

CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE BENCH

Commercial Complex (BDA)
Indiranagar
Bangalore - 560 038

Dated : 5 JUN 1989

IA IN APPLICATION NO (S) 592 / 88 (F)

W.P. NO (S) _____

Applicant (s)

Shri H. Srikantaiah

To

V/s

The Registrar, Indian Institute of Science,
Bangalore

1. Shri H. Srikantaiah
No. 17-I, 'N' Block
Rajajinagar
Bangalore - 560 010

2. The Registrar
Indian Institute of Science
Bangalore - 560 012

3. Shri Padubidri Raghavendra Rao
Advocate
Opp : Majestic Cinema
Bangalore - 560 009

Respondent (s)

Subject : SENDING COPIES OF ORDER PASSED BY THE BENCH

Please find enclosed herewith a copy of ORDER ~~EXTRA/INTERIM ORDER~~
passed by this Tribunal in the above said application(s) on 3-7-89.

Deputy Registrar
DEPUTY REGISTRAR
(JUDICIAL)

Encl : As above

JKL/KR 5-7-89

O/C

In the Central Administrative
Tribunal Bangalore Bench,
Bangalore

592/88

H. Sri Ranganath

vs

The Registrar Indian
Institute of Science, B'lore.

Order Sheet (contd)

- 5 -

Date	Office Notes	Orders of Tribunal



KSPVC/LHARM(A)

3.7.1989

Applicant in person.

In this I.A. the applicant has moved this Tribunal to correct a typographical error that has crept in para 12 of our order dated 8.9.1988.

In para 12 of our order we have given the citation "SABHAJIT TEWARI v. UNION OF INDIA (AIR 1981 S.C 1329)" instead of "AIR 1975 S.C. 1329". We accept this application and correct the citation in para 12 as "AIR 1975 S.C. 1329" instead of "AIR 1981 S.C. 1329". We direct the office to issue copies of this order to both sides.

TRUE COPY

By Order of
DEPUTY REGISTRAR
CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE

Sd/-
VC

Sd/-
M(A)

REGISTERED

CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE BENCH
* * * * *

Commercial Complex (BDA)
Indiranagar
Bangalore - 560 038

Dated : 27 SEP 1988

APPLICATION NO.

692

/ 88(F)

W.P. NO.

Applicant(s)

Shri M. Srikantaiah

v/s

Respondent(s)
The Registrar, Indian Institute of Science,
Bangalore

To

1. Shri M. Srikantaiah
No. 17-I, 'N' Block
Rajajinagar
Bangalore - 560 010
2. The Registrar
Indian Institute of Science
Bangalore - 560 012
3. Shri Padubidri Raghavendra Rao
Advocate
Opp : Majestic Cinema
Bangalore - 560 009

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(s) on 8-9-88.

Encl : As above

R. A. Venkatesh
DEPUTY REGISTRAR
(JUDICIAL)

o/c

*Issued
K. M. G. R.
27-9-88*

CENTRAL ADMINISTRATIVE TRIBUNAL: BANGALORE

DATED THIS THE 8TH DAY OF SEPTEMBER, 1988.

PRESENT:

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

.. Vice-Chairman.

And

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

.. Member(A).

APPLICATION NUMBER 592 OF 1988

H.Srikantiah,
No.17-I, 'N' Block,
Rajajinagar,
Bangalore.

.. Applicant.

v.

The Indian Institute of Science,
Bangalore-12 by its Registrar,
Ministry of Human Resource Development,
Department of Education.

.. Respondent.

(By Sri Padubidri Raghavendra Rao, Advocate)

This application having come up for hearing this day, Hon'ble Vice-Chairman made the following:

O R D E R

Whether an application made either by a quondam or present employee of the Indian Institute of Science, Bangalore ('Institute') claiming relief in relation to his service matter before this Tribunal under Section 19 of the Administrative Tribunals Act of 1985 ('the Act') is maintainable or not, is the first and primary question that calls for our examination in this case. In order to decide that and a question incidental thereto, which is peculiar to this case, it is first necessary to notice the facts.

