

ADMINISTRATIVE TRIBUNAL
BANGALORE BENCH

Commercial Complex(BDA)
Indiranagar
Bangalore - 560 038

Dated : 22 JUN 1989

IA I IN APPLICATION NO (R) 177 /89(F)
W.P. NO (S)

Applicant (s)

Respondent (s)

Shri Mahadevaiah
To

V/s The Regional Provident Fund Commissioner, Bangalore

1. Shri Mahadevaiah
U-68, 1st Main Road
Swatantranagar
Sreeramapuram Post
Bangalore - 560 021
2. Shri Marikrishna S. Holla
Advocate
34/3, II Floor, Ganesh Building
5th Main, Gandhinagar
Bangalore - 560 009
3. The Regional Provident Fund Commissioner
'Bhavishyanidhi Bhavan'
No. 8, Rajaram Mohan Roy Road
Bangalore - 560 025
4. 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~~/~~NOTICE~~ ORDER
passed by this Tribunal in the above said application(s) on 21-6-89.

Handwritten signature
DEPUTY REGISTRAR
(JUDICIAL)

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

ORDER SHEET

Application No. 177 of 1989(F)

Applicant

Mahadevaiah

Advocate for Applicant

Harikrishna S. Holla

V/s

The Regional Provident Fund Commissioner,
Bangalore

Advocate for Respondent

M. Vasudeva Rao

Respondent

Date	Office Notes	Orders of Tribunal
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[Signature]
DEPUTY REGISTRAR (JDL)
CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE

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LHAR/21.6.89

Applicant by Shri H.S.Holla.

Respondents by Shri M.V.Rao.

ORDERS ON I.A.NO.1.

In the said I.A. the respondents have prayed for extension of time by three months to comply with the order dated 12-4-1989 of this Tribunal.

Shri M.Vasudeva Rao, who appeared for the respondents, urges grant of extension of time as above as the respondents wish to file SLP in the Supreme Court.

Shri Holla, counsel for the applicant, opposes the prayer of Shri Rao.

In the circumstances of the case, I deem it proper to grant extension of time to the respondents to comply with the order of this Tribunal within one month from today i.e. by 21-7-1989.

8d —

MEMBER(A)

24.6.89

CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE BENCH

Commercial Complex (BDA)
Indiranagar
Bangalore - 560 038

Dated : 27 SEP 1989

CONTEMPT

PETITION (CIVIL) APPLICATION NO (2)
IN APPLICATION NO. 177/89(F)
W.P. NO (D)

74

89

Applicant (s)

Shri Mahadevaiah

Respondents

V/s

The Regional Provident Fund Commissioner,
Karnataka, Bangalore

To

1. Shri Mahadevaiah
No. U-68, 1st Main Road
Swatantranagar
Sreeramapuram Post
Bangalore - 560 021
2. Shri R.M. Suraj
Advocate
34/3, Ganesh Buildings, II Floor
5th Main, Gandhinagar
Bangalore - 560 009
3. The Regional Provident Fund Commissioner
Karnataka
'Bhavishyanidhi Bhavan'
No. 8, Rajaram Mohan Roy Road
Bangalore - 560 025
4. 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~~

C.P. (Civil)

passed by this Tribunal in the above said application (s) on 22-9-89.


DEPUTY REGISTRAR
(JUDICIAL)

Encl : As above

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE BENCH, BANGALORE

DATED THIS THE 22ND DAY OF SEPTEMBER, 1989

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

CONTEMPT PETITION (CIVIL) NO.74/1989

Mahadevaiah,
Upper Division Clerk,
(Under Suspension)
Office of the Regional
Provident Fund Commissioner,
No.8, Rajaram Mohan Roy Road,
Bangalore-560 025.

.. Complainant.

(Shri R.M.Suraj, Advocate)

Vs.

Mr.H.Mondal,
The Regional Provident
Fund Commissioner,
No.8, Rajaram Mohan Roy Road,
Bangalore-560 025.

.. Respondent.

(Shri M.Vasudeva Rao, Advocate)

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

O R D E R

Petitioner by Shri R.M.Suraj. Respondents by
Shri M.V.Rao.

In this petition made under Section 17 of the
Administrative Tribunals Act of 1985 and the Contempt of
Courts Act of 1971, the petitioner has moved this Tribunal
to punish the respondents for not implementing an order made
in his favour on 12-4-1989 in Application No.177/1989.



