

Commercial Complex(BDA)
Indiranagar
Bangalore - 560 038

Dated 25 JAN 1989

APPLICATION NO (S) 789 /88(F)

W.P. NO (S)

Applicant (s)

Respondent (s)

Shri Stephen Thompson
To

V/s The Chief Engineer, Civil Engineering Division,
Department of Space, Bangalore & 2 Ors

1. Shri Stephen Thompson
S/o Shri Y. Thompson
280/7, M.K.N. Road
Alendur
Madras - 600 018

4. The Deputy Secretary
Department of Space
'F' Block, Cauvery Bhavan
Kempagowda Road
Bangalore - 560 009

2. Shri K. Gangappa
Advocate
No. 11, 2nd Main
Gandhinagar
Bangalore - 560 009

5. The Secretary
Department of Space
3rd Floor, Loknayak Bhavan
New Delhi - 110 003

3. The Chief Engineer
Civil Engineering Division
Department of Space (ISRO)
'F' Block, 9th Floor
Cauvery Bhavan
Kempagowda Road
Bangalore - 560 009

6. Shri M. Vasudeva Rao
Central Govt. Stng Counsel
High Court Building
Bangalore - 560 001

Subject : SENDING COPIES OF ORDER PASSED BY THE BENCH

Please find enclosed herewith a copy of ORDER ~~STAY/INTERIM ORDER~~
passed by this Tribunal in the above said application(s) on 19-1-89.

DEPUTY REGISTRAR
(JUDICIAL)

CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE

DATED THIS THE 19TH DAY OF JANUARY, 1989

Present : Hon'ble Shri Justice K.S. Puttaswamy, Vice-Chairman
and
Hon'ble Shri L.H.A. Rego, Member (A)

APPLICATION NO. 789/1988

Shri Stephen Thompson,
Engineer, S.C.
Civil Engineering Division,
Shar Centre,
Sriharikota.

.... Applicant.

(Shri K. Gangappa, Advocate)

v.

1. The Chief Engineer,
Civil Engineering Division,
Department of Space (ISRO)
F.Block, 9th Floor,
Cauvery Bhavan,
K.G. Road, Bangalore.
2. The Dy. Secretary to Govt of India,
Department of Space, F. Block,
Cauvery Bhavan, K.G. Road,
Bangalore.
3. The Union of India
rep. by its Secretary,
Dept. of Space,
New Delhi.

.... Respondents.

(Shri M. Vasudeva Rao, C.G.A.S.C.)

This application having come up for hearing to-day,

Vice-Chairman made the following:

ORDER

In this application made under Section 19 of the Administrative Tribunals Act of 1985 ('the Act') the applicant has challenged order no.3/2(4)/81-I(V)(Vol.III) dated 15.2.1988 (Document no.24) of Government of India, compulsorily retiring him from service.



2. At the material time the applicant was working as Engineer 'SC' in the Civil Engineering Division of the Department of Space, at Sriharikota. When he was so working he remained absent for different long periods. On that, the competent authority initiated disciplinary proceedings against the applicant under the Department of Space Employees (Classification, Control and Appeal) Rules, 1976 ('Rules') which are in pari materia with the Central Civil Service Classification Control and Appeal Rules of 1965 (CCS).

3. When the said disciplinary proceedings were pending against him, the applicant moved the Government to permit him to voluntary retire from service under Rule 48A of the Pension Rules (Pension Rules) which was not allowed on the ground that he did not have the requisite qualifying service, the validity of which was challenged by him before the High Court of Karnataka in Writ Petition no.21397/86. On the constitution of this Tribunal, the said Writ Petition was transferred to this Bench and was registered as Application No.1028/86(T). On 1.5.1987, we dismissed the same upholding the plea of the respondents.

4. On complying with the rules, Government by its order dated 15.2.1988 concurring with the report of the Inquiry Officer who found the applicant guilty of charges levelled against him, imposed on him the penalty of compulsory retirement from service. In this application made on 24th May, 1988 the applicant while challenging the said order of Government, had sought for

2 more reliefs which read thus:

"ii. to direct the Respondents in view of the present observations of the Union Public Service Commission in terms of Rule 48(A) (2) of C.C.S. (Pension) Rules, 1972 and as matter of consequential relief, to declare that the Applicant has retired voluntarily as on 5.1.1983 as a result of statutory application dated 4.10.1982 made by the Applicant under Rule 48(A) of C.C.S. (Pension) Rules, 1972 since he has completed 20 years of Service under Rule 48(A) (2) of C.C.S. (Pension) Rules 1972 with all terminal benefits.

iii. to direct the Respondents to pay the terminal benefits immediately as the Applicant is suffering from 1983 without any terminal benefits due to him; and thus render justice."

On an examination of these reliefs, the office pointed that these reliefs were barred by res-judicata . On hearing the learned counsel who appeared for the applicant on 1.6.1988, we made an order in these terms:

" Applicant by Shri K.N. Sadagopan.

We have heard the counsel on the office objections. Prayers 2 and 3 made by the applicant, in the present application, were agitated by him in A.No.1028/86 before this Tribunal. On 1.5.1987 a Division Bench of this Tribunal, consisting of one of us (KSPVC) declined to grant



the same. In this view, prayers 2 and 3 are barred by res-judicata and cannot be allowed to be agitated here. We, therefore, uphold the office objections and reject prayers 2 and 3.

