

CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE BENCH

ORIGINAL APPLICATION NO.170/01691/2018

DATED THIS THE 05TH DAY OF JULY, 2019

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

HON'BLE SHRI C.V. SANKAR, MEMBER (A)

A.V. Ramadas
S/o Late of A. Venkataramana Char
Age 64 years
105/5, III Cross Road, Gavipuram Extn.,
Bengaluru 560 019 Applicant
(By Advocate Shri M.R. Achar)

Vs.

1. The Regional Director
Sports Authority of India
Netaji Subhas Southern Centre,
Bangalore 560 056

2. Senior Auditor Officer/CAB,
O/o the Principal Director of Audit (Central Bang
CAB 'B' Block I floor, New Building
Bengaluru 560 001

3. Director General
Sports Authority of India
J.N. Stadium, East Gate
New Delhi 110 003 Respondents

(By Shri M.V. Rao, Counsel for the Respondents)

O R D E R (ORAL)

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

Heard. The matter is in a very small compass. Applicant was appointed as LDC on 01.03.1984. He was promoted in the interregnum as UDC. Thereafter he was promoted as Assistant on 03.09.2001 but thereafter a DPC was held and applicant was given a retrospective operation of his promotion as Assistant from 09.12.1998. It was held that this retrospective operation will only be notional.

2. But then apparently at this point of time the applicant who was in charge of Accounts apparently decided for himself that it must be actual and fixed the pay in accordance with it. That was denied and that is in challenge now. The Hon'ble Apex Court while accepting exception to Whitewasher rule have held in the District Judges case that if one is instrumental in fixation of pay wrongly and later the concerned authority denies it the benefit of such wrong fixation may not rest on the shoulders of such person as, as an exception to Whitewasher, this was done through the aegis of himself alone and therefore will not be valid in equity. The same rule is applicable here as well. As applicant himself has fixed that despite the concerned authority's decision that the retrospective promotion from 09.12.1998 will only be notional as he had not worked in that position at that point of time and had came in only on 03.09.2001. The applicant could have probably challenged

it at that point of time but it appears that he may have come to the Court at that time but he had withdrawn it. At this point of time it is stated by Shri M.V. Rao, learned counsel for the respondents, that this fact which would have an effect of *resjudicata* being imposed on him was apparently suppressed by the applicant. At this point of time, Shri M.R. Achar, learned counsel for the applicant, submits that this has been admitted by him in answer to the reply filed by the respondent in the rejoinder. However, that may not be very germane. The issue here is only that without successfully challenging the notional imposition placed on him he cannot by himself grant himself a pay fixation which is more than what is granted by the concerned authority. Obviously he lacks the power to do so. That being so, the OA lacks merit.

3. The OA is dismissed. No order as to costs.

(C.V. SANKAR)

MEMBER (A)

(DR.K.B.SURESH)

MEMBER (J)

Annexures referred to by the applicant in OA No. 170/01691/2018

Annexure-A1: Copy of the Pension Pay Order No. 39/2015 dated 02.03.2015

Annexure-A2: Copy of the Revised PPO dated 23.03.2018

Annexure-A3: Copy of the promotion to the post of Assistant order dated 03.09.2001

Annexure-A4: Copy of the Review DPC order dated 28.09.2001

Annexure-A5: Copy of the order No. 192/10 dated 09.07.2010

Annexure-A6: Copy of the minutes of the screening committee held on 05.03.2014

Annexure-A7: Copy of the statement of report of the applicant

Annexure-A8: Copy of the clarification by respondent head office

Annexure-A9: Copies of MACP rules and illustration

Annexure-A10: Copy of the AG Auditors observation report

Annexure-A11: Copy of the OM of DoPT dated 02.03.2016

Annexure-A12: Copy of the respondent reply dated 12.09.2018

Annexure-A13: Copy of the respondent reply dated 18.09.2018

Annexure-A14: Copy of the notional increment earlier granted to Shri H.A. Parashetti and Shri K.V. Vinod Narayanan

Annexures referred in reply statement

Annexure-R1: Copy of the representation of the applicant dated 24.12.2007.

Annexure-R2: Copy of the representation of the applicant dated 23.05.2008

Annexure-R3: Copy of the representation of the applicant dated 27.06.2008

Annexure-R4: Copy of the representation of the applicant dated 06.09.2008

Annexure-R5: Copy of the SAI Office Order No. 192/10 dated 09.07.2010

Annexure-R6: Copy of the MACP scheme illustrations

Annexure-R7: Copy of the undertaking of the applicant

Annexure-R8: Copy of the SAI Office Order No. 170/2014 dated 10.09.2014

Annexure-R9: Copy of the SAI Note dated 05.09.2018

Annexure-R10: Copy of the order in OA No. 309/2003 dated 08.04.2004

Annexures referred to in the rejoinder

Annexure-A15: Copy of the correspondence and notional pay fixation Shri R.K. Chopra, Dy. Director

Annexure-A16: Copy of the Notional pay fixation order of Shri Shyam Sundar, Asst. Director

Annexure-A17: Copy of the III MACP reply and correspondence with Ms. Swamy Publishers (P) Ltd., Chennai

Annexures referred in Additional Reply

Annexure-R11: Copy of the Office Order No. 262/93 dated 29.12.1993

Annexures referred in MA No. 196/2019

Annexure-MA1: Copy of the information received under RTI Act dated 10.10.2018

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