3. Shri Rao submits that on the dismissal of the Special Leave Petition filed by the respondents by the Supreme Court, the respondents had implemented the order made in favour of the petitioner in letter and spirit. Shri Suraj does not dispute this statement of Shri Rao. From this it follows that these Contempt of Court Proceedings are liable to be dropped. We, therefore, drop these Contempt of Court Proceedings. But in the circumstance of the case, we direct the parties to bear their own costs.



Sd/-
VICE-CHAIRMAN 22/11

Sd/-
MEMBER(A) 12.10.88

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[Signature]
DEPUTY REGISTRAR (JULY)
CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE

vr.

Commercial Complex (BHA)

Indiranagar

Bangalore - 560 038

Dated : 14 APR 1989

APPLICATION NO (S) 177 / 89(F)

W.P. NO (S)

Applicant (s)

Shri Mahadevaiah

To

Respondent (s)

V/s

The Regional Provident Fund Commissioner,
Bangalore

1. Shri Mahadevaiah
U-68, 1st Main Road
Swatantranagar
Sreeramapuram Post
Bangalore - 560 021
2. Shri Hari Krishna S. Holla
Advocate
34/3, II Floor, Ganesh Building
5th Main, Gandhinagar
Bangalore - 560 009
3. The Regional Provident Fund Commissioner
'Bhavishya Nidhi Bhavan'
No. 8, Rajaram Mohan Roy Road
Bangalore - 560 025
4. 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/~~SPKX~~/ ~~INTERIM ORDER~~
 passed by this Tribunal in the above said application(s) on 12-4-89.

4. Shree
K. R. R.
17-4-89

o/c *R. Venkatesh*
 DEPUTY REGISTRAR
 (JUDICIAL)

— BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL:
BANGALORE BENCH: BANGALORE

Dated this the 12th day of April, 1989

Before.

THE HON'BLE MR.L.H.A.REGO ..MEMBER(A)

Application No.177 of 1989(F)

Shri Mahadevaiah S/o Ramaiah,
UDC, O/o Regional
Provident Fund Commissioner,
Bangalore/25
R/at No.U-68, 1st Main Road
Swatantranagar,
Sreeramapuram post,
Bangalore-21.

..Applicant

(Shri Harikrishna S.Holla, Adv. for applicant)

vs.-

The Regional Provident Fund Commissioner,
No.8, Rajaram Mohan Rai Road,
Bangalore-25...

.. Respondent.

(By Shri M.Vasudeva Rao, Addl.Central Government
Standing Counsel for the respondent)

This application coming on for hearing this
day, HON'BLE MR. L.H.A.REGO, MEMBER(A), made the
following:

Order

The applicant herein, has prayed for a direction
to the respondent, to enhance his Subsistence Allow-
ance(SA), in relation to the revised pay scale,
for the post of Upper Division Clerk(UDC)[which
post he held at the relevant time], as recommended
by the IV Central Pay Commission('IV/CPC') and accepted

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by the Government of India (GOI) and to pay the same to him accordingly, with effect from 8.12.1986 (i.e. the date on which he was placed under suspension) to date.

2. The salient background to this case is as follows: The applicant who was working as UDC, under the respondent, was placed under suspension by the latter on 8.12.1986 (Ann.A1), as he was involved in a criminal case, which is said to be still pending decision by the Principal City Civil Judge, Bangalore.

3. The applicant is said to be currently paid SA, according to the provisions of Rule 6(1)(b) of the Employees' Provident Fund Staff (Classification Control and Appeal) Rules, 1971 ('1971 Rules' for short), in relation to the pre-revised scale of pay of UDC. He states, that according to the recommendations of the IV CPC, as accepted by the GOI, his SA ought to have been enhanced, in relation to the revised pay scale sanctioned for the post of UDC. He is said to have represented thereon, to the respondent but to no avail. He alleges, that as a result, he is suffering no little financial hardship, on account of meagre SA paid to him, as compared to the abnormal rise in the cost of living. He has therefore approached this Tribunal, for redress.

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4. The respondent has filed his reply, resisting the application.

