

CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE BENCH

Commercial Complex(BDA)
Indiranagar
Bangalore - 560 038

Dated : 14 APR 1989

APPLICATION NO (S) 178 / 89(F)

W.P. NO (S)

Applicant (s)

Respondent (s)

Shri D. Gopinath

V/s The Regional Provident Fund Commissioner,
Bangalore

To

1. Shri D. Gopinath
No. J-61/33, II Main Road
Hanumanthapuram
Sreeramapuram Post
Bangalore - 560 021
2. Shri Marikrishna S. Holle
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 ~~/STAY/INTERIM ORDER~~
passed by this Tribunal in the above said application(s) on 12-4-89

9/5/89
17-4-89
o/c
DEPUTY REGISTRAR
(JUDICIAL)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

BANGALORE BENCH: BANGALORE

DATED THE 12TH DAY OF APRIL, 1989

BEFORE

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

Application No.178 of 1989(F)

Shri D.Gopinath S/o Obleshappa,
UDC, O/o The Regional
Provident Fund Commissioner,
No.8, Rajarama Mohan Ray Road,
Bangalore-25

R/at No.J 61/33,
II Main Road,
Banumanthapuram,
Srirampura Post,
Bangalore-21.

...Applicant

(By Shri Harikrishna S.Holla, Advocate for the applicant).

-Vs. -

The Regional Provident Fund Commissioner, No.8, Rajarama Mohan Ray Road,
Bangalore-25.

.. Respondent

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

This Application coming on for hearing this

day, the Hon'ble Shri 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 Allowance(SA), in relation to the revised pay scale for

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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 by the Government of India(GOI) and to pay the same to him accordingly, with effect from 1.1.1986(i.e., the date when the revised pay scale as recommended by the IV CPC, was given effect to) 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 on 13.5.1981 by the latter, on account of disciplinary proceedings contemplated against him for certain misdemeanour.

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 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 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.

VA

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.DESHAPANDE vs.THE REGIONAAL PROVIDENT FUND COMMISSIONER] and Application No.1883 of 1988 [M.MOHAN RAJ v.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. 1869 of 1989, on original Application No.1883 of 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 1st pay scale for the post of UDC was no more in existence. This would otherwise be discriminatory, and illegal, he alleged.

6. In refuting the above contentions of Sri Holla, Shri N.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), 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 the representation addressed by the applicant to the respondent, with a request to pay him the 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 Fund 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 Fund 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 as 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 ~~same~~^{de} with Applications 1829 and 1883 of 1988, in point of facts and law. 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, betrays, 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 1st January, 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 intransigent view and that too, at the belated stage.

10. In fine, I make the following order:

ORDER

- (i) The respondent is DIRECTED to determine, the enhanced SA of the applicant, as on 1.1.1986, in relation to the revised scale of pay, sanctioned for the post of UDC (pursuant to acceptance of the recommendations of the IV CPC) and the pay he would have drawn therein on that date (according to the pay drawn by him, in the pre-revised scale immediately prior to his suspension) had he been in service and to

[Signature]



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 as to costs.

Sd/-

(L.H.A.REGO) / 12.4.1989

MEMBER(A)

TRUE COPY

[Signature]
DEPUTY REGISTRAR (JULY 1982)
CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE

kms:

Commercial Complex(BDA)
Indiranagar
Bangalore - 560 038

Dated : 22 JUN 1989

IA I IN APPLICATION NO (R) 178 /89(F)
W.P. NO (S)

Applicant (s)

Respondent (s)

Shri D. Gopinath

V/s

The Regional Provident Fund Commissioner, Bangalore

To

1. Shri D. Gopinath
No. J-61/33, II Main Road
Hanumanthapuram
Srerampuram Post
Bangalore - 560 021
2. Shri Harikrishna S. Holle
Advocate
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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~~/~~INTERIM ORDER~~
passed by this Tribunal in the above said application(x) on 21-6-89.

Encl : As above

DEPUTY REGISTRAR
(JUDICIAL)

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

D. Gopinath

V/s A.No. 178/89 (F)

The Regional Provident Fund
Commissioner, Bangalore

Harikrishna S. Holla

Order Sheet (contd)

M. Vasudeva Rao

Date	Office Notes	Orders of Tribunal
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TRUE COPY

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

LHAR/21.6.89

Applicant by Shri H.S.Holla.

