

CENTRAL ADMINISTRATIVE TRIBUNAL  
BANGALORE BENCH

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

Dated:- ~~6 APR 1994~~  
✓ 8 APR 1994

APPLICATION NUMBER: 32 of 1994.

APPLICANTS:

RESPONDENTS:

Sri.T.R.Subramanian v/s. The Regional Provident Fund Commissioner,  
To. Karnataka, Bangalore ~~xxx~~.

1. Sri.V.Gopala Gowda, Advocate,  
No.34, First, Floor,  
Hospital Road, Bangalore-53.
2. The Regional Provident Fund Commissioner-I,  
13, Rajaram Mohan Roy Road, Bhavishyanidhi Bhavan,  
Bangalore-25.
3. The Central Provident Fund Commissioner,  
9th Floor, Mayur Bhavan, Cannaught Circus,  
New Delhi-110 001. (A copy of the application is also ~~enclosed~~  
enclosed for information & necessary action, as directed  
by the Tribunal).
4. Sri.M.Vasudeva Rao, Addl. Central Govt. Stng. Counsel,  
High Court Building, 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 25th March, 1994.

Received  
for S.I. No. 1  
8/4/94

*[Signature]*

*[Signature]*  
for DEPUTY REGISTRAR 8/4  
JUDICIAL BRANCHES.

gm\*

Applicant has not exhausted the remedy of statutory



appeal by appealing to the Appellate Authority who in this case happens to be the Central Provident Fund Commissioner, New Delhi. Shri Gowda resists this objection by relying on two decisions of the Principal Bench of this Tribunal. Having given our earnest attention to the decisions and submissions made, we think that decisions relied upon are really not related to the question of maintainability that arises herein. We are, under Sec.20 of the Act, strictly enjoined to ensure exhaustion of statutory appeal before entertaining an application though we can at our discretion entertain the same without any ado but as a rule we are bound to oversee whether the statutory remedies have been exhausted or not. Only in exceptional cases, we can interfere directly even if the remedy of a statutory appeal has not been exhausted. . We do not see any reason why we should make such an exception in this case. We straightway reject to entertain this application with particular reference to non-exhaustion of statutory remedy which is undoubtedly available to the applicant, the non-exhaustion of statutory remedy being a bar to entertain an application made under Section 19 of the Act. It is a statutory rule that in these matters it is pre-eminent that the statutory forum should look into and remedy a grievance, if any, particularly if it was in the matter of severity of punishment an aspect into which the Tribunal cannot go into at all. Even if it occurs to us that the punishment is too severe, we cannot assist the man at all whereas the statutory forum certainly can help a delinquent officer in that behalf. From this point of view it is desirable and necessary for the applicant to

CENTRAL ADMINISTRATIVE TRIBUNAL  
BANGALORE BENCH, BANGALORE

ORIGINAL APPLICATION NO.32/1994

THURSDAY THIS THE TWENTY FOURTH DAY OF MAR., 1994

MR. JUSTICE P.K. SHYAMSUNDAR      VICE CHAIRMAN  
MR. T.V. RAMANAN      MEMBER (A)

Shri T.R. Subramanian,  
Aged 38 years,  
No.26 (Upstairs),  
Ramakrishna Mutt Road,  
Ulsoor,  
Bangalore - 560 008

Applicant

( By Advocate Shri Gopala Gowda )

v.

The Regional Provident Fund  
Commissioner-I,  
No.13, Rajaram Moham Roy Road,  
Bhavishyanidhi Bhavan,  
Bangalore - 560 025