5. Shri Harikrishna Holla, learned Counsel for the applicant, submitted, that this application is alike on facts and law, with Application No.1829 of 1988 [R.L.DESHPANDE vs. THE REGIONAL PROVIDENT FUND COMMISSIONER] and Application No.1383/1988 [N.MOHAN RAJ vs. THE REGIONAL PROVIDENT FUND COMMISSIONER], both of which, were disposed of by this Tribunal, on 16.1.1989 in favour of the applicant. He further pointed out, that Review Application No.1883/1989, on original Application No.1883/1988, was rejected by this Tribunal on 5.4.1989, at the admission stage itself. He pleaded, that the ratio decidendi in the aforesaid two applications, applied to the present case, mutatis mutandis and asserted, that the respondent was therefore duty bound, to pay enhanced SA to his client, in relation to the revised pay scale, in accordance with the decision of this Tribunal, in the above two cases, specially, when the old pay scale for the post of 1982, was no more in existence. This would otherwise be discriminatory and illegal, he alleged.

6. In refuting the above contentions of Shri Holla, Shri K.Vasudeva Rao, learned Counsel for the respondent, submitted, that according to the provisions of Rule 6 of the Central Civil Services (Revised Pay) Rules, 1986 ('1986 Rules' for short),

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a Government servant under suspension, as on 1.1.1986, (i.e. the date from which the recommendations of the IV CPC, were to be given effect to) had to exercise his option, in regard to pay scale of the post held by him, within a period of three months, from the date of his return to duty. He stated, that ⁴the representation addressed by the applicant, to the respondent, with a request to pay him SA, at the enhanced rate, in relation to the pay scale revised and sanctioned as above, for the post of UDC, was a mere application but not of the nature of a statutory option, required to be exercised by him, in accordance with the 1986 Rules. He further pointed out, that the 1986 Rules, were implemented by the Central Provident Commissioner, by his Letter dated 11.3.1987 retrospectively, with effect from 1.1.1986. As, on 11.3.1987, when the said Rules came to be implemented by the Central Provident Commissioner, Shri Rao submitted, the applicant was not on duty, but under suspension, and since he had not exercised his option, in regard to the pay scale required by the 1986 Rules, he could not claim enhanced SA, in relation to the revised pay scale, sanctioned for the post of UDC.

7.I have examined carefully, the averments of both sides. I am satisfied, that the application before me, is on all fours, with Applications Nos. 1829 and 1883 of 1988, in point of facts and law.

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If so, the legal maxim: "in like cases, the judgment should be the same"- de similibus idem est iudicium applies to the present case.

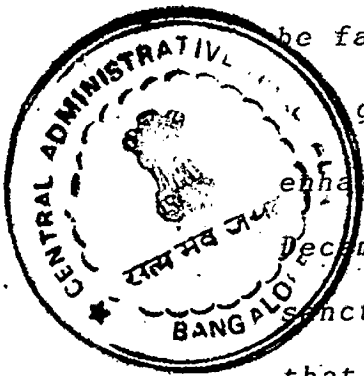
8. It is apparent, that the applicant was not given due opportunity, to exercise his option in regard to the pay scale, in accordance with the 1986 Rules. In fact, the very statement of the respondent, that the applicant was not on duty but under suspension, bewrays, that this opportunity was denied to him. The applicant cannot therefore, be faulted on this score.

9. The applicant has specifically prayed, that enhanced SA be paid to him, with effect from 8th December, 1986, in relation to the revised pay scale sanctioned for the post of UDC. It is but proper, that the respondent takes a realistic view, in enhancing the SA of the applicant, from the relevant date, in relation to the pay scale revised for the post of UDC, deeming in the above circumstances, that he opted for the same, rather than take an intrusive view and that too, at this belated stage.

10. In fine, I make the following order:

ORDER

- (i) The respondent is DIRECTED to determine, enhanced SA of the applicant, as on 8.12.1986, in relation to the revised scale of pay sanctioned for the post of UDC (pursuant to acceptance of the recommendation of the IV CPC) and the pay he would have drawn therein on that date (corresponding to the pay drawn by him, in the pre-revised pay scale, immediately prior to his suspension) had he been in service and to pay the same to him, inclusive of





arrears, within a period of two months from the date of receipt of this order.

(ii) The application is disposed of in the above terms, with no order however, as to costs.

sd/-
(L.H.A. REGO) / 12.4.1967
MEMBER (A)

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[Signature]
DEPUTY SECRETARY (JDL) *14/4*
CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE

END: