

CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE BENCH

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

Dated:- **11 AUG 1994**

APPLICATION NUMBER: 191 of 1994

APPLICANTS:

Sri. C. M. Hoogar
To.

RESPONDENTS:

v/s. Director, CGHS New Delhi and other.

1. Sri. H. Basavaraju, Advocate,
M.S.K.S. Building, Sion Park Road,
Seshadripuram, Bangalore-560020.
2. Sri. M.S. Padmanayiah,
S. C. G. S. C. High Court Bldg,
Bangalore-560001.

Received of order
11/08/94
(C.M. HOOGAR)
11/8/94

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 28.7.94

Issued on
11/08/94
R.

of

for
DEPUTY REGISTRAR
JUDICIAL BRANCHES.

CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE BENCH, BANGALORE

ORIGINAL APPLICATION NO.191/1994

THURSDAY THIS THE TWENTY EIGHTH DAY OF JULY, 94

MR. JUSTICE P.K. SHYAMSUNDAR

VICE CHAIRMAN

MR. T.V. RAMANAN

MEMBER (A)

C.M. Hoogar,
Aged 58 years,
No.50, 4th Main Road,
1st Stage, Postal Colony,
Sanjaya Nagar,
Bangalore - 560 094

Applicant

(By Advocate Shri H. Basavaraju)

v.

1. The Director,
Central Government Health Scheme,
Nirman Bhavan,
New Delhi - 110 011

2. The Additional Director,
Central government Health Scheme,
No.111, Ganesh Tower, II Floor,
Infantry Road,
Bangalore - 560 001

Respondents

(By Sr.Central Govt.Standing Counsel)
Shri M.S. Padmarajaiah

O R D E R

MR.T.V. RAMANAN, MEMBER (A)

Admit.

2. Having heard the learned counsel for the applicant and the learned Senior Central Government Standing Counsel appearing for the respondents, the issue boils down to whether the retrospective regular appointment of the applicant to the post of Assistant Stores Superintendent in C.G.H.S. w.e.f. 1.12.1988 is in order or, as contended by the applicant,



whether he should have been given the benefit of such regular appointment from a date in 1985 when Shri Surgunadass was regularly appointed as Assistant Stores Superintendent. It is seen from the record of the case that Shri Surgunadass was not junior to the applicant but was placed higher than the applicant in the merit list prepared by the D.P.C. in October-November, 1978 (Ann-RA). The plea of the applicant that he should have been promoted at least immediately after the promotion of Shri Surgunadass is also not tenable because promotion cannot be claimed as a matter of right even if vacancies exist but are not filled by the Department. Thus the applicant's claim for regular appointment to the aforesaid post from 1985 cannot be accepted.

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3. Be that as it may, the Department have issued an order dated 8.4.94 at Annexure R-B in pursuance of the judgment of the Principal Bench of this Tribunal dated 11.1.90 in C.A. No.1479/89 - V.B. GUPTA v. UNION OF INDIA (Deputy Director, CGHS, Delhi). In that judgment, the respondents were directed to consider the appointment of persons empanelled in 1975 and 1979 on the basis of merit in the posts of Assistant Stores Superintendent at various offices as and when these posts were created there. In the order dated 8.4.94, the applicant, whose name finds mention in the merit list of 1979, was given the benefit of regular appointment as Assistant Stores Superintendent retrospectively w.e.f. 1.12.88 before

which, according to the respondents, no vacancy in the post of Assistant Stores Superintendent, CGHS existed. Learned counsel for the applicant contested the contention of the ~~respondent~~^{respondents} that no vacancy had existed prior to 1.12.88 by stating that one Shri A.K. Joglekar had been promoted as Assistant Stores Superintendent earlier to the applicant although his name did not figure in the merit list prepared by the D.P.C. in October-November, 1978. To our pointed query whether Shri A.K. Joglekar by any chance happened to be junior to the applicant or whether he was not covered by an earlier merit list, the learned counsel was in no position to reply to our query but simply stated that this information could be gathered from the respondents. It is rather surprising that the learned counsel has challenged the earlier appointment/regularisation of Shri A.K. Joglekar, Assistant Stores Superintendent without the basis of any record. As there is no record to support his contention, it would be futile on our part to pursue this enquiry any further. The applicant's counsel is not able to establish that there existed any other vacancy prior to 1.12.88. In this view of the matter, we hold that the respondents have complied with the direction given in para 18(i) of the judgment of the Principal Bench of this Tribunal in C.A.1478/89 referred to above.

4. Learned counsel for the applicant at this stage mentions that although the regularisation/

appointment was done retrospectively w.e.f. 1.12.88 the order at Annexure RB strictly prohibits grant of consequential monetary benefits. He finds this rather unfair. We agree with him on this.

5. In view of the foregoing, we find no substance in the prayer made by the applicant that he should be given regular appointment in the post of Assistant Stores Superintendent with retrospective effect from 1985. However, we find that it will be just to extend the consequential monetary benefits to the applicant on the basis of the order dated 8.4.94 issued by the respondents at Annexure RB. We direct the respondents to extend all consequential benefits with effect from 1.12.88. The respondents are required to comply with this direction within a period of two months from the date of receipt of a copy of this order. No costs.

Sch
Under
MEMBER (A)

Sch
VICE CHAIRMAN



TRUE COPY

[Signature]
SECTION OFFICER
CENTRAL ADMINISTRATIVE TRIBUNAL
ADDITIONAL BENCH
BANGALORE