

Annexure A (b)

CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE BENCH

Second Floor,
Commercial Complex,
Indiranagar,
Bangalore-560038.

Miscellaneous Application No. 361/93 in

Dated: 19 OCT 1993

APPLICATION NO(S) 532 of 93.

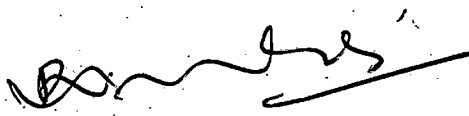
APPLICANTS: Smt. Ashelatha Kamath RESPONDENTS: Commissioner, Regional
Proident Fund, Bangalore & Others.

TO.

1. Sri. C.V. Sudhindra, Advocate, No. 4, Kodagi Building,
Gundapent Street, Bangalore-560 002.
2. Sri. M. Vasudeva Rao, Central Government Standing Counsel,
High Court Building, Bangalore-560 001.

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 14-10-1993.


for DEPUTY REGISTRAR
JUDICIAL BRANCHES.

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Office Notes

Orders of Tribunal

VR (MA)/ANV (MJ)
14.10.93

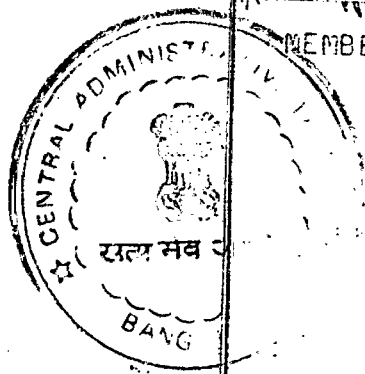
Heard Shri MV Rao for the petitioner in MA 361/93 and Shri Sudhindra for the applicant in OA. For the reasons stated in the MA extension of time sought is granted by two weeks from today. MA 361/93 is disposed off accordingly.

Sd-

Sd-

MEMBER (J)

MEMBER (A)



TRUE COPY

[Signature]
SECTION OFFICER
CENTRAL ADMINISTRATIVE TRIBUNAL
ADDITIONAL BENCH
BANGALORE

19/10/93

Amritha B

(8)

**CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE BENCH**

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

Miscellaneous Application No.427/93

Dated: 4 NOV 1993

APPLICATION NO(s) 532 of 1993.

APPLICANTS: Smt. Ashalatha Kamath RESPONDENTS: Regional Provident Fund
Commissioner, Bangalore.

TO.

- ✓ 1. Sri.C.V.Sudhindra, Advocate,
No.4X, Kodagi Building,
Gundopanth Street, Bangalore-2.
2. Sri.M.Vasudeva Rao, Central Govt.Stng.Counsel,
High Court Buiding, Bangalore-1.
3. Regional Provident Fund Commissioner,
Rajaram Mohan Roy Road, Bangalore.

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 First Nov'1993.

for *m. Jones*
DEPUTY REGISTRAR
JUDICIAL BRANCHES.

4/11/93

gm*

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27

Date	Office Notes	Orders of Tribunal
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PKS VC/VRMA
1-11-1993

We disposed off this application by making an order on 2-9-1993. Now we are told that the department intends to file an appeal before the Supreme Court and our order be kept in abeyance for 2 months. We see that the above order was passed on 2-9-1993 and already two months have elapsed. If the department was serious about it, they should have taken steps to file appeal before the Supreme Court. But now we are told that they need two months time to go to Supreme Court. Under the circumstances we think it appropriate to stay the order passed on A No. 532/93 for a period of one month. In the meanwhile if the Supreme Court does not grant an order of stay the deptt will have to comply our directions.

Sd/-
M(A)

Sd/-
V-C



TRUE COPY
R. Dees
SECTION OFFICER
CENTRAL ADMINISTRATIVE TRIBUNAL
ADDITIONAL BENCH
BANGALORE
4/11/93

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**CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE BENCH**

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

Miscellaneous Application No.476/93 Dated: **17 JAN 1994**

APPLICATION NO(s) 532 of 1993.

