

CENTRAL ADMINISTRATIVE TRIBUNAL

BANGALORE BENCH

Second Floor,
Commercial Complex,
Indiranagar,
Bangalore-560 038.

Dated:- **22 JUL 1994**

APPLICATION NUMBER: 361/93

APPLICANTS:

RESPONDENTS:

Sri. L. H. A. Rego, vs. Secretary, DP&AR, New Delhi & another.

① Dr. M. S. Nagaraja, Advocate, no. 11, 2nd Floor,
1st Cross, Sujatha Complex, Gandhinagar, Bangalore-9.

② Sri. M. S. Padmarajiah, Sr. CGSC,
High Court Bldg, Bangalore-1.

Subject:- Forwarding of copies of the Orders passed by the
Central administrative Tribunal, Bangalore.

Please find enclosed herewith a copy of the ~~ORDER/~~
~~STAY ORDER/INTERIM ORDER/~~, passed by this Tribunal in the above
mentioned application(s) on 18-07-94.

Issued on
22/7/94
B.

of
lc

for *[Signature]*
DEPUTY REGISTRAR
JUDICIAL BRANCHES.

CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE BENCH; BANGALORE

APPLICATION NO. 361/1993

DATED THIS THE EIGHTEENTH DAY OF JULY, 1994

Mr. Justice P.K. Shyamsundar, Vice
Chairman

Mr. T.V. Ramanen, Member (A)

Shri L.H.A. Rega
Aged 64 years
MIG Flat No. MF-5/27
1st Floor, 'A' Block
BDA Layout, Domlur 2nd Stage
Bangalore - 560 071.

.... Applicant

(By Dr. M.S. Nagarega, Advocate)

vs.

1. Union of India
represented by the
Secretary to Government
Department of Personnel and
Training, Ministry of Personnel
Public Grievances & Pensions
New Delhi.

2. The Chairman
Central Administrative Tribunal
Faridkot House, Copernicus Marg
New Delhi.

.... Respondents

(Dr. M.S. Padmarajaiah, S.C.G. S.C.)

O R D E R

(Mr. T.V. Ramanen, Member (A))

In this application under Section 19 of the
Administrative Tribunals Act, 1985 ('Act' for short), the
applicant who had held the office of the Member of this Tribunal
between 3.3.1986 and 10.5.1990 has sought the following reliefs:-

.....2/-



- i) Declare the action of the 1st respondent in denying the benefit of fixation of pay to the applicant, on appointment, as Member, CAT, with effect from 3.3.1986 restricting the benefit of pay plus pension, to the last pay drawn at Rs 3,500/- (pre-revised) and Rs 8,000/- (revised) per mensem as discriminatory.
- ii) Fix the pay of the applicant, on appointment as Member, CAT, with effect from 3.3.1986 applying the general principles of fixation of pay, on re-employment of pensioners according to the provisions of the C.S.R. or in the alternative on the same principles, applicable to retired civil servants, appointed as Members of the UPSC, thereby protecting the last pay drawn in the pre-revised pay of Rs 3,500/- per mensem and revised pay of Rs 8,000/- per mensem on appointment as Member of the CAT or at least extending the benefit of liberalised formula of fixing initial pay by reckoning the last pay drawn in terms of Government of India letter No.A-12018/1/87-At dtd. 2.5.1990.
- iii) Grant all consequential benefits.
- iv) Award the cost of this application and
- v) Grant such other reliefs, as this Hon'ble Tribunal deems fit and expedient, in the circumstances of the case, in the interest of equity and justice.

2. At the very outset the Senior Central Government Standing Counsel drew our attention to O.A. no.393/1991 (Shri Ch. Ramakrishna Rao Vs. Union of India & Ors) dismissed by this Bench of the Tribunal on 14.9.1993 and O.A. no.370/1991 (Shri Ch. Ramakrishna Rao Vs. Union of India & Ors.) also dismissed on the same date by reference to O.A. no.393/1991. He pointed out that both the applications were dismissed for the reasons as stated in the order in O.A. no.393/1991 that this Tribunal cannot sit in judgement and decide the tenability of a rule concerned with the conditions "of our own service" and that "we cannot be judge in our own cause". Both these O.As had been filed by Shri Ch. Ramakrishna Rao, a former Member of this Tribunal seeking reliefs on certain service matters concerning

his tenure in the Tribunal. The Standing Counsel, therefore, contended that the application now before us being from another former Member of this very Tribunal, it should also be not entertained but dismissed for those very reasons.

