

CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE BENCH, BANGALORE

ORIGINAL APPLICATION NO.170/00853/2015

DATED THIS THE 9TH DAY OF MARCH, 2018

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

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

Sri K.H. Naik
S/o Late Hariyappa,
Aged about 54 years,
Working as Regional Director,
Central Board for Workers' Education,
Ministry of Labour and Employment, Govt. Of India,
Office at No. 48, 1st Floor,
Karmik Kalyan Bhavan,
Mathikere Main Road,
Yashavanthpur, Bangalore – 560 022.
Residing at Room No. 219,
Everest P.G. Accommodation,
Market Main Road, Yashavanthpur,
Bangalore – 560 022. ..Applicant.

(By Advocate Shri K. Ananda)

Vs.

1. Union of India,
Ministry of Labour & Employment,
Shramashakthi Bhavan,
Rasi Marg,
New Delhi – 110 011
Represented by its Secretary.

2. The Chairman,
Central Board of Workers' Education,
Room No. 21, Jamnagar House,
Man Singh Road,
New Delhi – 110 011

3. The Director,
Central Board of Workers' Education,
North Ambazari Road,
Near V.N.I.T. Gate,
Nagpur – 440033

4. The Account Officer,
Central Board of Workers' Education,
North Ambazari Road,
Near V.N.I.T. Gate,
Nagpur – 440033.Respondents

(By Smt P.K. Praneshwari, Senior Panel Counsel)

O R D E R (ORAL)

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

We heard the learned counsel for both parties along with the help of departmental representative Shri Shankarlinge Gowda. We had explained to both the counsel and him also, the crux of the matter. The crux is very simple. At the time of applicant's promotion as Education Officer, he ought to have exercised the option under FR-22. Apparently, the respondents have not asked him to exercise that option. He did not do so. But at the same time, they on their own volition, granted him the benefit on their own choosing.

2. Apparently, at a later stage, applicant accepted it and thus this situation has become concertized. Therefore, there is nothing more for anybody to worry about, as, after the department has unilaterally decided the benefit, the applicant is entitled to and applicant had admitted it and exercised for it. Therefore, law of election is also complete. There is nothing more to be agitated at this juncture.

3. Apparently, at this time, finding that there may be a difference in the dates between the grant of benefit and date of option given by the applicant, the Audit Officer without fully understanding the issue at hand, had raised an objection and on this basis, apparently it is seen that the next increment had been withheld.

4. Following this, applicant should have challenged this Annexure A-24 order and consequences thereof. Instead he has asked for something which is different, jumping the gun. There is no question of recovery, as the respondents have not asked for any recovery. This portion of the relief sought for by the applicant cannot sustain, for the simple reason that it is not sustained by any action on the part of the respondents. But this situation is clarified once again that there is no fault, actually, even though technically there might be on the part of the respondents, in fixing the pay of the applicant at the time of promotion as Education Officer. Therefore, he is entitled to the placement benefit and increment as it is.

5. OA allowed to this extent. Respondents are granted 2 months' time to look into the matter and do what ever is entitled, for a quietus to the issue. No costs.

(P.K. PRADHAN)
MEMBER(A)

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

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Annexures referred to by the applicant in OA.No.853/2015

Annexure-A1: Copy of the promotional order dated 3/4.05.2006 issued by the 3rd respondent.

Annexure-A2: Copy of the Memorandum dated 9.6.2008

Annexure-A3: Copy of the letter dated 28.10.2010 issued by the 3rd respondent

Annexure-A4: Copy of the Official Memorandum dated 5.7.2010.

Annexure-A5: Copy of the Pay Fixation Statement of the applicant

Annexure-A6: Copy of the Promotional Order dated 30.03.2011

Annexure-A7: Copy of the letter dated 27.04.2011 submitted by the applicant.

Annexure-A8: Copy of the Option Certificate submitted by the applicant

Annexure-A9: Copy of the Pay Fixation statement of the applicant.

Annexure-A10: Copy of the pay slip of the applicant for the month of November, 2011

Annexure-A11: Copy of the order dated 06.01.2012 issued by the 3rd respondent

Annexure-A12: Copy of the Pay Fixation statement of the applicant.

Annexure-A13: Copy of the pay slip of the applicant for the month of December, 2011

Annexure-A14: Copy of the representation dated 11.01.2012 submitted by the applicant to the 3rd respondent.

Annexure-A15: Copy of endorsement/letter dated 20.01.2012 issued by the 3rd respondent.

Annexure-A16: Copy of the OA 136/2012 filed by the applicant before CAT, Mumbai Bench

Annexure-A17: Copy of the reply statement filed by the respondents in OA No. 136/2012

Annexure-A18: Copy of the rejoinder filed by the applicant in OA 136/2012

Annexure-A19: Copy of the communication dated 17.06.2012 issued by the Principal Director of Audit (Central)

Annexure-A20: Copy of the order passed by CAT, Mumbai Bench in OA No. 136/2012

Annexure-A21: Copy of the representation submitted by the applicant to the 3rd respondent

Annexure-A22: Copy of the contempt notice issued by the applicant

Annexure-A23: Copy of the contempt petition in CP No. 44/2013 filed by the applicant

Annexure-A24: Copy of the order dated 09.07.2014 issued by the 4th respondent

Annexure-A25: Copy of order dated 10.12.2014 passed in CP 44/2013

Annexure-A26: Copy of the representation dated 17.07.2014 submitted by the applicant.

Annexures referred to by the Respondents in the Reply Statement.

Annexure-R1: Copy of the letter dated 19.9.2010 issued by the Audit Officer.

Annexure-R2: Inspection Report on the Accounts of the Regional Director for the year 2010-2011.

Annexure-R3: Copy of the letter dated 10.3.2011 issued by Sr. Accounts Officer (I/A).

Annexure-R4: Copy of Para 17 Erroneous pay fixation of officials in cadre of Education Officers in excess payment.

Annexure-R5: Copy of the letter dated 09.7.2014 issued by the Accounts Officer.

Annexure-R6: Copy of the letter dated 23.2.2015.

Annexure-R7: Copy of the letter dated 16.12.2010 issued by Financial Advisor.

Annexure-R8: Copy of the letter dated 16.12.2011 issued by the Director.

Annexures referred to by the applicant in the Rejoinder

Annexure-A27: Copy of the increment sanction order dated 14.7.2015.

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