APPLICANTS:

Smt.Ashalatha Kamath

TO.

RESPONDENTS:

v/s. Regional Provident Fund Commissioner,
Bangalore.

1. ✓ Sri.C.V.Sudhindra, Advocate,
No.4, Kodagi Building,
Gundopanth Street, Bangalore-2.
2. Sri.M.Vasudeva Rao, Addl. Central
Govt. Stng. Counsel, High court bldg,
Bangalore-1.
3. Regional Provident Fund Commissioner,
Rajaram Mohan Roy Road, Bangalore-560 025.

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 03-12-1993.

S.C. Shankar 12/1/94

DEPUTY REGISTRAR
for JUDICIAL BRANCHES.

-7-

**In the Central Administrative Tribunal
Bangalore Bench
Bangalore**

(14)

ORDER SHEET

Application No. 532 of 1993

Applicant Smt. Ashalata Ramath.

Respondent
Regional Provident Fund Commissioner,
Bangalore
Advocate for Respondent

Advocate for Applicant

Date	Office Notes	Orders of Tribunal
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3.12.1993.

Order on MA 426/93

Heard.

We do see no grounds to extend the time any further. Application for extension of time is rejected.

Sd/-

Sd/-



TRUE COPY

Sd. S. Srinivas

12/1/94

**SECTION OFFICER
CENTRAL ADMINISTRATIVE TRIBUNAL
ADDITIONAL BENCH
BANGALORE**

Annexure D
(12)

CENTRAL ADMINISTRATIVE TRIBUNAL: BANGALORE

DATED THIS THE 2ND DAY OF SEPTEMBER, 1993.

PRESENT:

Hon'ble Mr. Justice P.K. Shyamsundar,

.. Vice-Chairman.

And

Hon'ble Mr. V. Ramakrishnan,

.. Member(A)

APPLICATION NUMBER 532 OF 1993

Smt. Ashalath Kamath,
D/o K. Sheshagiri Kamath,
Aged about 26 years,
residing at No. 142, 4th Cross,
Nagappa Block, Bangalore-560 021.

.. Applicant.

(By Sri C.V. Sudhindra, Advocate)

v.

Regional Provident Fund Commissioner,
Bhavishya Nidhi Bhavan,
No. 13, Raja Ram Mohan Roy Road,
Bangalore-560 025.

.. Respondent.

(By Sri M. Vasudeva Rao, Standing Counsel)

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This application having come up for hearing to-day, Hon'ble Vice-Chairman made the following:-

ORDER

We have heard both sides at the stage of admission and propose to finally dispose of this application by recording the following order after admitting this matter.

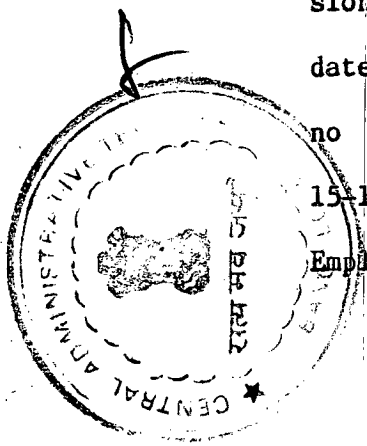
2. This certainly appears to be a case of the proverbial slip between the cup and the lip so far as the applicant is concerned. The applicant Ashalatha Kamath had registered herself with the employment exchange in the hope of being offered a suitable appointment in Government service. We do not know when she registered herself but a chance came her way when her name was sponsored by the Employment Exchange, Bangalore follow-



ing a request for such sponsoring by the Regional Provident Fund Commissioner, Karnataka who had about 133 lower division clerk posts to be filled in accordance with the Recruitment Rules of the Department.

3. Upon being sponsored by the Employment Exchange, the applicant Ashalatha Kamath, admittedly born on 15th September, 1966, was called upon to take some written tests which she successfully negotiated and thereafter received an offer of appointment, a copy of which is produced at Annexure-D dated 6-4-1992. The order says that she had been selected for appointment by the Departmental Promotion Committee and was being offered a temporary post of Lower Division Clerk in the office of the Regional Provident Fund Commissioner, Karnataka on the terms stated therein. Pursuant to the said order, she is stated to have reported to duty at the office of the Regional Provident Fund Commissioner, Bangalore on 15-4-1993. But, she was immediately told at the office of the Regional Provident Fund Commissioner that she could not be appointed because she was on the date of consideration of her application, after she was sponsored by the Employment Exchange, found to be overaged by one day.

4. It is common ground that the Employment Exchange was asked to submit a list of candidates for consideration by the Regional Provident Fund Commissioner to the post of Lower Division Clerk and the last date fixed for sponsoring of such candidates by the Employment Exchange was 15-10-1991. There being no dispute about the date of birth of the applicant being 15-10-1966, thus on the date of sponsoring of the list by the Employment Exchange she was unfortunately overaged by just one



(13) (14)

day. Notwithstanding this deficiency, the Regional Provident Fund Commissioner went on to summon her to take the written test and probably an interview etc. etc. all of which she admittedly got through with ample degree of success resulting ultimately in the Regional Provident Fund Commissioner making an offer of appointment to her subject to the terms and conditions stated in the order at Annexure-D referred to supra.

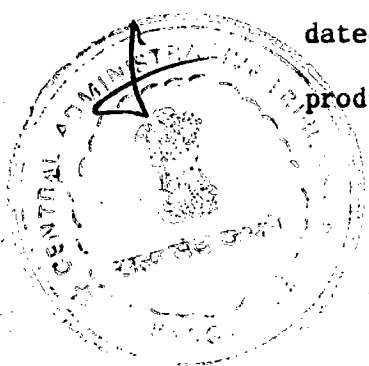
5. But, unfortunately for the applicant, the Regional Provident Fund Commissioner discovered the fact that she is overaged by one day only after she reported to duty on the 13th day of April, 1992 after receiving the order of appointment under Annexure-D dated 6-4-1992. But by some oversight the fact that the applicant was in fact ineligible for appointment in view of her not satisfying age requirement although it fell short only by 24 hours, the fact remains the Regional Provident Fund Commissioner on being apprised of the same denied the offer of appointment he had made as per Annexure-D citing the reason of the applicant being overaged by one day. The applicant thus made a representation to the appointing authority the Regional Provident Fund Commissioner as per Annexure-F dated 22-4-1992 asking him to overlook this deficit and to give her the appointment for she has been earlier chosen. This representation the Regional Provident Fund Commissioner forwarded to his higher ups in New Delhi, the Central Provident Fund Commissioner on 29-5-1993. However, the representation seems to have been turned down by the Central Provident Fund Commissioner by the letter dated 28th July, 1992 to which we had access from the records produced by the learned Standing Counsel. That letter reads:

"No.P.III/1/11/91/AP/18724

28JULY,1992

To

The Regional Provident Fund Commissioner,
Karnataka.



Subject: Appointment of Smt. Ashalatha Kamath
to the post of LDC - overage regarding.

Sir,

Please refer to your letter No.KN/PF/Adm-I/277/92
dated 29-5-1992 on the subject cited.

The submission of Smt. Ashalatha Kamath that
she is not overaged is not correct. She is overaged
by one day on 15-10-1991. She is also not covered
by any category of candidates eligible for age relaxa-
tion. Her request for relaxation of age cannot be
acceded to.

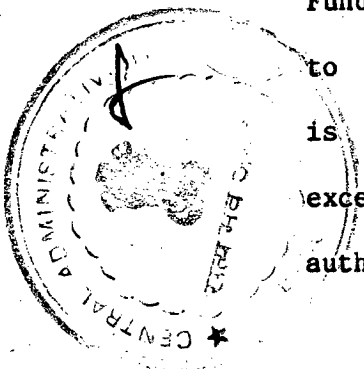
Yours faithfully,

Sd/- Nair,
Assistant P.F.Commissioner (Hqr.)
for Central P.F.Commissioner".

From the above letter it becomes clear, the learned Central
Provident Fund Commissioner did not have a proper insight to
the coverage of his power in the matter of relaxating the age
limit. We notice from the Recruitment Rules, a copy of which
is produced to-day before us by the learned counsel for the
applicant accuracy of which is not disputed by the learned Stand-
ing Counsel, those rules being prevalent, they do in fact provide
for relaxation of age limit. The relevant portion of the said
Rules reads:-

"The Central Provident Fund Commissioner may relax
the age limit, for reasons to be recorded in writing
in respect of appointments to all posts except those
for which the Central Government is the appointing
authority".

The above rule makes it very clear that the Central Provident
Fund Commissioner is empowered to relax the age limit subject
to recording reasons therefor in writing and the said power
is generally attracted to all appointments made to all posts
except those for which the Central Government is the appointing
authority. The post to which the applicant was required to



be appointed is a post which falls within the Central Provident Fund Commissioner's jurisdiction. With such an appointment the Central Government has no say.

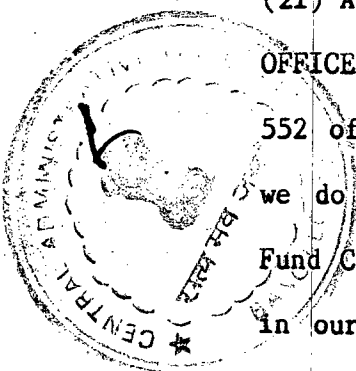
6. Therefore, the Central Provident Fund Commissioner was fully competent to relax the age limit provided he finds it necessary and expedient to do so by recording reasons in writing. Unfortunately the Central Provident Fund Commissioner did not take recourse to that Rule at all. Instead summarily disposed of the request for relaxation stating such relaxation cannot be acceded to. He does not say why it cannot acceded to. He is bound to give reasons as enjoined by the Rule itself.

7. To say that the Rule regarding the relaxation cannot be acceded to is no reason at all particularly with regard to the facts and circumstances, but all said and done the applicant was found overaged by just 24 hours and, therefore her request could not have been overlooked bearing in mind the fact that right through nobody raised any question about the applicant's eligibility on the score of age.

8. This is not a case in which the applicant had suppressed ~~her~~ the age or the real date of birth. Everybody was aware of it and notwithstanding the same, she was invited to take the prescribed examination at which she came out successful and thereafter she was even offered the appointment which she accepted and only when she reported for duty on 13-4-1992 it was pointed out she was late by 24 hours. 9. The above is hardly a reason that would appeal to any reasonable mind. We think this is a fit matter in which the Central Provident Fund Commissioner should have exercised his powers in that behalf. Unfortunately he has not had regard to the full ambit of his power in the matter of relaxation of age limit. This was clearly a case where



if not the principle of promissory estoppel operated atleast on grounds of legitimate expectation which is now firmly rooted in administrative law following the pronouncements of the Supreme Court in (i) UNION OF INDIA OTHERS v. HINDUSTHAN DEVELOPMENT CORPORATION AND OTHERS [1993 (3) SCC 499] and (ii) FOOD CORPORATION OF INDIA v. M/s KHAMDHENU CATTLE FIELD INDUSTRIES [1993 (1) SC 74] relaxation of age limit should have been made. It therefore, seems to us that this is a fit matter in which the Central Provident Fund Commissioner should have applied his mind and after taking note of the ambit of his powers in the matter of relaxation of age limit ought to have recorded an order and not summarily dispensed with the claim for relaxation. We think this is a fit matter where the Central Provident Fund Commissioner should have exercised the discretion to relax the age limit in favour of the applicant which is just short of one day. We are told, ofcourse it is denied by the learned Standing Counsel, that the applicant had earlier resigned a job she was holding with a private firm in the hope of joining with the Central Government establishment pursuant to Annexure-D. The fact the applicant was working in a private firm is borne out by a certificate produced at Annexure-F. At one stage we thought of directing the Central Provident Fund Commissioner to consider relaxing the age of the applicant for appointment to the post of Lower Division Clerk as held in K.PANDIAH v. CENTRAL PROVIDENT FUND COMMISSIONER, NEW DELHI AND ANOTHER [1992 (21) ATC) 132] and this Tribunal in T.G. RAJAPPAN v. THE REGIONAL OFFICER, DIRECTORATE OF FIELD PUBLICITY AND OTHERS (O.A.NO. 552 of 1992 decided on 27-8-1993). But, in the circumstances, we do not think it necessary to direct the Central Provident Fund Commissioner to consider relaxation of age once again which in our view is unnecessary. We think this is a fit case in



