

CENTRAL ADMINISTRATIVE TRIBUNAL  
BANGALORE BENCH, BANGALORE

ORIGINAL APPLICATION NO.170/00783/2017

DATED THIS THE 14TH DAY OF JUNE, 2018

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

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

Surjith S  
S/o V.K. Soman  
Aged above 38 years  
Working now as Radiographer  
ESIC Model Hospital  
Rajaji Nagar, Bengaluru – 560 010  
R/a – LF-42/5, ESI Staff Quarters  
Nandini Layout  
Bengaluru – 560 096. ....Applicant

(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 Bhavan,  
New Delhi-110 002.
3. The Regional Director  
Employees' State Insurance Corporation(Regional Office),  
Bennipet, Bangalore.
4. The Dean,  
Employees' State Insurance Corporation,  
Model Hospital & PGI MSR, Rajajinagar,  
Bangalore-560 010. ....Respondents

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

ORDER(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 applicant and others like him, 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.783/2017.

Annexure-A1: Copy of appointment order dated 26.08.2003

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: Copy of representation dated 28.08.2017.

Annexure-A7: Copy of rejection letter dated 23.11.2017.

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