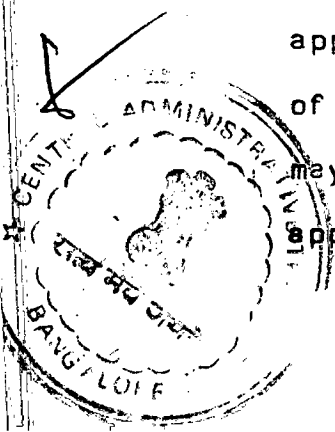
Respondent

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

ORDER

Mr. Justice P.K. Shyamsundar, Vice Chairman

Having heard Shri Gopala Gowda, learned counsel for the applicant and the learned Standing Counsel in this application which is filed under Section 19 of the Administrative Tribunals Act, 1985, challenging an order of the disciplinary authority dismissing the applicant's services on the ground that he was guilty of some misconduct, we notified Shri Gowda this application may not be maintainable for the simple reason that the applicant has not exhausted the remedy of statutory



appeal by appealing to the Appellate Authority who in this case happens to be the Central Provident Fund Commissioner, New Delhi. Shri Gowda resists this objection by relying on two decisions of the Principal Bench of this Tribunal. Having given our earnest attention to the decisions and submissions made, we think that decisions relied upon are really not related to the question of maintainability that arises herein. We are, under Sec.20 of the Act, strictly enjoined to ensure exhaustion of statutory appeal before entertaining an application though we can at our discretion entertain the same without any ado but as a rule we are bound to oversee whether the statutory remedies have been exhausted or not. Only in exceptional cases, we can interfere directly even if the remedy of a statutory appeal has not been exhausted. . We do not see any reason why we should make such an exception in this case. We straightway reject to entertain this application with particular reference to non-exhaustion of statutory remedy which is undoubtedly available to the applicant, the non-exhaustion of statutory remedy being a bar to entertain an application made under Section 19 of the Act. It is a statutory rule that in these matters it is pre-eminent that the statutory forum should look into and remedy a grievance, if any, particularly if it was in the matter of severity of punishment an aspect into which the Tribunal cannot go into at all. Even if it occurs to us that the punishment is too severe, we cannot assist the man at all whereas the statutory forum certainly can help a delinquent officer in that behalf. From this point of view it is desirable and necessary for the applicant to

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Second Floor,  
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BANGALORE- 560 038.

Dated: 14 DEC 1994

Miscellaneous

APPLICATION NO: 536 & 537 of 1994 in  
Originals Application No. 32 of 1994.

APPLICANTS:-

V/S.

Sri.T.R.Subramanian

RESPONDENTS:- Regional Provident Fund Commissioner,  
Bangalore

T.

1. Sri.V.Gopala Gowda, Advocate, V. Gopala Gowda, Advocate,  
No.34, First Floor, Hospital Road, 1st Floor, Hospital Road,  
Bangalore-560 053. Bangalore-560 053.
2. Sri.M.Vasudeva Rao,  
Addl. Central Govt. Stng. Counsl,  
High Court Bldg, Bangalore-1.
3. The Deputy Director(VIG),  
Employees Provident Fund Organisation,  
Central Office, 9th Floor, Mayur Bhawan,  
Cannaught Circus, New Delhi-110 001.
4. The Regional Provident Fund Commissioner,  
13, Rajaram Mohan Roy Road, Bhavishyanidhi Bhawan,  
Bangalore-560 025.

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

--xx--

Please find enclosed herewith a copy of the ORDER/  
STAY ORDER/INTERIM ORDER/ passed by this Tribunal in the above  
mentioned application(s) on 25th November, 1994.

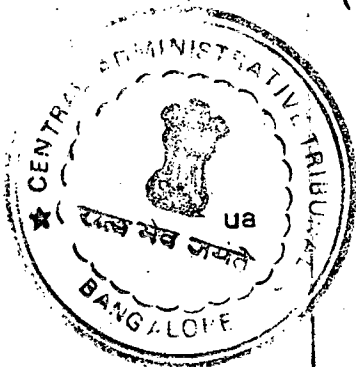
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on 14-12-94  
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for DEPUTY REGISTRAR  
JUDICIAL BRANCHES.

exhaust the statutory remedy of an appeal. It is pointed out to us that the appeal might be barred by time and it may be so. However, to obviate the hardship, if any, to the applicant vis-a-vis the period of limitation, we direct that this application should be transmitted to the appellate forum and the appellate forum will treat this application as an appeal and dispose it of after notice to the applicant and after going through the records and other relevant material. The ~~probable~~ appeal be disposed of by the appellate forum within six months from the date of receipt of a copy of this order making it clear that the appeal be disposed of after giving notice. With these observations, this application stands disposed of finally at the stage of admission itself with no order as to costs. Send a copy of this order along with one copy of the application to the appellate authority i.e. Central Provident Fund Commissioner, New Delhi for information and necessary action.

