

## CENTRAL ADMINISTRATIVE TRIBUNAL

BANGALORE BENCH

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Commercial Complex (BDA)  
 Indiranagar  
 Bangalore - 560 038

Dated : 9 SEP 1988

APPLICATION NO.

711

/ 88(F)

W.P. NO.

Applicant(s)

Shri O. Shanmugham  
 To

v/s

The Regional Provident Fund Commissioner,  
 Bangalore & another

1. Shri O. Shanmugham C/o Shri S.B. Swethadri Advocate Hotel Rajprakash Building Subedar Chathram Road Bangalore - 560 009	4. Shri A. Padmanabha Enforcement Officer C/o Regional Provident Fund Commissioner 13, Rajaram Mohan Roy Road Bangalore - 560 025
2. Shri S.B. Swethadri Advocate Hotel Rajprakash Building Subedar Chathram Road Bangalore - 560 009	5. Shri R. Gururajan Advocate 83/1, I Floor, V Cross Malleeswaram Circle Bangalore - 560 003
3. The Regional Provident Fund Commission 'Bhavishyanidhi Bhavan' No. 13, Rajaram Mohan Roy Road Bangalore - 560 025	

Subject : SENDING COPIES OF ORDER PASSED BY THE BENCH

Please find enclosed herewith the copy of ORDER/STAY/JUDGEMENT ORDER  
 passed by this Tribunal in the above said application(s) on 31-8-88.

Issued  
 K. N. R. Rao  
 9-9-88

Encl : As above

O/C

R. V. Venkatesh  
 DEPUTY REGISTRAR  
 (JUDICIAL)

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL  
BANGALORE

DATED THIS THE 31st DAY OF AUGUST, 1988

Present : Hon'ble Sri Justice K.S.Puttaswamy Vice Chairman

Hon'ble Sri L.H.A.Rego

Member (A)

APPLICATION No. 711/88(F)

O.Shanmugham,  
Head Clerk, O/o the  
Regional Provident Fund  
Commissioner, 13, R.M.Roy  
Road, Bangalore - 25.

... Applicant

( Sri S.B.Swethadri ... Advocate )

vs.

1. Regional Provident Fund  
Commissioner, 13, R.M.Roy  
Road, Bangalore - 25.

2. Sri A.Padmanabha,  
Enforcement Officer,  
C/o R.P.F.Commissioner  
13, R.M.Roy Road,  
Bangalore -25.

... Respondent

( Sri R.Gururajan ... Advocate )

This application having come up before the  
Tribunal today, Hon'ble Vice-Chairman made the  
following :

ORDER

Applicant by Sri S.B.Swethadri. Respondent  
No.1 by Sri R.Gururajan. Respondent No.2 served,  
absent and unrepresented. Heard counsel.

2. This is an application made by the applicant  
under Section 19 of the Administrative Tribunals Act,  
1985 (ACT).

3. Sri O.Shanmugham, the applicant before us,  
initially joined service on 7.7.1958 as a Lower Division  
Clerk(LDC) in the office of the Regional Provident Fund  
Commissioner, Bangalore. He was promoted as an Upper



& thereafter as  
Division Clerk(UDC) in 1965 and ~~then~~ as a Head Clerk  
on 29.8.1978. He ~~has~~ retired from service on  
30.6.1988.

4. When he was working as Head Clerk, an opportunity for promotion to the cadre of Enforcement Officer(EO) arose before 29.3.1988. On that a Departmental Promotion Committee (DPC) constituted for that purpose, considered the applicant and respondent No.2 and two others for the vacancies of EO recommended for the promotion of respondent No.2 and two others. Accepting the recommendations of the DPC, the Commissioner, by his Office Order No.18 of 1988-89, dated 19.4.1988(Annexure-A) had promoted respondent-2 and two others. The applicant, claims that he is senior to respondent-2 and he had been illegally denied the promotion due to him. Hence this application.

5. When the applicant was in service, the commissioner by his Memorandum dated 4.4.1988 (Annexure-B) had commenced disciplinary proceedings and had served a charge memo on the applicant as annexed to the said memo, which he had denied. But notwithstanding his retirement from service on 30.6.1988 those disciplinary proceedings are still pending disposal.

6. In his reply, respondent No.1 without disputing that the applicant is senior to respondent No.2, had asserted that in view of the pendency of disciplinary proceedings his case had been dealt

under the "sealed cover procedure".

7. In VENKATA REDDY vs. UNION OF INDIA (1987) 3 ATC 174, a Full Bench of this Tribunal had substantially upheld the guidelines issued by Government for adopting "sealed Cover" procedure against those who are facing departmental inquiries. On the principles enunciated in Venkata Reddy's case, we cannot take exception to the adoption of the "sealed cover" procedure against the applicant by the DPC. When that is so we cannot also open the "sealed cover" and direct the promotion of the applicant and the same must necessarily await the result of the disciplinary proceedings and the further orders to be made thereto.

8. We have earlier noticed that the applicant had retired from service on 30.6.1988. On his retirement, the authorities have rightly granted him provisional pension. But notwithstanding the same, it is proper for respondent no.1 to complete the disciplinary proceedings with all such expedition as is possible in the circumstance of the case and then decide the claim of the applicant for promotion in accordance with law. We do hope and trust that the authorities will do so. We therefore direct respondent-1 to complete the disciplinary proceedings initiated against the applicant with all such expedition as is possible in the circumstances of the case and on the conclusion of those proceedings, open the "sealed cover" and deal with the case of the applicant for promotion in accordance with law.



9. Application is disposed of in the above terms. But in the circumstances of the case, we direct the parties to bear their own costs.

Sd/-

VICE CHAIRMAN

Sd/-

MEMBER (A)

*31-8-55*

an.

TRUE COPY

*R.P. Central Admin. Tribunal*  
DEPUTY REGISTRAR (JDL) *9/3/55*  
CENTRAL ADMINISTRATIVE TRIBUNAL  
BANGALORE