Respondents by Shri M.V.Rao.

ORDERS ON I.A.NO.1.

In this ^{to} 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.

Sd —

MEMBER (M)

CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE BENCH

Commercial Complex (BDA)
Indiranagar
Bangalore - 560 038

Dated : 15 SEP 1989

IA II IN APPLICATION NO (9) 178 / 89

W.P. NO (D)

Applicant (s)

Respondents

Shri D. Gopinath

V/o

The Regional Provident Fund Commissioner,
Bangalore

To

1. Shri D. Gopinath
No. J-61/33, II Main Road
Hanumanthapuram
Sraseramapuram Post
Bangalore - 560 021
2. Shri Suraj R. Manjeshwar
Advocate
34/3, Ganesh Buildings, II Floor
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~~/~~INTERIM ORDER~~

passed by this Tribunal in the above said application(9) on 1-9-89.

Encl : 4

DEPUTY REGISTRAR
(JUDICIAL)

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

A.NI. 178/89(F)

D. Gopinath


V/s

The Regional Provident Fund Commissioner
Bangalore

Order Sheet (contd)

Suraj R. Manjeshwar


M. Vasudeva Rao

Date	Office Notes	Orders of Tribunal
		<p><u>KSPVC/PSM(A)</u> 1.9.1989</p> <p><u>ORDERS ON I.A.NO.II - APPLICATION FOR EXTENSION OF TIME.</u></p> <p>In this I.A., the respondent has sought for extension of time till the disposal of the SLP stated to have been filed before the Supreme Court.</p> <p>We have heard Shri M.V. Rao, learned counsel for the respondent and Shri Suraj, learned counsel for the applicant. We are of the view that everyone of the facts and circumstances stated in I.A. No.II does not justify us to grant any extension. We, therefore, reject I.A. No.II.</p>

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TRUE COPY


DEPUTY REGISTRAR (JDL)
CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE

CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE BENCH

Commercial Complex (BDA)
Indiranagar
Bangalore - 560 038

Dated : 31 OCT 1989

CONTEMPT

PETITION (CIVIL) APPLICATION NO (S) 75 / 89
IN APPLICATION NO. 178/89(F)
W.P. NO (D)

Applicant (s)

Shri D. Gopinath

To

Respondents

V/s

The Regional Provident Fund Commissioner,
Karnataka, Bangalore

1. Shri D. Gopinath
J-61/33, II Main Road
Hanumanthapuram
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2. Shri Harikrishna S. Holla
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3. The Regional Provident Fund Commissioner
Karnataka
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No. 8, Rajaram Mehan Roy Road
Bangalore - 560 025
4. Shri M. Vasudeva Rao
Central Govt. Sng 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

25-10-89

R. Venkatesh
DEPUTY REGISTRAR
(JUDICIAL)

In the Central Administrative Tribunal
Bangalore Bench,
Bangalore

ORDER SHEET

C.P.(Civil) Application No. 75 of 1989

Respondent

Applicant

D. Gopinath

Advocate for Applicant

Harikrishna S. Holla

V/s

The Regional Provident Fund Commissioner,
Karnataka, Bangalore

Advocate for Respondent

M. Vasudeva Rao

Date

Office Notes

Orders of Tribunal



TRUE COPY

[Signature]
DEPUTY REGISTRAR (JDS) 31/10
CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE

VC/LHAR(AM)

25-10-1989

ORDER.

Petitioner by Sri S.K.Srinivasan for Sri H.K.S.Holla.

Respondent by Sri M.V.Rao.

Sri Rao submits that the respondent had implemented the Order made in favour of the petitioner, in letter and spirit. Sri Srinivasan does not rightly dispute this position. Even otherwise, we ^{have no reasons to} ~~do not~~ disbelieve the correctness of the submission made by Sri M.V.Rao.

It follows that the
From this, the Contempt of Court Proceedings ~~is~~ ^{are} liable to be dropped. We, therefore drop the Contempt of Courts Proceedings in the circumstances of the case and we direct the parties to bear their own costs.

Sd —

(K.S.PUTTASWAMY)
VICE CHAIRMAN

(L.)