant or permit a Government servant to receive an honorarium as remuneration for work performed which is occasional or

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intermittent in character and either so laborious or of such special merit as to justify a special reward. Except when special reasons which should be recorded in writing, exist for a departure from this provision, sanction to the grant of acceptance of an honorarium should not be given unless the work has been undertaken with the prior consent of the Central Government and its amount has been settled in advance.

(c) Fees and Honoraria.— In the case of both fees and honoraria, the sanctioning authority shall record in writing that due regard has been paid to the general principle enunciated in Fundamental Rule 11 and shall record also the reasons which in his opinion justify the grant of the extra remuneration."

27. Explicating the above provisions, Shri Rao submitted, that except for special reasons, to be recorded in writing, sanction to grant of honorarium was not to be accorded, unless the work was undertaken, with prior approval of the competent authority and the amount thereof was settled in advance.

28. In the present case, Shri Rao stressed, the above pre-requisites were not satisfied, which apart, he affirmed, the work entrusted to the applicant as a team, was part of his legitimate duty as ASW and was required to be performed within his regular hours of work.

29. Shri Rao denied, that honorarium for the work relating to the NIS, was proposed or paid to the

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designers, as stated in Ann.A-3 to the application. He further pointed out, that it was significant, that neither his team-mates, who had collaborated with him in the work of building construction estimates relating to the NIS and the IISc nor R-4, who was the ultimate authority to certify the correctness of these estimates, had claimed honorarium, as the applicant, who was the lone contender.

30. The CPWD, Bangalore, he submitted, had undertaken several works for the NIS in the past, costing Rs.11 crores. The entire project he clarified, was executed through the assistance of the various Wings of the CPWD. The applicant had discharged his duty in respect of the NIS, as a part of the organisation he said, during his normal hours of work, for which he was paid his regular salary and therefore, the question of paying him additional remuneration, by way of honorarium, did not arise, he urged. NIS was required to remit "departmental charges" to the CPWD, at the rates specified, he stated.

31. The applicant was not given express instructions by R-4, he said, to attend to the work on holidays. He was paid conveyance charges to and from work-site and connected places, in regard to the work of IISc, as a matter of grace, towards defrayal of reasonable extra expenditure incurred by him, which

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by no means, Shri Rao asserted, could be regarded as evidence, to characterise the work assigned to him, as not falling within his legitimate sphere of duty.

32. As regards GOI Order No.9, below SR 12, which reads as under, Shri Rao clarified, that it related to private consultancy work, undertaken by staff, working in Government Departments and was not relevant to the present case:

"9. Private consultancy work should not be accepted by the staff working in any Government institution including Indian Institute of Technology etc. However, the institutions concerned can take up consultancy work from private parties and entrust the work to selected staff members. The fees received for rendering consultancy work should be credited to the funds of the institution and suitable honorarium may be sanctioned to the members of the staff entrusted with this work. The honorarium paid to all the members of the team taken together should not exceed two-thirds of the fees received by the institution. Appropriate provision should be incorporated in the terms of contract where an officer is in employment on contract basis."

33. As for Ann.A-8, Shri Rao elucidated, that no honorarium was granted to the employees, out of fees, received from other sources and that for development work undertaken in the Consultancy Unit of the CDO, under CPWD, officials, both Groups 'B' to 'D', were paid nominal honorarium, for the year 1984-85.

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34. Annexure A8(a), had no relevance to the case before us, he said, as it pertained to an exclusive nature of work, such as calibration of oil-storage tanks, to be undertaken outside office hours and on holidays and the certificate of calibration, was to be issued by the officer himself, which was held as valid. In contrast, he said, the applicant was required to undertake the work, relating to building construction estimates, for the IISc and the MIS, within his normal hours of duty, not as an individual but as a team, as a part of his regular function and that too, by way of assistance to R-4, who was the ultimate authority, to approve these estimates.

35. Referring to Section 14 of the CPWD Manual, Vol. II (1972 Edition) [vide para 12 of the reply] Shri Rao clarified, that the centage "departmental charges", recovered from other Departments/Organisations, were credited to the CPWD, to cover its establishment expenditure and an employee of the CPWD, could have no claim thereon, for his share of honorarium, by way of right.

36. In the end, Shri Rao submitted, that the various contentions urged by the applicant, were devoid of merit and therefore, the application warranted dismissal.

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37. We

37. We have given due thought, to the rival pleadings and examined the relevant material placed before us. The main points that need to be resolved in this case, are as to whether the relevant rules and regulations actually provide for grant of honorarium in this case and if not, what is the effect of the so-called promise, said to have been held out in this regard, to the applicant, both by R-3 and R-4.

38. Let us first examine the relevant rules and regulations. We have extracted them in paras 25, 26 and 32 above. FR 9(9), which defines the term "Honorarium", lays emphasis, on remuneration for special work, of an occasional or intermittent character and on its payment from the Consolidated Fund. Ann.A-13 dated 5-7-1988, addressed by R3 to R4 reveals, that the estimates for building construction works, received from the IISc etc. have been sanctioned by the Circle Offices of the CPWD, even in the past and that no honorarium has been paid to ASWs, for the same, as this work formed part of their normal duty. R3 had categorically stated therein, that no honorarium was justified, in the case of the applicant, in respect of the work undertaken by him as a team, for the IISc (and presumably even for the NIS). He had further advised

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R-4,

R-4, to desist from forwarding recommendations for grant of honorarium, as in the applicant's case. Were R3 firm and clear in this respect, at the very outset and had not kept the applicant in "beguiled expectation", by their vague and casual remarks, as in Annexure A2, dated 15-5-1987, without verifying the relevant rules and regulations, in regard to the question of grant of honorarium, this controversy could have been nipped in the bud. R-4 too, <sup>44</sup> ~~seems~~ seems to have lapsed into similar indiscretion - vide Ann.A3. Such vague and casual remarks by R3 and R4, are of little avail to the applicant, if the relevant rules and regulations, do not prescribe grant of honorarium, as according to the legal maxim, "things uncertain are held for nothing" - incerta pro nullis habentur. We must deprecate such vague, casual and rather misleading remarks, by the superior officers.

39. FR-11, clearly states, that "unless otherwise distinctly provided, the whole time of a Government servant is at the disposal of the Government, which pays him and that he may be employed in any manner, required by the proper authority, without claim for additional remuneration etc." In this context, we should examine FR 46(b) and (c) [para 26 above]. FR 46(b) stipulates, that the Central Government may grant or permit a Government servant, to receive honorarium, in special circumstances specified therein.

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It further states, that except for special reasons which should be recorded in writing, sanction to the grant of honorarium, should not be accorded, unless the work has been undertaken, with the prior consent of the Central Government and its amount has been settled in advance (emphasis added).

40. In laying accent on the principle enunciated in FR-11, FR-46(c) prescribes, that reasons should be recorded in writing, justifying grant of extra remuneration.

41. None of the requirements spelt out in FR 46(b) and (c), read with FR-11, are seen to have been fulfilled, in the case before us. As against the above statutory requirement, R-3 has categorically stated, that work entrusted to the applicant, in regard to the IISc and NIS, fell within his normal sphere of duty and that for similar work, undertaken in the past, no such honorarium as claimed by the applicant, has been paid to the ASUs. It has been further clarified by the respondents, that the applicant was required to attend to the work within his normal hours of duty and that if at all he worked even on holidays, as stated by him, he did so, of his own volition, as there was no direction to him from R4, to that effect.

42. GOI Order No.9 below SR-12 relied upon by Shri Srinivasan, is of no avail to the applicant, as it relates to private consultancy, as rightly pointed out by Shri Rao.

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43. The instances of honoraria granted to the officers and staff in the Consultancy Unit of the CDO of the CPWD and for the work of calibration of oil-storage tanks, cited by Sri Srinivasan/para 17 - Anns.8 and 8(a) ] bear no parity to the present case, the facts and circumstances therein, being different. Annexure 8(a) distinguishes the applicant's case in regard to the nature of work, namely, calibration of oil-tanks individually undertaken and certified by the concerned official and as to the mode of assignment of work, on the basis of a roster.

44. The following are the broad guidelines drawn up, by the GOI under their Order No.13 below FR 46(vide Ministry of Finance Memo dated 2-12-1969) in regard to grant of honorarium:

"(13) Guidelines.— While it is not possible to enumerate the specific cases in which honorarium should not be sanctioned, the following guidelines should be kept in view by the administrative authorities in deciding each case:-

- (i) No honorarium is admissible for temporary increases in work, which are normal incidents of Government work and form part of the legitimate duties of Government servants according to the general principle, enunciated in F.R.11.
- (ii) Honorarium should not be granted to officers engaged in work in connection with setting up of

companies,

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companies, corporations, etc., which forms part of their normal duties, even if they work after the office hours, vide Order(4) above.

(iii) No honorarium should be given when a Government servant performs duties of another sanctioned post in addition to the normal duties attached to his own post, vide Order(6) above.

(iv) No honorarium should be granted in cases where overtime allowance has been paid to the staff in connection with the same work."

45. Section 14 on the subject: "General Departmental Charges" in the CPWD Manual, Vol.II(1972 Edn.) refers to recovery of "departmental charges", when the CPWD executes works, the cost of which is met from sources, other than grant for "50 C.W.C.", on percentage basis, so as to cover the cost of its establishment etc. While the said Section speaks of adjustment of these charges, nowhere does it specify, that honorarium could be apportioned out of them, to those, who were entrusted <sup>with</sup> and performed the work, as in the instant case.

46. The case of the applicant does not fall within the purview, of the guidelines spelt out by the GOI, in its Order No.13 below FR 46 (para 44 above).

47. In the final analysis, the picture that emerges is: that the work entrusted and performed by the applicant as a team, in regard to building construction <sup>estimates</sup>

estimates

estimates for the NIS and the IISc, was part of his legitimate duty, as certified by R-3 and that he was required to accomplish this work within his normal hours of work; that he was not directed by the respondents, to undertake this work, beyond his normal hours of work; that the requirement of FR 46(b) and (c) read with FR-11, is not fulfilled in this case, as explained in paras 39 and 40 above; that by precedent too, the applicant can have no claim for honorarium, as such remuneration, has not been granted by the CPWD, for similar work undertaken for the IISc and NIS, in the past; that the so-called promise of honorarium, held out by R-3 and R-4, in Anns. A2 and A3 respectively, was not valid, as it was not in keeping with the relevant rules, apart from the fact, that it was of the nature of a casual and non-committal observation, by them (see: para 38 above); that GOI Order No.9 under SR 12 (see: para 32 above) has no relevance, as it relates to "private" consultancy work, whereas both IISc as well as NIS are not private bodies; that Ann.A8(a), has no application, as the nature of work and the responsibility involved, are not alike (para 34 above) and finally, that the guidelines framed by the GOI in regard to the grant of honorarium (para 44 above) are not fulfilled in this case.

48. In fine, the application is bereft of merit. We therefore dismiss the same, with no order however, as to costs.

TRUE COPY

DEPUTY REGISTRAR (JDL)  
CENTRAL ADMINISTRATIVE TRIBUNAL  
BANGALORE

(K.S. PUTTASWAMI)  
VICE CHAIRMAN.

23/2/97

sd/-

(L.H.A. REGO) 23.2.97  
MEMBER (A).