

CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE BENCH

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

Dated: 23 DEC 1994

APPLICATION NO: 804 of 1994

APPLICANTS:- Mr. P. K. Philip, Bangalore,
v/s.

RESPONDENTS:- Director General, ESIC, New Delhi and another.,

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1. Sri. V. Narasimha Holla, Advocate,
No. 317, 12th-A-Main, 75th Cross,
Sixth Block, Rajajinagar,
Bangalore-560 010
2. Sri. M. Papanna, Advocate,
No. 99, Magadi Chord Road,
Vijayanagar, Bangalore-40.

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 15-12-1994.

Issued on

23/12/94

[Signature]

[Signature]

[Signature]
for DEPUTY REGISTRAR
JUDICIAL BRANCHES.

CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE BENCH

O.A. NO.804/94

THURSDAY THIS THE FIFTEENTH DAY OF DECEMBER 1994

Shri V. Ramakrishnan ... Member [A]

Shri A.N.Vujjanaradhya ... Member [J]

P.K. Philip,
Retd. Assistant Regional Director/
Manager Grade I],
ESIC, R/a No.20, 1st Cross,
HAL II Stage Extension,
Cambridge Road,
Ulsoor, Bangalore-8. ... Applicant

[By Advocate Shri V.N. Holla]

v.

1. Employees' State Insurance Corporation,
Headquarters, ESI Building,
Kotla Road,
New Delhi-2 by its Director General.
2. Regional Director,
Employees' State Insurance
Corporation,
Regional Office [Karnataka],
No.10, Binnyfields,
Bangalore-560 023. Respondents

[By Advocate Shri M. Papanna]

O R D E R

Shri A.N. Vujjanaradhya, Member [J]:

1. The applicant is aggrieved by the non-consideration of the direction of this Tribunal in his earlier O.A. No.786/90 which came to be disposed of on 10.4.1992 and has come up again seeking a direction to the respondents to consider his promotion to the grade of Deputy Regional Director ['DRD' for short] with effect from the date his immediate junior was promoted to that post and to give all consequential



benefits.

2. The applicant has retired on 31.10.1990. In his earlier application in O.A. No.786/90 this Tribunal has given the following directions while allowing the said application on merits.

- "i. The respondents will arrange for a review DPC to consider the case of the applicant for promotion to the cadre of Section Officer etc., as on 10.7.1984 keeping in view the observations in the above orders. If he is found fit to be empanelled based on the grading that he obtains, he will be eligible for retrospective promotion from the day any junior officer with the same grading was promoted on the basis of the DPC held on 10.7.1984.
 - ii. In case he is promoted to the cadre of Section Officer etc., from a retrospective date based on the recommendations of the review DPC, he will be entitled to the consequential benefits of fixation of pay and arrears of pay and allowances and seniority in the grade of Section Officer from the date of deemed promotion.
 - iii. He will also be entitled for consideration for promotion to the next higher grade from the due date depending on his seniority in the cadre of Section Officer from the date of such deemed promotion based on available CRs, since his period of service from 1984 to 1987 has been regularised. In case he is found suitable for promotion to the next higher grade in accordance with the rules, he will be entitled to the consequential benefits of fixation of pay and revised pensionary benefits. Regarding arrears of pay and allowances, his case should be considered by the 1st respondent in accordance with the principles laid down by the Supreme Court in the case of U.O.I. Vs. K.V. Janakiram and ors. [1991] 4 SCC 109 and suitable orders passed.
 - iv. Since the applicant has already retired on 31.10.1990, the respondents shall arrange to conduct the necessary review DPC/s within a period of 3 months from the date of receipt of a copy of this order. They will also arrange to make the necessary arrear payments including revision in pension, gratuity, etc., within a period of 4 months from the date of recommendations of the review DPC/s regarding his further promotion/s."
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The department has after considering the case of the applicant for promotion to the cadre of Section Officer['SO' for short] retrospectively, refixed his seniority and given the benefits as per directions contained in paras [i] and [ii] above. But the department has not granted the next higher grade on the ground that no junior to the applicant was promoted on regular basis to that grade. The applicant's contention is that even though the promotions are effected on ad hoc basis those promotions are continued for more than one year and no reversion had taken place in pursuance of those promotions effected by order dated 13.4.1989 [Annexure A-6] and that one G.M. Shaik whose seniority is at Sl.No.263 and junior to him is also promoted on ad hoc basis and, therefore, the applicant is entitled to the relief sought. The respondents contend that only ad hoc promotions have been effected on suitability and fitness and that no regular promotion of any junior is effected and, therefore, the applicant cannot have any grievance.

3. We have heard Shri V.N. Holla for the applicant and Shri M. Papanna for the respondents.

4. The facts are not in dispute. As per the direction contained in O.A. No.786/90 [Annexure A-1], the department has refixed the seniority of the applicant 260A and given him the promotion as SO and has also granted him consequential benefits. In pursuance



of the further directions contained in sub-paras [iii] and [iv] of the order quoted above, the applicant has not been considered for further promotion to the level of DRD on the ground that no junior has been promoted to that level on regular basis. The direction in the earlier order is that in case the applicant is found suitable for promotion to the next higher grade in accordance with the rules he will be entitled to consideration for promotion and consequential benefits and that the same should be considered after refixing the seniority and given the deemed promotion post on the available CRs since the period from 1984. In this order there is no direction that the applicant should be considered only for regular promotion and not on ad hoc basis. The respondents cannot deny the benefit to the applicant solely on the ground that no junior is promoted on regular basis and, therefore, the applicant cannot have any grievance. The ad hoc promotion effected to juniors have been continued for years together and there have not been any reversion so far. The Department states that ad hoc promotions are given after a scrutiny as to whether the persons are fit but it is not based on relative merit. Consequently the applicant if found fit and suitable should be given notional promotion and he should be granted consequential monetary benefits and refixation of his pension. Regard being had to the fact that his juniors have been promoted

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to the higher level, it would be just and proper for the respondents to consider the promotion of the applicant to the next higher level and grant him the consequential benefits in case he is found fit.

5. In the result we hereby direct the respondents to consider the suitability and fitness of the applicant for promotion on ad hoc basis to the post of DRD with effect from the date his immediate junior was promoted on such ad hoc basis and grant him all consequential benefits of fixation of pay and pensionary benefits. No costs.



Sd-

15/12/14

MEMBER [J]

Sd-

15/12/14

MEMBER [A]

TRUE COPY

Section Officer

Central Administrative Tribunal
Bangalore Bench
Bangalore