2. Sri H.Srikantaiah, the applicant before us is a quondam employee of the Institute. He claimed certain benefits from the Institute which were not granted or acceded to by the Institute. He then made a representation thereon to the Hon'ble President of India ('the President') on whom is conferred the privilege as a 'Visitor' of the Institute. When that representation was pending, the applicant



approached the High Court of Karnataka in Writ Petition No.33809 of 1982 under Article 226 of the Constitution, impleading 'the Secretary to the Government of India, Ministry of Education and Culture, New Delhi', as the sole respondent to the case, for a mandamus, to dispose of his representation addressed to the President. On constitution of this Tribunal under the Act, the said writ petition was transferred to this Bench and was registered as Application No.1004 of 1986(T).

3. On examination of the transferred writ petition, the Registrar of this Bench opined that the same had been wrongly transferred by the High Court and, therefore should be re-transferred to the High Court. Without noticing the same or otherwise, a Division Bench of this Tribunal consisting of Hon'ble Sri P.Srinivasan, Member(A) and Hon'ble Sri Ch.Ramakrishna Rao, Member(J) disposed of that application on 31-10-1986 on merits in these words:

"The applicant filed a writ petition in the High Court of Karnataka and a writ appeal was also filed against the order passed by the single Judge in the writ petition. As a sequel to the disposal of the writ application and based on the observation made therein, the applicant made a representation to the President of India in respect of some dues to him by way of salary and pension, but in vain. The grievance of the application in this petition is that the representation was made as long ago as 18-5-1981, but he had not received any reply thereto. He has, therefore, prayed for directions being issued to the respondent for disposal of the said reference.

From the above, it is apparent that the representation made by the applicant has been pending for a long time, nearly for five years, and in view of this, we direct the respondents to dispose of the pending reference of the applicant expeditiously and in any case not beyond three months from the date of receipt of this order."

In compliance with this order or otherwise, the President has disposed of the representation addressed by the applicant which was communicated on 12-1-1988 by the Union Ministry of Human Resources Development (Department of Education), earlier designated as the Ministry of Education on 12-1-1988. That communication addressed to the appli-

applicant reads thus:

Sub: Your petition dated 28th May, 1981 to the
Visitor for protection of the pensionary
benefits etc.

Sir,

With reference to your above mentioned petition to the President of India, who is the Visitor of the Indian Institute of Science, Bangalore, I am directed to inform you that the Visitor has been pleased to reject your petition on the following grounds;

- i) The period from 17-2-1937 to 31-5-1946 cannot be counted as service for the purpose of calculation of pensionary benefits etc. since you resigned from the service of the Institute and joined a private college viz., St.Phelomina College in Mysore. You have also drawn accordingly the terminal benefits from the Institute as per the then existing rules.
- ii) The period from 1-6-1946 to 17-7-1947 was a clear cut break in your service during which you were serving in St.Phelomina College, Mysore, and hence this cannot be counted towards your service in the Institute for pensionary benefits etc.
- iii) Rule No.6 of the CCS (Revised Pay) Rules,1973, does not apply in your case and therefore the benefits of 3rd Pay Commission's scale w.e.f. 1-1-1973 cannot be extended in your case."

The applicant without expressly challenging this order/communication but alluding to the same had really sought for its annulment and for appropriate directions to the Institute which is impleaded as the sole respondent to the present application.

4. The respondent at the threshold, urged that the Institute was a 'Trust' or a 'Charitable Institution' registered under the Charitable Endowments Act,1890 (Central Act No.6 of 1890) ('1890 Act') and was not a Department or an Organisation of the Government of India and, therefore, this Tribunal had no jurisdiction and power over it and consequently this application was not maintainable under

the Act.

5. The applicant urged to the contrary. He urged that the Institute which was controlled and financed by the Government of India, was a 'State' within the meaning of that term occurring in Article 12 of the Constitution and, therefore, this Tribunal had jurisdiction



and power over its service disputes and this application made under Section 19 of the Act was maintainable.

6. Sri Srikantaiah contended that the Institute is controlled and financed by the Government of India and was, therefore, a 'State' within the meaning of that term, occurring in Article 12 of the Constitution, for which very reason, we should hold, that it is a Department of India, over which this Tribunal had jurisdiction and power under Section 14(1) of the Act.

7. Sri Padubidri Raghavendra Rao, learned counsel for the respondent, contended that the Institute was only a 'Trust' and not a 'State' and even if it was a 'State' then also for want of conferment of jurisdiction and power, over the same, by the Government of India under Section 14(2) of the Act, this Tribunal had no jurisdiction and power over the same under the Act.

8. We have reproduced in its entirety the order made by the President and communicated to the applicant. In the order itself, it is stated that the order had been made by the President in his capacity as the 'Visitor' of the Institute.

9. The fact, that the President is the 'Visitor' of the Institute is not disputed.

10. The order is not made by the President of India as the Head of the Union of India or Government of India under the Constitution of India. It is also not made by the President as the Executive head of the Union Government under the Constitution. The fact that the order made by the President on the original file as the 'Visitor' of the Institute has been communicated by a Ministry of the Union Government or the President's Secretariat does not convert that order, as one made by the President as the executive head of the Union Government.

11. The Institute whatever be its origin, development, and its present status, on which we express no opinion, is not a Department or an Office of the Government of India. If so, then the service disputes of the Institute, will not fall within the purview of Section 14(1) of the Act.

12. The Institute claims that it is a 'Trust' or a 'Charitable Institution' established and functioning under the 1890 Act. But, the applicant claims that it is controlled and financed by the Government of India and is, therefore, a 'State' in accordance with the ratio of the rulings of the Supreme Court in SUKHDEV SINGH v. BHAGAT-RAM SARDAR SINGH RAGHUVANSI (AIR 1975 SC 1331), SABHAJIT TEWARI v. UNION OF INDIA (AIR 1981 SC 1329) and AJAY HASIA v. KHALID MUJIB SEHRAVARDI (AIR 1981 SC 487) and all other pertinent cases. We shall assume that the applicant is right in this claim. But, this conclusion of ours, does not necessarily bring the Institute within the jurisdiction of this Tribunal under the Act.

13. Whether the Government of India can bring the Institute within the jurisdiction and power of this Tribunal under the Act or not, is a matter on which we are not competent to express any opinion. But, assuming that it can do so, on which also we express no opinion, there is no dispute that it had not so far conferred on this Tribunal, the jurisdiction and power, over the Institute, under Section 14(2) of the Act, as it had done in the case of several other organisations controlled and financed by it. So long as the Government of India, has not conferred on this Tribunal, jurisdiction and power over the Institute, under Section 14(2) of the Act, we have no jurisdiction and power to deal with any service disputes relating to the Institute. This will be the legal position even if the Institute is an University, deemed or otherwise under the laws regulating the Universities in the country.



14. We are of the view that on the principles enunciated by the majority in A.R.ANTULAY v. R.S.NAYAK AND ANOTHER [1988 (2) SCC 602] which had exhaustively reviewed the efficacy of orders made in cases in regard to inherent want of jurisdiction, it would not be proper to rely on the earlier order made by another Bench of this Tribunal in the transferred application noticed before. We cannot, therefore, rely on the order made in that case to hold that this Tribunal has jurisdiction and power under the Act over the service disputes relating to the Institute.

15. On the foregoing discussion, we hold that this Tribunal has no jurisdiction and power to deal with service disputes of both the past as well as the present employees of the Institute. We must, therefore, reject this application as not maintainable under the Act leaving the applicant as a consequence to work out his remedies if any, before such other forum as is competent to deal with the same.

16. In the light of our above discussion, we dismiss this application as not maintainable. But, in the circumstances of the case, we direct the parties to bear their own costs.

