CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE BENCH

R.A. No.32/93 TO 42/93

MONDAY THIS THE THIRD DAY OF JANUARY 1994

Shri Justice P.K. Shyamsundar ... Vice-Chairman

Shri V. Ramakrishnan ... Member [A]

1. The Regional Director,
Employees State Insurance Corporation,
No.10, Binni Fields,
Binnipet,
Bangalore-560 023.

2. The Director General,
Employees State Insurance Corporation,
E.S.I. Buildings,
Kotla Road, New Delhi. ... Applicants in RAs No.32 to 42/93

[By Advocate Shri M. Papanna]

V. Raju,
Head Clerk/Assistant — Respondent in RA 32/93

Raghava Shetty, Head Clerk — Respondent in RA 33/93

Lawrence Veigas, Assistant — Respondent in RA 34/93

Smt. H.C. Shanthamani, Assistant,
Benefit Branch-I — Respondent in RA 35/93

R. Jesu, Assistant — Respondent in RA 36/93

M. Jayaraju, Assistant — Respondent in RA 37/93

Smt. Padmini Anandaraj,
Assistant, Legal Branch — Respondent in RA 38/93

Smt. B. Vidya, Assistant — Respondent in RA 39/93

V. Venkatachalapathy,
Assistant, Accounts Branch. — Respondent in RA 40/93

S.R. Kuppa Swamy, Assistant — Respondent in RA 41/93

M. Armuga, Assistant — Respondent in RA 42/93

All the Respondents are working
in Regional Office,
Employees State Insurance Corporation,
No.10, Binni Fields, Binnipet,
Bangalore-23.

[By Advocate Shri V.N. Holla]

ORDER

Shri Justice P.K. Shyamsundar, Vice-Chairman:

1. We have heard both sides in these batch of R.A.s sponsored on behalf of the Employees State Insurance Corporation, being the respondents in O.A. No.743/91, 130/92, 223 to 230/92 and 352/92 disposed off by us on 26.2.1993. By that order we allowed all the aforesaid applications basing ourselves on an earlier decision rendered by us in O.A. No.350/91 decided on 3.10.1991 which do and admittedly covered the controversy raised in the applications supra and in terms thereof gave certain directions to the advantage of the applicants in these applications apart from setting a deadline to comply with our directions. In para 2 of the order we stated--

> "2. Shri Papanna submits that the order in O.A. No.350/90 is pending in the Supreme Court but we should state that so long as the Supreme Court has not stayed or set aside the order of this Tribunal the order of this Tribunal is in force and is liable to be followed. ..."

From the above it becomes clear that upon being advised that our judgment in O.A. No.350/90 was appealed before the Supreme Court and was pending but that there was no stay as on the date of our order and that, therefore, the judgment in O.A. No.350/90 still prevailed having not been set aside and in effect and in law we had to follow our own order made in O.A. No.350/90. It is on that basis we passed the order now impugned in these RAs. We are now told and it is not disputed that long prior to our order disposing of the O.A. stated supra, the Supreme Court had by an order dated 29.7.1992, copy produced herein at Annexure B, had issued notice on the SLP arising from O.A. No.350/90 and

had in the meanwhile also stayed the operation of the the judgment in the said petition. Subsequently by a further order made on 22.1.1993 vide Annexure C, the Apex Court granted special leave in that case and directed continuance of stay of the impugned order with a further direction that the matter be posted before the Court for final orders after the respondents put in their appearance. We are told that the respondents before the Supreme Court viz., the applicants in O.A. No.350/90 and connected cases have since entered appearance but the Special Leave Petition itself has not yet been placed before court for final disposal. Therefore, the position now is that operation of our order made in O.A. No.350/90 having been stayed by the Apex Court on 29.7.1992, that stay order continues even today and apparently the stay order was in operation on 26.2.1993 when we disposed off the O.As. referred supra. On such admitted position it now transpires that our judgment in O.A. No.350/90 had been stayed by the Supreme Court on the date of the order made in O.A. No.743/91 and connected cases and, therefore, we could not possibly base ourselves on the decision in O.A. No.350/90, the operation of which had already been stayed by the Apex Court. Under the circumstances we think it proper to recall our order made while disposing off the O.A.NO.743/91 and other connected cases on 26.2.1993 and direct the said cases be posted for denovo hearing on their merits. Let this matter be called on 1.3.1994.

31/1/94

MEMBER[A] 31/1/1994

VICE CHAIRMAN

BSV