*Sdr*  
( T.V. RAMANAN )  
MEMBER (A)

*Sdr*  
( P.K. SHYAMSUNDAR )  
VICE CHAIRMAN



TRUE COPY

*S. Shankar*  
SECTION OFFICER  
CENTRAL ADMINISTRATIVE TRIBUNAL  
ADDITIONAL BENCH  
BANGALORE  
6/4

CENTRAL ADMINISTRATIVE TRIBUNAL  
BANGALORE BENCH

M.A.NO.536 in O.A. NO.32/94

FRIDAY THIS THE TWENTY FIFTH DAY OF NOVEMBER 1994

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

Shri T.V. Ramanan ... Member [A]

T.R. Subramanian

... Applicant

vs.

Regional Provident Fund Commissioner

... Respondent

[By Advocate Shri M.Vasudeva Rao]

ORDER

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

1. We were somewhat taken aback by this application made on behalf of the Central Provident Fund Commissioner seeking extension of further time for disposing of an appeal submitted to the Commissioner for disposal.
2. In terms of an order passed by us while disposing of O.A. NO.32/94, while transmitting the very application for being treated as an appeal before the Appellate Authority, we asked the Appellate Authority to dispose of the appeal after issuing a notice to the delinquent official. We never directed that the delinquent official should be heard in person. But we did intend that the Appellate Authority should notify the delinquent official of the fact that there is an appeal on its file, it is going to be taken up for consideration and appeal should be disposed of by a particular date. This being the purport of the general direction



the Appellate Authority appears to have found it to be somewhat compelling for it to hear the applicant, although there is no specific direction given to the authority in that behalf. Six months time was prescribed for the disposal of the appeal but the appeal is said to be still pending and now extension of time is sought for on the ground that the Appellate Authority wants to hear the delinquent official and, has therefore, asked him to come to Delhi at his own expenses. The communication issued in that behalf is produced before us today. It reads thus --

"Shri T.R. Subramanian" may please refer to the CAT's direction dated 24.3.1994 regarding treating the petition filed in the court as an appeal and its disposal by the Appellate Authority. The Appellate Authority while considering your appeal has desired to hear you in person before passing an order in appeal. Sh Subramanian is therefore directed to inform this office within seven days of the receipt of this memo as to whether he is willing to be heard in person by the Appellate Authority at his own expenses at Delhi."

This communication we think makes the position somewhat totally untenable. The delinquent official and the disciplinary authority are both stationed at Bangalore but to ask the delinquent official to go to Delhi at his own cost by the appellate authority who finds it necessary to hear the delinquent official is clearly causing unnecessary hardship to the official. By now the official must have responded to that communication and if he is prepared to go to Delhi to communicate in person with the appellate authority it will



certainly be open to him to do so. But on the other hand if there is no response from him the appellate authority cannot fold its hands and sit quiet and it has got to gather itself up and dispose off the appeal for there can be no further protraction in the matter. We, therefore, direct the appellate authority to dispose of the appeal within one month from the date of this order. The standing counsel to communicate this order to the appellate authority.

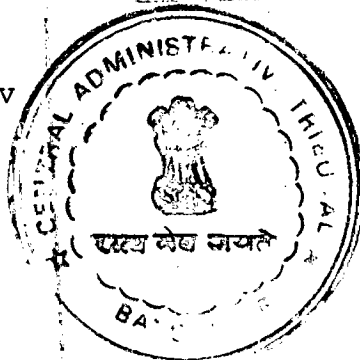
Sd-

Sd-

MEMBER [A]

VICE-CHAIRMAN

bsv



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Section Officer  
Central Administrative Tribunal  
Bangalore Bench  
Bangalore