

CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE BENCH

Second Floor,
Commercial Complex,
Indiranagar,
Bangalore-560039.

Dated: 1 NOV 1993

APPLICATION NO(S) 610 of 1993

APPLICANTS: S.Ranganathan

RESPONDENTS: Director of Personnel,
DRDO, M/o. Defence, N. Delhi & Others.

TO.

1. Sri.M.Ram Bhat, Advocate,
'Chaitra' No.20, Sixth Cross,
Eighth Main Road,
Vasanthnagar, Bangalore-560 052.
2. The Director of Personnel,
Ministry of Defence,
Defence Research & Development Organisation,
DHQ Post, New Delhi-110 001.
3. The Scientific Adviser to the Ministry of Defence,
Research & Development Organisation,
DHQ Post, New Delhi-110001.
4. The Director,
Gas Turbine Research Establishment,
Suranjan Das Road, Post Bag No.7575,
Bangalore-560 093.
5. Sri.M.Vasudeva Rao,
Central Government Standing Counsel,
High Court Building, Bangalore-560001.

Subject:- Forwarding of copies of the Order passed by
the Central Administrative Tribunal, Bangalore.

Please find enclosed herewith a copy of the
ORDER/STAY/INTERIM ORDER, passed by this Tribunal in the
above said application(s) on 05-10-1993.

Issued
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Gm

for *m. b. S.*
DEPUTY REGISTRAR
JUDICIAL BRANCHES.
11/11/93
a/c

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL

BANGALORE BENCH : BANGALORE

DATED THIS THE 5TH DAY OF OCTOBER, 1993

PRESENT

HON'BLE JUSTICE MR. P.K. SHYAMSUNDAR .. VICE CHAIRMAN

HON'BLE MR. V. RAMAKRISHNAN ... MEMBER (A)

APPLICATION No. 610/93

S. Ranganathan,
aged about 51 years
S/o. Late G. Sundararajan,
Ex.J.S.O. Gas Turbine Research
Establishment (GTRE),
No.10, Krishnappa Building,
Bhuvanewari Nagar C.V.Raman Nagar Post,
Bangalore - 560 093. .. Applicant

(Shri M. Ram Bhat .. Advocate)

Vs.

1. Union of India by
Director of Personnel,
Ministry of Defence,
Defence Research & Development Organisation (DRDO),
DHQ Post, New Delhi - 110 001.
2. The Scientific Adviser to the
Ministry of Defence and
Director General, Research &
Development Organisation,
Ministry of Defence, DHQ P.O.
New Delhi - 110 001.
3. The Director,
Gas Turbine Research Establishment
(GTRE) Suranjan Das Road,
P.B.No.7575, Bangalore - 560 093. .. Respondents

(Shri M. Vasudeva Rao .. Advocate)

This application, having come up before this Tribunal
today for hearing, Hon'ble Justice Mr. P.K. Shyamsundar, Vice
Chairman, made the following:

ORDER

We have heard both sides. This application arises
from an order dated 21.10.1991 vide Annexure-A1 passed by the

...2..



President issued by the Director of Personnel, Defence Research and Development Organisation directing the pre-mature retirement of the applicant from service with effect from the date of the order, i.e., from 21.10.1991 deeming such retirement in the interest of public. The order purports to have been passed under clause (h) of Article 459 of C.C.S. Regulations directing the applicant's retirement compulsorily on finding that he had attained the age of 50 years on 15.10.1991. Inter alia, the order directs payment of 3 months pay and allowances at the same rate he was drawing such pay and allowances immediately before his retirement.

2. From that order, the applicant having submitted a representation which we find has been disposed off vide Annexure-A2 dated 12.5.1992. But, we are told by the applicant that the said order at Annexure-A2 was received by him in the 3rd week of May, 1992. The question of there being some delay in approaching the Tribunal for relief in this application does arise, as we find that the applicant should have filed this application within one year from the date of Annexure-A2 which finally disposed off at any rate the controversy raised apropos the order of retirement at Annexure-A1. We notice the applicant had taken two more months beyond that one year in coming to us and having realised that he had in fact delayed, approaching us, he has filed an affidavit seeking condonation of delay wherein he pleads that after he received the order at Annexure-A2, rejecting his representation, he fell ill for over a month and only after recovering he could activate himself in the matter and that he was physically prevented from

approaching this Tribunal during that period because of ill-health. In support, he has produced two medical certificates issued by a Govt. doctor at Bangalore, which says that the applicant was suffering from viral fever and bronchitis and that he had been advised 36 days rest from 20.5.1993 and that he would be fit to resume work thereafter.

