

CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE BENCH

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

Dated: 15 NOV 1994

APPLICATION NO: 1107 OF 1994

APPLICANTS:-

K. N. Nagesay

V/S.

RESPONDENTS:-

Under Secy, Of Supply & Disptn with
3 m.

T.

1. Shri. S. K. Motiyuddin
Advocate,
No. 11, Jeevan Bldgs,
K. P. East,
Bangalore - 1

2. Shri. M.V. Rao
Adv. C.G.S.C
High Court Bldg.
Bangalore - 1

Subject:-

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

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Please find enclosed herewith a copy of the ORDER/
STAY ORDER/INTERIM ORDER/ passed by this Tribunal in the above
mentioned application(s) on 16 November 1994

Issued on
16/11/94

of for

DEPUTY REGISTRAR

CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE BENCH, BANGALORE

ORIGINAL APPLICATION NO.1107/1994

FRIDAY THIS THE ELEVENTH DAY OF NOVEMBER, 1994

MR. T.V. RAMANAN

MEMBER (A)

(By Advocate Shri S.K.Mohiyuddin)

v.

1. The Union of India,
represented by the
Secretary to Govt. Deptt.
of Supply Stores & Disposals,
New Delhi
2. The Director General, S&D,
No.5, Sansad Marg,
New Delhi-1
3. The Director of Inspection,
DGS&D, Seshadripuram,
Bangalore - 20
4. The Dy. Controller for Accounts,
Department of Supply,
Shastri Bhavan,
IV Floor,
Huddows Road,
Madras - 600 006

Respondents

(By learned Standing Counsel)
Shri M.V. Rao

ORDER

MR. T. V. RAMA NAM. MEMBER.(A)

Heard the learned counsel for the applicant

and the learned Additional Central Government



Standing Counsel appearing for the respondents.

2. The facts in brief are that the applicant started his career in the Department as Examiner of Stores in 1962. Later, he was promoted as Junior Field Officer from November, 1969. This promotion was on the basis of the recruitment rules which provided for selection from amongst Examiners of Stores and Technical Assistants with 5 years of regular service. After having worked for a period of over 9 years as Junior Field Officer, the applicant was promoted as Assistant Inspecting Officer w.e.f. 22.11.1979. As on 30.9.89, he was drawing a pay of Rs.3125/- in the scale of Rs.2000-3500 attached to the post of Assistant Inspecting Officer. After nearly about 10 years i.e. in October, 1989, he was informed by Respondent No.2 that his pay on promotion as Assistant Inspecting Officer in 1979 had wrongly been fixed and, as such, it would be re-fixed retrospectively and that the over-payment made to him upto the 30th September, 1989, would be assessed and recovered. It appears that as against the pay of Rs.3125/- that he was receiving on 30.9.89, he was allowed the pay of Rs.2,900/- only as on that date but no recoveries were ordered simultaneously. The applicant had protested against this in November, 1989, but to no avail. The applicant retired from service on 31.8.93 and to his utter dismay, he found that the respondents adjusted a sum of Rs.29,437.45 against the gratuity

payable to him towards the amount allegedly owed by him to the Government on account of re-fixation of his pay as Assistant Inspecting Officer from November, 1979. It is against this that the applicant has approached this Tribunal seeking relief which would amount to striking down the re-fixation done in his case as also the recovery made of the alleged over-payment made to him from the retiral gratuity payable to him.

3. In almost a similar case, except for the dates involved as regards promotion to the cadre of Assistant Inspecting Officer, i.e. the case of V.S. RAMAN v. SECRETARY, DEPARTMENT OF SUPPLIES & ORS (O.A.NO.763/91 DECIDED ON 2.12.92), this Tribunal had given relief to the applicant therein on the ground that the re-fixation of pay without observing the principles of natural justice, audi alteram partem, was vitiated. For that reason, the Tribunal allowed the application of Raman and directed the respondents to re-fix his pay and grant proper pensionary benefits and also pay the amount withheld. Applying the same ratio decided by this Tribunal in Raman's case referred to supra, I find that the order reducing the applicant's pay by re-fixation without giving any show cause notice to him, thereby violating the principles of natural justice, is vitiated. The recovery of the alleged sum outstanding against the applicant ordered from the gratuity due to him is also, therefore, improper.

Support is also taken from what the Supreme Court has said in BHAGWAN SHUKLA v. UNION OF INDIA & ORS (1994(4)SLR 614). The Supreme Court has held that the order reducing pay with retrospective effect without affording any opportunity of being heard on the ground that it was wrongly fixed visits the employee with civil consequences and that such an order is violative of the principles of natural justice.

4. In the result, this application is allowed by quashing Annexures A-3, A-4, A-5 and A-8. The applicant will be deemed to have received the pay of Rs.3125/- as on 30.9.89 and his pay subsequently as Assistant Inspecting Officer will be regulated by grant of increments according to the Rules. His pension will be calculated in accordance with the Rules applicable and all retiral benefits shall be allowed to him on the basis of the pay drawn by him as on the date of his retirement i.e. 31.8.93. The amount due to the applicant as a result of this order including the amount recovered shall be paid to him within a period of three months from the date of communication of this order. No order as to costs.



TRUE COPY

.../94
Section Officer

Central Administrative Tribunal
Bangalore Bench
Bangalore

Sd/-

MEMBER (A)