

REGISTERED

CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE BENCH

Commercial Complex(BDA)
Indiranagar
Bangalore - 560 038

Dated : **6 APR 1988**

APPLICATION NO 305 to 309 /88(F)

W.P. NO. _____

Applicant

Shri M.A. Parthasarathy & 4 Ors
To

1. Shri M.A. Parthasarathy
2. Smt S. Lakshmi
3. Smt A. Rosaline

(Sl Nos. 1 to 3 -

Junior Supervisors
Office of the Director of
Census Operations in Karnataka
21/1, Mission Road
Bangalore - 560 027)

4. Shri S. Keshava Rao
5. Smt N. Shantakumari

(Sl Nos. 4 & 5 -

Computers
Office of the Director of Census
Operations in Karnataka
21/1, Mission Road
Bangalore - 560 027)

Respondent

V/s The Director of Census Operations in
Karnataka, Bangalore & another

6. Shri Ranganatha S. Jois
Advocate
36, 'Vagdevi'
Shankarapuram
Bangalore - 560 004
7. The Director of Census Operations
in Karnataka
21/1, Mission Road
Bangalore - 560 027
8. The Joint Director of Census Operations
in Karnataka
21/1, Mission Road
Bangalore - 560 027
9. 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 the copy of ORDER/~~STAY~~/~~INTERIM ORDER~~
passed by this Tribunal in the above said application on 30-3-88.

Encl : As above

[Signature]
DEPUTY REGISTRAR
(JUDICIAL)

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE BENCH: BANGALORE

DATED THIS THE THIRTIETH DAY OF MARCH, 1988

Present: Hon'ble Shri Ch. Ramakrishna Rao ... Member (J)

APPLICATION NOS. 305 TO 309/1988

1. Shri M.A. Parthasarathy.
2. Smt. S. Lakshmi.
3. Smt. A. Rosaline.
4. Shri S. Keshava Rao.
5. Smt. N. Santhakumari.

... Applicants

(Applicants 1 to 3 are Junior Supervisors and Applicants 4 and 5 are Computers employed in the office of the Director of Census Operations in Karnataka, No.21/1, Mission Road, Bangalore-27).
(Shri Ranganatha Jois, Advocate)
Vs.

1. The Director of Census Operations in Karnataka,
No.21/1, Mission Road, Bangalore-27.
2. The Joint Director of Census Operations in Karnataka,
No.21/1, Mission Road, Bangalore-27.
(Shri M. Vasudeva Rao, Advocate)

.... Respondents

This application has come up for hearing before this Tribunal today, Hon'ble Shri Ch. Ramakrishna Rao, Member (J), made the following:

ORDER

Applicants 1 to 3 are Junior Supervisors, while applicants 4 and 5 are Computers employed in the office of the Director of Census Operations in Karnataka (Respondent - 1; R-1). On 10.12.1982, R-1 passed an order stepping up the pay of the Computers since officers junior to them were drawing higher emoluments. This was done under rule 22 (c) of the Fundamental Rules (FR) and the instructions/decisions of the Government of India issued under FR 22 (c). Subsequently, a memo dated 27.10.1987 was issued by the Respondent no.2 (R-2) directing recovery of the excess amount paid on account



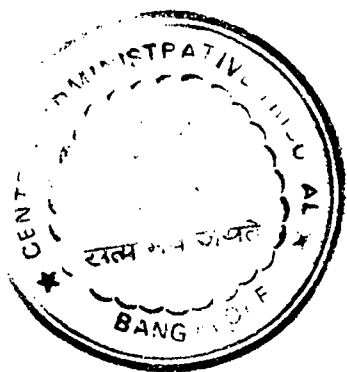
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of pay and allowances "in equal monthly instalments commencing from the salary for the month of February 1988 under intimation to the audit section". Aggrieved by these 2 orders passed by R-2, the applicants have filed these applications.

2. The arguments, in the main, of Shri Ranganatha Jois, learned counsel for the applicants, is that without affording the applicant an opportunity to show cause as to why the benefit of stepping up of pay granted to his clients under FR 22 C should not be withdrawn, ~~the~~ R-2 had chosen to pass the impugned orders and this is contrary to the principles of natural justice. *unt*


3. Shri M. Vasudeva Rao, learned counsel for the respondents vehemently refutes the contention of Shri Ranganatha Jois and submits that the stepping up of pay under FR 22 (c) was not in conformity with the Fundamental Rules 22 (c) and therefore, ~~the~~ re-fixation and reduction of the pay of the applicants ordered in the memos dated 27.10.87 and 18.2.1988 are not arbitrary.

4. I have considered the rival contentions carefully. The legal position is well settled that if the stepping up of the pay of the applicants has not been done in conformity with the rules, it is open to the respondents to cancel the orders and direct recovery of the amounts paid in excess. Equally well settled is the proposition that before cancelling such



orders an opportunity should be afforded to the applicants, since they are aggrieved thereby. It will be pedantic to refer to any decision in support ^{of} the legal position enunciated above, suffice it to refer to the decision in Cooper v. Wandsworth Board of Works 32 L.J.C. P. 185 wherein Byles J. observed : The judgement of Fortescue J. in Dr. Bentley's case, is somewhat quaint, but it is very applicable, and has been the law from that time to the present. He says, 'The objection for want of notice can never be got over.' The laws of God and man both give the party an opportunity to make his defence, if he has any'. (emphasis supplied).

5. I am, therefore, satisfied that the ^{are not} impugned orders/sustainable in law and the same are accordingly set aside. This is without prejudice to the right of the respondents to take any further action if they may deem fit in the light of the foregoing and in accordance with law.

6. The application is disposed ^{of} on the  lines indicated above. No order as to costs.



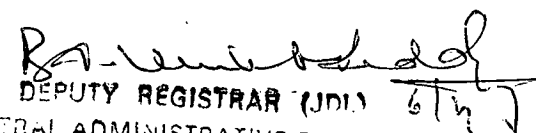
TRUE COPY

Sd/-

30-3-88

CH. RAMAKRISHNA RAO
MEMBER (J)

mr.


DEPUTY REGISTRAR (J.D.) 6th J
CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE