

REGISTERED

CENTRAL ADMINISTRATIVE TRIBUNAL  
BANGALORE BENCH  
\*\*\*\*\*

Commercial Complex(BDA)  
Indiranagar  
Bangalore - 560 038

Dated : 6 APR 1988

APPLICATION NOS. 345, 353 to 359 /88(F)

W.P. NO. \_\_\_\_\_

Applicant

Smt C.P. Chandrika Devi & 7 Ors

To

1. Smt C.P. Chandrika Devi

2. Smt R. Mangalam

3. Smt Ponnamma Abraham

4. Smt H.A. Geetha

5. Shri P.K. Gopunatha Kaimal

(Sl Nos. 1 to 5 - D.O.E. Operators  
Office of the Joint Director of  
Census Operations  
21/1, Mission Road  
Bangalore - 560 027)

6. Smt B.R. Indumadi  
Computer  
Vital Statistics Section  
Office of the Joint Director of  
Census Operations  
21/1, Mission Road.  
Bangalore - 560 027

7. Smt K.S. Lalithamma  
Computer (Technical Section)  
Office of the Joint Director of  
Census Operations  
21/1, Mission Road  
Bangalore - 560 027

Respondent

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

8. Miss H.S. Girija  
Computer (Vital Statistics)  
Office of the Joint Director of  
Census Operations  
21/1, Mission Road  
Bangalore - 560 027

9. Shri Ranganatha S. Jois  
Advocate  
36, 'Vagdevi'  
Shankarapuram  
Bangalore - 560 004

10. The Joint Director of Census Operations  
21/1, Mission Road  
Bangalore - 560 027

11. The Secretary  
Ministry of Home Affairs  
New Delhi - 110 001

12. Shri M.S. Padmarajaiah  
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.

DEPUTY REGISTRAR  
(JUDICIAL)

Enclosed in  
6/4/88

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. 345/88 & 353 TO  
359/88

1. Smt. C.P. Chandrika Devi.

2. Smt. R. Mangalam.

3. Smt. Ponnamma Abraham.

4. Smt. B.R. Indumadhi.

5. Smt. K.S. Lalithamma

6. Miss. H.S. Girija.

7. Smt. H.A. Geetha.

8. Shri P.K. Gopunatha Kaimal.

... Applicants

(All working as D.D.E. Operators in  
the Office of the Joint Director of  
Census Operations, Bangalore - 27)

(Shri Ranganatha Jois, Advocate)

Vs.

1. The Joint Director of Census,  
No.21/1, Mission Road,  
Bangalore-27.

2. The Secretary,  
Ministry of Home Affairs,  
Government of India, New Delhi-110 001.

... Respondents

(Shri M.S. Padmarajaiah, Advocate)

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

ORDER

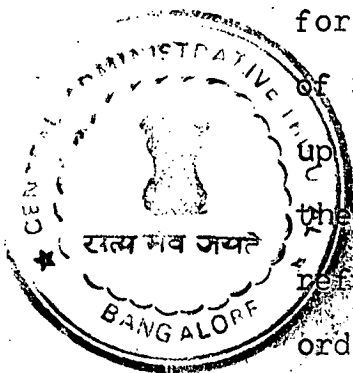
The pay of the applicants, Computers, in  
the office of the Director of Census Operations in  
Karnataka (Director) was stepped up by O.M. dated  
10.12.1982 issued by the Director based on the provisions  
in rule 22 (c) of the Fundamental Rules (FR). This order  
was subsequently cancelled by memo dated 27.10.1987 and



issued by the Joint Director (Respondent no.1; R-1) who also ordered recovery of the excess payments made to the applicant "in equal monthly instalments commencing from the salary for the month of February 1988 under intimation to the audit section". Aggrieved by the action of R-1, 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-1 had chosen to pass the impugned orders and this is contrary to the principles of natural justice.

3. Shri M.S. Padmarajaiah, 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 defixation and reduction of the pay of the applicants ordered in the memos dated 18.2.1988 are not arbitrary. Shri Padmarajaiah also submits that withdrawal of the benefit of stepping up of pay of the applicants was a sequel to the objection taken by the internal audit party in its Inspection Report relating to the accounts of the office of the Director for the year 1986-87 and the applicants are not therefore justified in challenging the orders passed by R-1.



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4. I have considered the rival contentions carefully. Shri Padmarajaiah is right in contending that if stepping up of 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. However, I am of the view, 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 to 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).

I am, therefore, satisfied that the impugned orders are not 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 <sup>of</sup> on the lines indicated above. No order as to costs,



TRUE COPY

*[Signature]*  
DEPUTY REGISTRAR (JDL) 6/11/88  
CENTRAL ADMINISTRATIVE TRIBUNAL  
BANGALORE  
MR.

Sd/-  
CH. RAMAKRISHNA RAO 30/3/88  
MEMBER (J)