As regards prayer no.1, it undoubtedly calls for further examination. We therefore, admit this application to examine prayer no.1 only.

Notice to respondents.
Call on 5.7.1988."

On terms of this order, which has become final, reliefs 2 and 3 which are already rejected cannot be examined by us. With this the only question that survives for our reconsideration is the challenge of the applicant to the order dated 15.2.1988 of Government, which we now proceed to consider.

5. Shri K. Gangappa, learned counsel for the applicant contends that Government should have permitted the applicant to voluntarily retire from service instead of imposing on him the penalty of compulsory retirement from service under the Rules.

6. Shri M. Vasudeva Rao, learned counsel for the respondents sought to support the impugned order.

7. In our order dated 1.5.1987, we have left open the question of disciplinary proceedings pending against the applicant. On that as also on the conclusion of disciplinary

proceedings, it was open to Government to impose on the applicant the penalty of compulsory retirement from service. On this, and the earlier orders made by us; we cannot uphold this contention of Shri Gangappa.

8. Even otherwise, the applicant had earlier sought for voluntary retirement which had not ^{been} allowed. In the impugned order, the applicant had been compulsorily retired from service. Whatever be the effect of the impugned order on the pension and other retiral benefits due, the applicant had really achieved the object of quitting Government service. On this view also, we find no justification to interfere with the impugned order of Government.

9. On the foregoing discussion, we reject the challenge of the applicant to the impugned order of Government.

10. Shri Gangappa complains that the retiral benefits due to the applicant in terms of the order made by Government on 15.2.1988 had not so far been settled and paid to him, and there was no justification to withhold them or indefinitely postpone the same.

11. Shri Rao does not dispute that the competent authority had not so far settled the retiral benefits due to the applicant.

12. We have earlier seen that the order for compulsory retirement was made by Government as early as on 15.2.1988. As it is nearly one year had elapsed, ⁱⁿ the

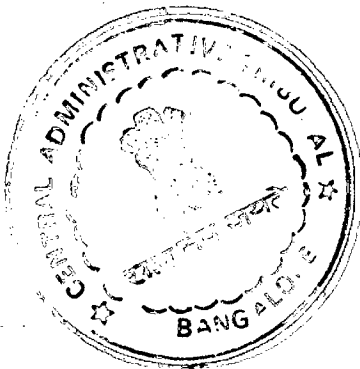


normal circumstances, the authorities should have settled the retiral benefits due to the applicant by this time. As this had not been done by them so far, we consider it proper to direct the respondents to settle the retiral benefits due to the applicant with expedition and in any event on or before 30.4.1989.

13. In the light of our above discussion, we make the following orders and directions:

(a) We uphold the order of compulsory retirement made by the Government on 15.2.1988 and dismiss this application to that extent.

(b) We direct the respondents to settle the retiral benefits due to the applicant in terms of the order of Government dated 15.2.1988 with all such expedition as is possible in the circumstances of the case and in any event on or before 30.4.1989.



14. 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

19-1-89

TRUE COPY

Sd/-

MEMBER (A)

19.1.89

Mr/Mrs.

R. V. Venkatesh
DEPUTY REGISTRAR (JUL)
CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE

CENTRAL ADMINISTRATIVE TRIBUNAL

BANGALORE BENCH

Commercial Complex(BDA)

Indiranagar

Bangalore - 560 038

Dated : 25 APR 1989

IA I IN APPLICATION NO (S) 789 / 88(F)

W.P. NO (S)

Applicant (s)

Respondent (s)

Shri Stephen Thompson

V/s

The Chief Engineer, Civil Engineering
Division, Dept of Space, Bangalore & 2 Ors

To

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280/7, M.K.N. Road
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No. 11, 2nd Main
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DEPUTY REGISTRAR
(JUDICIAL)

Encl : As above

9/4/89
R. M. V.
26-4-89

Ofc

**In the Central Administrative
Tribunal Bangalore Bench,
Bangalore**

ORDER SHEET
789

Application No. of 1988 (F)

Applicant

Stephen Thompson

Advocate for Applicant



K. Gangappa

Respondent

V/s The Chief Engineer, Civil Engr, Divn.,
Department of Space, Bangalore & 2 Ors

Advocate for Respondent

M. Vasudeva Rao

Date	Office Notes	Orders of Tribunal
21.4.89	 <p style="text-align: center;">TRUE COPY</p>	<p>KSPVC/LHARM</p> <p><u>Orders on IA No.1 - application for extension of time:</u></p> <p>Case called. Applicant and his counsel absent. Respondents by Shri M.V. Rao. In this IA the respondents have sought for extension of time till 31.5.89. We are satisfied that the facts and circumstances stated in IA No.1 justify us to extend time till 31.5.1989. We, therefore, allow IA No.1 and extend time till 31.5.1989.</p>
	<p style="text-align: center;">  DEPUTY REGISTRAR (JD) 28/7/89 CENTRAL ADMINISTRATIVE TRIBUNAL BANGALORE </p>	<p style="text-align: center;"> <i>Sd/-</i> VC M(A) </p>