3. Learned counsel for the applicant started off by citing the case of S.D. Prasad Vs. Union of India and Ors. reported in (1991) 17 ATC 875 decided by the Patna Bench of this Tribunal. He also cited the cases of K. Gopal Hegde Vs. Union of India reported in (1992) 20 ATC 77, B.R. Nair Vs. Union of India & Ors. reported in (1993) 25 ATC 314 and Daulet Singh and Ors. Vs. Union of India & Ors. reported in (1993) LAB I.C. 2383 decided by the High Court of Madhya Pradesh. Alluding to the original Application nos. 370/1991 and 393/1991 decided by this Bench of the Tribunal cited by the learned Senior Central Government Standing Counsel and relying upon S.D. Prasad's case, he contended that we could take a view to refer this application for being placed before a larger Bench of this Tribunal.

4. We have carefully considered the arguments advanced from both sides.

5. We are of the view that for the very reasons given by this Bench of the Tribunal for dismissing O.A. nos. 393/1991 and 370/1991 that this application also be not entertained but dismissed. The relevant extracts from the order passed in O.A. nos. 393/1991 are reproduced below;

4. But then we think it however, not just and proper and we may also say that it is not open to us to sit in judgement and decide the tenability of a rule concerned with the conditions of our own service. All of us are governed by the Central Administrative Tribunal's



Act and the rules framed thereunder, but, if somebody thinks that some rule operates to his detriment, the challenge to the rule cannot be done before this forum and has got to be necessarily done, elsewhere.

5. We think that the controversy herein will have to remain unsolved at our hands because it makes us a judgement in our own cause. On this short ground, we decline to entertain the grievance of the applicant and adjudicate on the same..... "

It is true that the Patna Bench of this Tribunal entertained the application made by Shri S.D. Prasad, a former Member of this Tribunal, seeking certain reliefs relating to his tenure in the Tribunal and decided the case. As regards Gopal Hegde's case cited by the learned counsel for the applicant, that was a case in which Shri Hegde, a former Member of the Customs Excise and Gold (Control) Appellate Tribunal approached this Tribunal seeking parity in pay with the Members of the Central Board of Excise and Customs. His application was considered and rejected by this Bench of this Tribunal. While disposing of the applications of Shri Ch. Ramakrishna Rao, the cases of S.D. Prasad and Gopal Hegde were brought to the notice of this Bench of the Tribunal. Commenting on the same this Tribunal observed in its order in O.A. no.393/1991: "we notice that the basis on which we are declining jurisdiction herein was not noticed or raised in either of the above cases and therefore, the applicant can profit little by relying on them". Even otherwise Shri Gopal Hegde was not a Member of the Central Administrative Tribunal but a Member of another Tribunal. Perhaps in view of the observation reproduced above, it may not be necessary for us to further dwell on those cases. The case of B.R. Neir (1993) 25 ATC 314 cited by the learned counsel for the applicant is also not of any help to him as the applicant there was not a Member of the Central Administrative Tribunal

but a former Member of the Railway Claims Tribunal.

5. The case of Daulatram and Ors. Vs. Union of India and Others (1993 LAB I.C. 2383) cited by the learned counsel for the applicant is of no help to him. In that case the validity of the appointment of Vice Chairman and Members of the Madhya Pradesh State Administrative Tribunal was under challenge. The High Court has, inter alia, taken the view that the posts of Vice Chairman and Members of the Tribunal are not civil posts under the Union or the State and therefore, the Central Administrative Tribunal or the State Administrative Tribunal itself shall have no jurisdiction to consider the matter. In fact, the view expressed by the Madhya Pradesh High Court goes against the applicant because if a member of this Tribunal is not considered to be holding a civil post, his case relating to service matters concerning him cannot be entertained by the Tribunal for lack of jurisdiction under Section 14 of the Act.

6. In view of the foregoing we do not propose to entertain this application. As a result, this application fails and accordingly we dismiss it. The applicant may approach the proper forum for redressal of his grievances. No order as to costs.



Sch-
(T.V. RAMANAN)
MEMBER(A)

Sch-
(P.K. SHYAMSUNDAR)
VICE CHAIRMAN

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SECTION OFFICER
CENTRAL ADMINISTRATIVE TRIBUNAL
ADDITIONAL BENCH
BANGALORE