3. Albeit the submission of the Learned Standing Counsel who suggests that we should dismiss this application in limine and maintains the reasons adduced for explaining the delay are too weak to merit condonation. However, we find that there is just a small delay of 42 days which can be condoned based on the grounds put forth in the annexed Miscellaneous Petition stating he had been suffering from viral fever and bronchitis subsequent to the receipt of the order communicating rejection of his appeal as per Annexure-A2 and he was thereby unable to move this Tribunal in time. He has supported himself by medical certificate, a document we have no reason to doubt. The learned standing counsel points out that the man being out of service, the certificate indicates the date on which the applicant is considered fit for resumption of active service. While, it is true that the said anomaly does occur in the medical certificates which certifies a person who has retired to be fit for resumption of service later. This odding, it is more due to the laxity on the part of the doctor, who should have earlier taken care to strike down a few lines in the printed format since everything in the format is not applicable to the man. In the circumstances, we do not think that odding can be treated adequate enough to discard the certificate which is not denied



on any other ground. Therefore, we accept the fact that the applicant fell ill, after he received the communication as per Annexure-A2 and sustaining disabilities is good enough for condoning the delay. Under the circumstances, the delay stands condoned and the application will therefore be disposed off on merits.

4. The impugned order under Annexure-A1 suffers from a fatal infirmity. The President has ordered payment of three months pay and allowances at the same rate at which such pay and allowances had been drawn hitherto be quantified and paid. The three months pay and allowances admittedly aggregate to Rs.15,660.00 as per the records placed before us. But, he was actually paid Rs.10,188/- which was certainly short of the required three months pay and allowances. This is an aspect which is not disputed at all. In the objection statement, it is stated that the full amount was handed over to the applicant who had in turn paid back to the department some money that was owed. That statement is incorrect. The department had issued a cheque for Rs.10,188/- and to that effect the applicant has himself recorded a minute in the records placed before us. The learned standing counsel does not dispute the same now. There is, thus, a short payment and the standing counsel says that the man having received the amount of retiral benefits cannot on that score be reinstated in service. ~~We~~ do not agree.

5. In the above circumstances, the order made under Article 459 of C.C.S. Regulations by the President not having been implemented in accordance with the presidential fiat, will not have the effect of removing the applicant from service as intended under Annexure-A1. In the view, we have taken above, we are fortified in a decision of this Tribunal in O.A.No.333/93 disposed off on 7.9.1992 - Dhar Gupta Vs. Union of India, etc.

6. Following the said judgment and apart from apriory considerations, we hold the order made by the President under Article 459(h) not having been effectively implemented, it becomes, therefore, non-est both in law and on facts.

7. Hence, it is, we must allow this application, quash the impugned order of retirement under Annexure-A1 and in consequence, direct the applicant be reinstated in service forthwith and be paid all pay and allowances due from the date of premature retirement to the date of relief. The department will be entitled to recover all the retiral benefits already given to the applicant either by way of gratuity or otherwise. Let a copy of the order be sent to the department for compliance and needful action.



Sd/-

VICE CHAIRMAN

TRUE COPY

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17/11/93

SECTION OFFICER
CENTRAL ADMINISTRATIVE TRIBUNAL
ADDITIONAL BENCH
BANGALORE

CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE BENCH

Second Floor,
Commercial Complex,
Indiranagar,
Bangalore-38.

Miscellaneous Application No.494/93 in Dated: **13 FEB 1994**

APPLICATION NO(s) 610 of 1993

APPLICANTS: **S.Ranganathan** v/s. RESPONDENTS: **Director, DRDO, New Delhi and Others.**

TD.

1. **Sri.M.Raj Bhat, Advocate,**
'Chaitra',
No.20, Sixth Cross,
Eighth Main Road,
Vasanthnagar, Bangalore-52.
2. **Sri.M.Vasudeva Rao,**
C.G.S.C., High Court Bldg,
Bangalore-1.

SUBJECT:- Forwarding of copies of the Orders passed by
the Central Administrative Tribunal, Bangalore.

-xxx-

Please find enclosed herewith a copy of the
ORDER/STAY ORDER/INTERIM ORDER/, Passed by this Tribunal
in the above mentioned application(s) on 24-01-1994.

Issued on
3/2/94

gm*

olc

for

E. S. S. S. S.
DEPUTY REGISTRAR
JUDICIAL BRANCHES.

3/2/94

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Date	Office Notes	Orders of Tribunal
		<p data-bbox="870 309 1262 355"><u>ORDERS ON M.A.494/93</u></p> <p data-bbox="807 436 1560 1343">Heard both sides. The direction in the order is that the applicant should be reinstated forthwith. But so far he has not been reinstated till now. As final chance, one months time is extended for complying with the directions of this Tribunal. The counsel for the applicant in OA submits that the respondents have received orders on 11.11.93 and the respondents had sufficient time to comply with the directions, but they have have not complied with and they have made this M.A. in which we have extended time by one months as a last chance from today.</p> <p data-bbox="901 1354 1497 1400">MA is disposed of accordingly.</p> <div data-bbox="799 1435 1074 1572"><p>Sd- 24/1/94 MEMBER (J)</p></div> <div data-bbox="1285 1435 1497 1572"><p>Sd- MEMBER (A)</p></div> <div data-bbox="980 1710 1199 1756">TRUE COPY</div> <div data-bbox="909 1767 1379 1986"><p><i>S. R. Manohar</i> SECTION OFFICER CENTRAL ADMINISTRATIVE TRIBUNAL ADDITIONAL BENCH BANGALORE 3/2/94</p></div>



CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE BENCH

Second Floor,
Commercial Complex,
Indiranagar,
Bangalore-38.

Miscellaneous Application No.126/94 in

Dated: 7 MAR 1994

APPLICATION NO(s) _____ 610 of 1993.

APPLICANTS: S.Ranganathan v/s RESPONDENTS: Director, DRDO, New Delhi
and Others.

TO.

1. Sri.M.Ram Bhat, Advocate, No.20, 'Chaitra'
Sixth Cross, 8th Main Road, Vasanthanagar,
Bangalore-52.
2. Sri.M.Vasudeva Rao, Central Govt. stng. counsel,
High Court Building, Bangalore-1.

SUBJECT: Forwarding of copies of the Orders passed by
the Central Administrative Tribunal, Bangalore.

-xxx-

Please find enclosed herewith a copy of the
ORDER/STAY ORDER/INTERIM ORDER/, Passed by this Tribunal
in the above mentioned application(s) on 02-03-1994.

gm*

6/c
Issued on 7-3-94

Se Shauhar
DEPUTY REGISTRAR 7/3
JUDICIAL BRANCHES.

In the Central Administrative Tribunal
Bangalore Bench
Bangalore

Application No. 610 of 1993

S. Ranganathan.

ORDER SHEET (contd)

Director, DRDO & others
NEW DELHI

MA 126/94

Date

Office Notes

Orders of Tribunal

PKSR/TVRMA

2-3-94

order on IA No 126/94
Standing Counsel

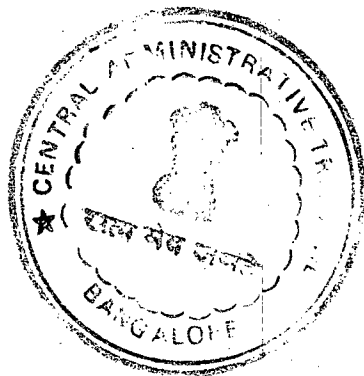
93. Says that this IA has
become infructuous and
therefore, not pressed

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MA

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TRUE COPY

S. Shauhar

SECTION OFFICER

CENTRAL ADMINISTRATIVE TRIBUNAL

ADDITIONAL BENCH

BANGALORE