

CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE BENCH, BANGALORE

ORIGINAL APPLICATION NO.170/00778 TO 782/2017

DATED THIS THE 14TH DAY OF JUNE, 2018

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

HON'BLE SHRI P.K. PRADHAN, MEMBER(A)

1. Sathish B.K.
S/o B.L. Krishnappa
Aged above 36 years
Working as Junior Radiographer
ESIC Model Hospital
Rajaji Nagar, Bengaluru – 560 010
R/a – No. 207, 2nd Main, 4th Cross
Kasturi Layout, Kamala Nagar,
Bengaluru – 560 079.

2. K.M. Vedhakeerthi Kumar
S/o R.K. Mahadevappa
Aged above 33 years
Working as Junior Radiographer
ESIC Model Hospital
Rajaji Nagar, Bengaluru – 560 010
R/a – 'Basava Karna', Plot No. 21
Sedam Road, Siddaganga Colony
Kalburgi – 585106.

3. Shah Fareed
S/o Piyare Jan
Aged above 32 years
Working as Junior Radiographer
ESIC Model Hospital
Rajaji Nagar, Bengaluru – 560 010
R/a – No. 2, 5th Main, 6th Cross
Kushal Nagar, Kadugondanahalli
Arabic College P.O
Bengaluru – 560 024

4. Noor Ul Huda
S/o Shaik Ahmed
Aged above 32 years
Working as Junior Radiographer
ESIC Model Hospital
Rajaji Nagar, Bengaluru – 560 010
R/a – No. 1500, 1st Main
Vijinapura, Doorvani Nagar P.O
Bengaluru – 560016

5. Nethravathi H.Y.
D/o H. Yaraguntappa
Aged above 31 years
Working as Junior Radiographer
ESIC Model Hospital
Rajaji Nagar, Bengaluru – 560 010
R/a – No. 529, Flat No. 1, 1st Cross
SS Block, Hebbal
Bengaluru – 560 024.

...Applicants

(By Advocate Smt M.V. Thanuja)

V/s.

1. Union of India,
Represented by its Secretary,
Department of Labour,
Shrama Shakti Bhavan,
Rafi Marg, New Delhi-110 001.
2. The Director General,
Employees' State Insurance Corporation(HQ),
Panchadeep Bhawan,
New Delhi-110 002.
3. The Regional Director
Employees' State Insurance Corporation(Regional Office),
Bennipet, Bangalore.
4. The Medical Superintendent,
Employees' State Insurance Corporation,
PGI MSR, Rajajinagar,
Bengaluru-560 010.
5. The Dean,
ESIC Medical College,
Sedam Road,
Gulbarga-585 110.

...Respondents

(By Shri V.N. Holla, Senior Panel Counsel)

O R D E R(ORAL)

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

Heard. In an earlier case in OA.NOs. 595 to 614/2017
the respondents had undertaken to pay the arrears resulting from the
decision of the Hon'ble High Court of Delhi, which all over India have

now been accepted. The respondents had said that on an undertaking only such arrears could be paid, which we had accepted.

2. Now the learned counsel for the respondents brings to our notice that the decision taken on arrears is an executive decision, therefore they rely on the decision of the Hon'ble Apex Court in SLPC.No.26977/2010, which says that the decision of the executive in the matter of prescribing the pay structure cannot be interfered with, unless it is in violation of Article 14 and 16 of the Constitution of India.

3. It appears that all over India, following the decision of the Hon'ble High Court of Delhi, this matter had been implemented and therefore, if it is not implemented here also, it will be violation of Article 14 and 16 of the Constitution of India. We cannot understand why such a colourable exceptions are made by the respondents. Being public authority, they are expected to be strict and proper in their approach. When the matter had been implemented all over India, how can it be denied to employees in Karnataka alone, can never be of moot concern.

4. We bow down to the persuasion of the learned counsel for the respondents and refrain from imposing cost, but we allow the OA in terms of the order we had passed earlier following the High Court decision, which is binding on all. The benefits should be made available within the next 2 months, but we also hold that the applicants and others like them, have to give an undertaking that if it is wrongly given to them, it can be recovered, despite Whitewashers

judgement of the Hon'ble Apex Court.

5. OA allowed to this extent. No order as to costs.

(P.K. PRADHAN)
MEMBER(A)

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

vmr.

Annexures referred to by the applicants in OA.No.778-782/2017.

Annexure-A1: Copy of appointment order

Annexure-A2: Copy of Central Administrative Tribunal, Jaipur Bench order dated 06.12.2016 in O.A. No. 291/00645/2015

Annexure-A3: Copy of implementation of above order dated 02.03.2017.

Annexure-A4: Copy of Central Administrative Tribunal, Principal Bench, New Delhi order dated 25.07.2017 in O.A. No. 417/2014

Annexure-A5: Copy of implementation of above vide order dated 07.11.2017

Annexure-A6 (series): Copy of representation dated 28.08.2017.

Annexure-A7(series): Copy of rejection order dated 27.11.2017.

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