which such relaxation should be deemed and in that view of the matter we direct the Regional Provident Fund Commissioner to forthwith renew the offer of appointment made to the applicant as per Annexure-D. This view is entirely in accord with the decision of the Hyderabad Bench and this Bench referred to supra.

Application is allowed accordingly. No costs. Needful should be done by the Regional Provident Fund Commissioner within 2 weeks from the date of this order by issuing an order of appointment to the applicant. The learned Standing Counsel will communicate this order to the Regional Provident Fund Commissioner, respondent, forthwith. ~~Send~~ ^{See} a copy of this order ^{be done}

^{See} to the Regional Provident Fund Commissioner for information.



Sd-
MEMBER(A)

Sd-
VICE-CHAIRMAN.

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[Signature]
SECTION OFFICER
CENTRAL ADMINISTRATIVE TRIBUNAL
ADDITIONAL BENCH
BANGALORE

10/9/93

CENTRAL ADMINISTRATIVE TRIBUNAL

BANGALORE BENCH

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

Contempt Petition No. 34/94 in

Dated:- 28 JUL 1994

APPLICATION NUMBER: 532/93

APPLICANTS:

Smt. Ashalakha Kamath
To.

RESPONDENTS:

v/ Sri. A. Vishwanathan, Regional
Provident Fund Commissioner,
Bangalore and others

- ① Sri. C.V. Sudhindra
Advocate, no. 4, Kodagi Bldg.
Gundopankh Street, Bangalore-560002.
- ② Sri. M. Vasudeva Rao
Addl. CGSC, High Court Bldg,
Bangalore-560001

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 19-07-94

Issued on

28/7/94

R

o/c

for S. Shanmugan 28/7
DEPUTY REGISTRAR
JUDICIAL BRANCHES.

In the Central Administrative Tribunal
Bangalore Bench

Applicant Smt Ashalatha Kamath Vs The Regional PFC
Bangalore

C.P.(Civil) Application No. 34 of 1994

ORDER SHEET (contd) OA 532/93

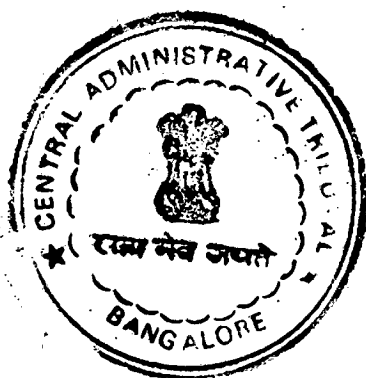
Date	Office Name	Orders of Tribunal
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PKSVC/TVRMA

July 19th, 1994

ORDER

In the light of the developments reported today by the Regional Provident Fund Commissioner, the alleged contemner, issuing a modified order posting the petitioner to Bangalore, with the result the counsel for the petitioner says he is satisfied with the present state of affairs and that, therefore, prays that the above petition need not be further considered. His statement as aforesaid recorded and this contempt petition dropped as not pressed. A copy of the order of the Regional Provident Fund Commissioner is placed on record.



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S. S. Narayan
SECTION OFFICER
CENTRAL ADMINISTRATIVE TRIBUNAL
ADDITIONAL BENCH
BANGALORE

Sch

MEMBER [A]

Sch

VICE-CHAIRMAN