Sd/-
VICE-CHAIRMAN
6/9/88

Sd/-
MEMBER(A) 6/9/88

TRUE COPY

R. Venkatesh
DEPUTY REGISTRAR (JDL) 27/9/88
CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE

CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE BENCH

Commercial Complex(BDA),
II Floor, Indiranagar,
Bangalore- 560 038.

To

Dated: 27 SEP 1988

1. Shri. Sanjeev Malhotra,
All India Services Law Journal,
Hakikat Nagar, Mal Road,
New Delhi- 110 009.
2. Administrative Tribunal Reporter,
Post Box No. 1518,
Delhi- 110 006.
3. The Editor,
Administrative Tribunal Cases,
C/o. Eastern Book Co.,
34, Lal Bagh,
Lucknow- 226 001.
4. The Editor,
Administrative Tribunal Law Times,
5335, Jawahar Nagar,
(Kolhapur Road),
Delhi- 110 007.
5. M/s. All India Reporter,
Congressnagar,
Nagpur.

Sir,

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

Order dated 8-9-88 passed in A.Nos. 592/88(F)

Yours faithfully,

Sel/-

(B.V. VENKATA REDDY)
DEPUTY REGISTRAR(J).

o/c

*General
11-9-88
27-9-88*

Copy with enclosure 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 Kankon Bhavan, New Bombay- 400 614.
5. The Registrar, Central Administrative Tribunal, S.C.O.102/103, Sector 34-A, Chandigarh.
6. The Registrar, Central Administrative Tribunal, 23-A, Post Bag No. 013, Thorn Hill Road, Allahabad- 211 001.
7. The Registrar, Central Administrative Tribunal, Rajgarh Road, Off Shilong Road, Guwahati- 781 005.
8. The Registrar, Central Administrative Tribunal, CARAVS Complex, 15 Civil Lines, Jabalpur- (MP).
9. The Registrar, Central Administrative Tribunal, Kandamkulathil Towers, 5th & 6th Floor, Opp. Maharaja College, M.G.Road, Ernakulam, Cochin- 682 001.
10. The Registrar, Central Administrative Tribunal, 88-A B.M.Enterprises, Shri Krishna Nagar, Patna-1.
11. The Registrar, Central Administrative Tribunal, C/o. Rajasthan High Court, Jodhpur(Rajasthan).
12. The Registrar, Central Admininstrative Tribunal, New Insurance Building Complex, 6th Floor, Tilak Road, Hyderabad.
13. The Registrar, Central Administrative Tribunal, Navrangpura, Near Sardar Patel Colony, Usmanpura, Ahmedabad.
14. The Registrar, Central Administrative Tribunal, Dolamundai, Cuttak- 753 001.

Copy with enclosure also to:

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

B.V. Venkata Reddy
(B.V. VENKATA REDDY)
DEPUTY REGISTRAR(J).

8/2

4/2/88
27-9-88

CENTRAL ADMINISTRATIVE TRIBUNAL:BANGALORE

DATED THIS THE 8TH DAY OF SEPTEMBER, 1988.

PRESENT:

Hon'ble Mr.Justice K.S.Puttaswamy, .. Vice-Chairman.

And

Hon'ble Mr.L.H.A.Rego, .. Member(A).

APPLICATION NUMBER 592 OF 1988

H.Srikantiah,
No.17-I, 'N' Block,
Rajajinagar,
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.. Applicant.

v.

The Indian Institute of Science,
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Ministry of Human Resource Development,
Department of Education. .. Respondent.

(By Sri Padubidri Raghavendra Rao,Advocate)

This application having come up for hearing this day, Hon'ble Vice-Chairman made the following:

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approached the High Court of Karnataka in Writ Petition No.33809 of 1982 under Article 226 of the Constitution, impleading 'the Secretary to the Government of India, Ministry of Education and Culture, New Delhi', as the sole respondent to the case, for a mandamus, to dispose of his representation addressed to the President. On constitution of this Tribunal under the Act, the said writ petition was transferred to this Bench and was registered as Application No.1004 of 1986(T).

