

CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE BENCH

REVIEW APPLICATION NO. 170/00035/2017

IN

ORIGINAL APPLICATION NO. 170/00805/2016

DATED THIS THE 27TH DAY OF NOVEMBER, 2017

HON'BLE DR. K.B. SURESH, MEMBER (J)

HON'BLE SHRI PRASANNA KUMAR PRADHAN, MEMBER (A)

Sri Diwakar K. Morey,
S/o Krishnaji Rao,
Aged 59 years,
Ex. Accounts Officer,
Now residing at Door No. 647,
11th Main, HAL II Stage,
Indiranagar, Bangalore – 560 038

.....Review Applicant

(By Advocate Shri Ranganatha S. Jois)

Vs.

1. The Union of India,
Represented by its Secretary,
Ministry of Finance,
North Block, New Delhi – 110 001.

2. The Principal Accountant General (G&SSA),
Park House Road, Bangalore – 560 001.

3. The Deputy Accountant General (Admn.),
Office of the Principal Accountant General (G&SSA),
Park House Road,
Bangalore – 560 001

....Respondents

(By Shri M.V. Rao, Senior Panel Counsel)

ORDER (ORAL)

DR. K.B. SURESH, MEMBER (J):

This RA is against our order dismissing the application of the applicant. Therefore we queried the applicant as to what was his service in the government. He had apparently 9 years and 22 days service in the

government thereafter he had joined ITI which, even though a Public Sector Undertaking, is not under the direct control of the government and cannot be termed as State under Article 12 as it is a manufacturing commercial unit of the government for which a different kind of payscale is applied. Therefore we queried the applicant as to what will be the payscale on which his last drawn pay will be fixed to grant him pension. The applicant submits that he is to be granted pension on the basis of payscale he was granted in the ITI following his recruitment in ITI which is a company registered under the Indian Companies Act. Now the sovereign state may run different commercial plans also for its own purposes that does not *ipso facto* make them government employees. If he has enough service in government service to be eligible for minimum pension then situation would have been different here. He did not have that and he had joined ITI on his own volition and not on the prompting of the government. Therefore there cannot be any element of compulsion in joining ITI which has a better payscale. He had opted for a better payscale in ITI in contradiction of the government. Therefore by the rules of election he had chosen better option and now there cannot be benefit of both. The payment in ITI may be much more but it does not grant pension. Therefore the applicant is not entitled for pension and we deem it a frivolous and vexatious application. RA is dismissed with a cost of Rs. 5,000/-.

(PRASANNA KUMAR PRADHAN)
MEMBER (A)

(DR. K.B. SURESH)
MEMBER (J)

/ksk/

Annexures referred to by the applicants in RA No.170/00035/2017

Annexure-RA1: True copy of judgment of Central Administrative Tribunal, Bangalore Bench in O.A. No. 170/00805/2016 dated 07.03.2017

Annexure-RA2: True copy of DoPT OM F.No. 4/34/2002-P&PW(D) Vol.II dated 23.06.2017

Annexures with reply statement

Annexure-R1: Copy of reply statement filed by the respondents in OA No. 170/00805/2016
