

CENTRAL ADMINISTRATIVE TRIBUNAL

BANGALORE BENCH

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

Dated:- 22 AUG 1994

APPLICATION NUMBER: 269 of 1994.

APPLICANTS:

Sri.D.Nagsetti, IAS(Rtd) v/s. Chief Secretary, Govt. of Karnataka and
To. Others.

RESPONDENTS:

1. Sri.D.Nagsetti, IAS(Retired)
No.423, Upper Palace Orchards,
Sadashivanagar, Bangalore-560 080.
2. Chief Secretary, Govt. of Karnataka,
Vidhana Soudha, Bangalore-560001.
3. Accountant General(A&E),
Karnataka, Post Bag No.5329,
Bangalore-560 001.
4. District Treasury Officer,
Pension Payment Treasury,
K.R.Circle, Bangalore-560 002.
5. The Manager, Syndicate Bank,
Vasanthnagar Branch, Bangalore
6. Sri.D.Rajashekharappa, Govt. Pleader,
Advocate General's Office, KAT Unit,
BDA Complex, Indiranagar, Bangalore-38.

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 04-08-94.

Issued on

23/8/94

RE

of
/c

for S. Manohar 248
DEPUTY REGISTRAR
JUDICIAL BRANCHES.

CENTRAL ADMINISTRATIVE TRIBUNAL

BANGALORE BENCH

ORIGINAL APPLICATION No.269/1994

THURSDAY, THIS THE 4TH DAY OF AUGUST, 1994

SHRI JUSTICE P.K. SHYAMSUNDAR .. VICE CHAIRMAN

SHRI T.V. RAMANAN ... MEMBER (A)

D. Nagsetti, I.A.S.(Retired),
423, Upper Palace Orchard,
Sadashivanagar,
Bangalore - 560 080.

Applicant

(In person)

Vs.

1. The State of Karnataka by its
Chief Secretary,
Vidhana Soudha, Bangalore-1.

2. Accountant General (A&E),
Karnataka, PB No.5329,
Bangalore - 560 001.

3. District Treasury Officer,
Pension Payment Treasury,
K.R. Circle, Bangalore.

4. The Manager,
Syndicate Bank,
Vasanthnagar,
Bangalore.

... Respondents

(By Advocate Shri D. Rajashekharappa,
Government Advocate for R-1 to 3)

ORDER

Shri Justice P.K. Shyamsundar, Vice Chairman

We have before us a veteran I.A.S. officer Shri Nagsetti, a septagenarian, who is seriously aggrieved by the several orders passed by the State Govt., the Accountant General, the Treasury Officer and the concerned bank enjoining the recovery from him a sum of Rs.7854/- allegedly paid by mistake towards pension due to the applicant between 1.1.86 and 31.7.91. It is not very material and it is also unnecessary to set out in detail the ramifications on the basis of which the claim for payment of excess pension amount referred to supra was made and demanded from the applicant. Suffice



it, therefore, to state that the demand for payment of excess pension amount allegedly paid to the applicant was made without issuing any show cause notice calling upon to show cause why the excess pension amount paid should not be recovered. We think, that was a very essential preliminary step. It is now well established by the decision of the Supreme Court in the case of State of Orissa Vs. Bina Pani (AIR 1967 SC 1269), in that any administrative order which affects a Govt. servant and bring upon civil consequences of detrimental nature can be made effective only after an enquiry preceded by a show cause notice.

2. Admittedly, in this case, before ordering recovery of the sum of Rs.7854/- no show cause notice was ordered. In the objection statement filed on behalf of the State Govt., it is stated that since the Govt. was only intending to recover what was paid by mistake to the quondam officer, it was considered unnecessary to issue a show cause notice. We do not agree.

3. Ofcourse, if it is a mistake, the authorities can certainly recover, but it can be done only after issuance of a show cause notice inviting representation in that behalf and cannot be done otherwise or debtors adopting such a procedure, more so, in the light of the Supreme Court dicta in the case of State of Orissa Vs. Bina Pani. In that view of the matter, all the steps taken by the State Govt., by the Accountant-General, Treasury Officer, etc., etc., to recover from the applicant the amount of Rs.7,854/- said to have been paid by mistake fail, and has got to be discounted in view of the Govt.'s failure to issue a show cause notice on the applicant before ordering recovery of the excess amount of pension allegedly paid.

4. On this short ground, this application succeeds and is, therefore, allowed. The communications flowing from the State Govt. at Annexure-A1, the Accountant General at Annexure-A2, Treasury Officer's advise to the Bank at Annexure-A4 and all consequential

orders in that behalf shall stand quashed. The State Govt. will, however be at liberty to issue a show cause notice to the applicant calling upon him to show cause as to why the amount of Rs.7854/- towards pension stated to be paid in excess by mistake should not be recovered. If after issuance of such a notice and granting to the applicant one month's time to reply thereto, the Govt. can thereafter consider any representation if made as objectively as possible, and then make any order as per law. However, there will be no order as to costs. Let a copy of this order be sent to the State Govt., the Accountant General, the Treasury Officer, etc., etc., for information and necessary action.

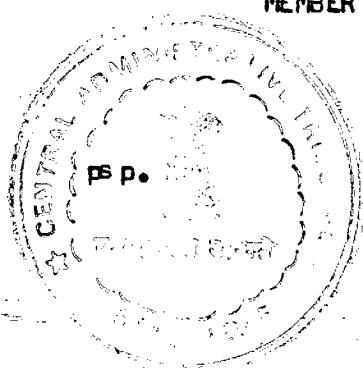
Sdt-

(T.V. RAMANAN)
MEMBER (A)

Sdt-

(P.K. SHYAMSUNDAR)
VICE CHAIRMAN

TRUE COPY



S. S. Bhowmik 22/8
SECTION OFFICER
CENTRAL GOVERNMENT OF INDIA
ADDITIONAL SECRETARY
REGISTRATION