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From the above, it is apparent that the representation made by the applicant has been pending for a long time, nearly for five years, and in view of this, we direct the respondents to dispose of the pending reference of the applicant expeditiously and in any case not beyond three months from the date of receipt of this order."

In compliance with this order or otherwise, the President has disposed of the representation addressed by the applicant which was communicated on 12-1-1988 by the Union Ministry of Human Resources Development (Department of Education), earlier designated as the Ministry of Education on 12-1-1988. That communication addressed to the appli-

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The applicant without expressly challenging this order/communication but alluding to the same had really sought for its annulment and for appropriate directions to the Institute which is impleaded as the sole respondent to the present application.

4. The respondent at the threshold, urged that the Institute was a 'Trust' or a 'Charitable Institution' registered under the Charitable Endowments Act, 1890 (Central Act No.6 of 1890) ('1890 Act') and was not a Department or an Organisation of the Government of India and, therefore, this Tribunal had no jurisdiction and power over it and consequently this application was not maintainable under the Act.

5. The applicant urged to the contrary. He urged that the Institute which was controlled and financed by the Government of India, was a 'State' within the meaning of that term occurring in Article 12 of the Constitution and, therefore, this Tribunal had jurisdiction

and power over its service disputes and this application made under Section 19 of the Act was maintainable.

6. Sri Srikantaiah contended that the Institute is controlled and financed by the Government of India and was, therefore, a 'State' within the meaning of that term, occurring in Article 12 of the Constitution, for which very reason, we should hold, that it is a Department of India, over which this Tribunal had jurisdiction and power under Section 14(1) of the Act.

7. Sri Padubidri Raghavendra Rao, learned counsel for the respondent, contended that the Institute was only a 'Trust' and not a 'State' and even if it was a 'State' then also for want of conferment of jurisdiction and power, over the same, by the Government of India under Section 14(2) of the Act, this Tribunal had no jurisdiction and power over the same under the Act.

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13. Whether the Government of India can bring the Institute within the jurisdiction and power of this Tribunal under the Act or not, is a matter on which we are not competent to express any opinion. But, assuming that it can do so, on which also we express no opinion, there is no dispute that it had not so far conferred on this Tribunal, the jurisdiction and power, over the Institute, under Section 14(2) of the Act, as it had done in the case of several other organisations controlled and financed by it. So long as the Government of India, has not conferred on this Tribunal, jurisdiction and power over the Institute, under Section 14(2) of the Act, we have no jurisdiction and power to deal with any service disputes relating to the Institute. This will be the legal position even if the Institute is an University, deemed or otherwise under the laws regulating the Universities in the country.

14. We are of the view that on the principles enunciated by the majority in A.R.ANTULAY v. R.S.NAYAK AND ANOTHER [1988 (2) SCC 602] which had exhaustively reviewed the efficacy of orders made in cases in regard to inherent want of jurisdiction, it would not be proper to rely on the earlier order made by another Bench of this Tribunal in the transferred application noticed before. We cannot, therefore, rely on the order made in that case to hold that this Tribunal has jurisdiction and power under the Act over the service disputes relating to the Institute.

15. On the foregoing discussion, we hold that this Tribunal has no jurisdiction and power to deal with service disputes of both the past as well as the present employees of the Institute. We must, therefore, reject this application as not maintainable under the Act leaving the applicant as a consequence to work out his remedies if any, before such other forum as is competent to deal with the same.

16. In the light of our above discussion, we dismiss this application as not maintainable. But, in the circumstances of the case, we direct the parties to bear their own costs.

Sd/-

VICE-CHAIRMAN

8/9/88

Sd/-

MEMBER(A) 8/9/88

kms/np

TRUE COPY

Pradeep Kumar
DEPUTY REGISTRAR (101)
CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE