CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, DELHI.

DATE OF DECISION: February 28, 1990.

(1) Regn. No. O.A. 1621/1989. Shri P.P. Abdurahaman	....	Applicant.
(2) Regn. No. O.A. 1628/1989. Shri Madan Gopal Arora	....	Applicant.
(3) Regn. No. O.A. 1629/1989. Shri M.K. Dhar	....	Applicant.
(4) Regn. No. O.A. 1769/1989. Shri S.K. Kshatri	....	Applicant.
(5) Regn. No. O.A. 1855/1989. Shri B.C. Dutta	....	Applicant.
(6) Regn. No. O.A. 2330/1989. Shri R.C. Agarwal	....	Applicant.
	V/s.	
Union of India & Others	....	Respondents.
Shri K.L. Bhandula	....	Advocate for the Applicants.
Shri M.L. Verma	....	Advocate for the Respondents.

CORAM: Hon'ble Mr. P.C. Jain, Member (A).

JUDGEMENT

The aforecited six applications have been filed under Section 19 of the Administrative Tribunals Act, 1985. Although these are separate applications having been filed by different applicants, and the reliefs sought are also not identical in all cases, yet these applications can be conveniently disposed of by a common judgement because the principle on the basis of which reliefs are claimed is the same in all these cases. Each of the applicants has prayed for refixation of his pay on return from deputation / foreign service at the level of pay drawn by his junior with consequential benefits, including increments etc. Briefly the facts of each case are stated as under: -

(1) O.A. 1621/1989. The applicant herein was appointed as Supervisor in the Central Water Commission w.e.f. 7.1.1964. He was relieved of his duty from that Organisation w.e.f. 5.10.1976 (A.N.) for proceeding on deputation on foreign service as Surveyor with the Government of Iraq, vide Office

Order dated 5.10.1976 (Annexure V to the application). He returned to his Parent Organisation in October, 1981 and was promoted as Extra Assistant Director on 15.10.1981, on ad-hoc basis. During his absence on foreign service, some Design Assistants / Supervisors were promoted to officiate in the grade of Extra Assistant Director / Assistant Engineer in the Central Water Commission on a purely temporary and ad-hoc basis in the pay scale of Rs.650 - 1200 with effect from the dates they actually assumed charge of the higher post until further orders, vide Office Order dated 11th April, 1978 (Annexure VI to the application). According to the applicant, his junior Shri K. Balakrishnan Nair was also promoted as such, but he was never intimated about the orders of promotion of his juniors; nor was he required to exercise his option whether to continue on deputation or return to India to avail himself of promotion. On return from foreign service, the applicant was also promoted on ad-hoc basis to the grade of EAD/AE w.e.f. 16.10.1981, but his pay was fixed at Rs.650 p.m. in the pre-revised scale of Rs.650 - 1200 as against Rs.740 which was being drawn by his junior Shri K. Balakrishnan Nair in 1981. On his request for refixation / stepping up of his pay at par with junior, the applicant was informed of the following observations of the Ministry of Finance contained in CWC I.D. dated 12.5.82: "The pay of the senior official cannot be stepped up because the promotion of the junior officer to the higher grade has been made on ad-hoc basis. After the promotion of the junior official is made regular without any break in the service in the higher grade, the pay of the senior official may be considered for stepping up to the level of the pay drawn by the junior official retrospectively under F.R. 27 in consultation with the Ministry (Ministry of Finance)."

The applicant along with his junior Shri K. Balakrishnan Nair was promoted on regular basis as EAD/A.E. in the pre-revised scale of Rs.650 - 1200 w.e.f. 9.8.82, vide Notification issued by the Central Water Commission on 22.10.1982 (Annexure VIII to the application). The pay of the applicant, on his regular promotion to the grade of EAD/AE was fixed at Rs.710 as on 1.4.1983 as against Rs.810 fixed in the case of his junior

Shri K. Balakrishnan Nair. In his letter dated 12.1.1989, to the Chief Engineer (A&C), CWC (Annexure IX to the application), he referred to his letters dated 11.3.1983, 14.9.83 and 2.4.87 regarding pay fixation at par with juniors and also invited attention to "the latest judgement of Central Administrative Tribunal, Hyderabad Bench, Hyderabad in favour of S/Shri B.V. Rangaiah and G. Kumaraswamy in the transfer application No.1 of 1988 and O.A. No.101/88 delivered on 27-10-1988 and 11-10-1988 respectively". However, his request was not acceded to and he was informed by Office Memorandum dated 10-7-1989 (Annexure I to the application) that "the judgements of the Central Administrative Tribunal, Hyderabad Bench in the case of S/Shri B.V. Rangaiah and G. Kumaraswamy are to be implemented in respect of Petitioners only. It is regretted that his pay cannot be refixed in the grade of Assistant Engineer / Extra Assistant Director". Being aggrieved by this impugned order, the applicant filed this O.A. on 14.8.1989, praying for refixation of his pay in the grade of Extra Assistant Director / Assistant Engineer w.e.f. 26.4.1981 at the level of pay drawn by his junior Shri K. Balakrishnan Nair with consequential benefits including increments etc., and for payment of arrears of pay and allowances consequent on refixation of pay as also the cost of the proceedings.

(2) O.A. 1628/1989. The applicant herein was appointed as Supervisor in the Central Water Commission w.e.f. 12.6.1964. He remained on foreign service from 19.7.1976 and on return from Iraq on 14.8.1981, his pay was fixed at Rs.680 in the grade of EAD/AE on ad-hoc basis as against Rs.740 which his junior Shri M.L. Batra was drawing w.e.f. 12.4.1981. Both were promoted in the grade of EAD/AE on regular basis w.e.f. 9.8.1982, but the pay of the applicant was fixed at Rs.740 as against Rs.810 fixed in the case of Shri M.L. Batra w.e.f. 1.4.1983. The representation of the applicant dated 14.12.88 was rejected vide Office Memorandum dated 28.7.89 (Annexure II to the application) on the same plea as quoted in O.A. 1621/1989. The applicant filed this O.A. on 14.8.89, praying for refixation of his pay in the grade of EAD/ Assistant Director w.e.f. 12.4.1981 at the level of pay

drawn by his junior Shri M.L. Batra with consequential benefits including increments etc. and for payment of arrears of pay and allowances consequent on refixation of pay, as also the cost of the proceedings.

(3) O.A. 1629/1989. The applicant herein was appointed as Supervisor in the Central Water Commission w.e.f. 15.4.1965. He went on deputation to WAPCOS with effect from 31.3.1978 and on return to his Parent Organisation in early 1981, he was promoted as Extra Assistant Director on 13.3.81 on ad-hoc basis and his pay was fixed at Rs.650 in the grade of EAD/AE as against Rs.740 which his junior Shri B.R. Reddy was drawing w.e.f. 26.6.1981. Both were promoted in the grade of EAD/AE on regular basis w.e.f. 31.12.84, but the pay of the applicant was fixed at Rs.775 as against Rs.880 fixed in the case of Shri B.R. Reddy. The representation of the applicant dated 30.3.1989 was rejected vide Office Memorandum dated 17th July, 1989 (Annexure II to the application), whereupon he filed this O.A. on 14.8.1989, praying for refixation of his pay in the grade of Extra Assistant Director / Assistant Engineer w.e.f. 26.6.1981 at the level of pay drawn by his junior Shri B.R. Reddy and Shri B.V. Rangaiah (as per Tribunal's judgement in the case of Shri Rangaiah) with consequential benefits including increments etc. and for payment of arrears of pay and allowances consequent on refixation of pay of the applicant, as also the cost of the proceedings.

(4) O.A. 1769/1989. The applicant herein was appointed as Supervisor in the Central Water Commission w.e.f. 24.2.1965. He went on foreign service to Chukha Hydel Project, Bhutan in November 1977 and on return to his Parent Organisation, he was promoted as Extra Assistant Director on 8.6.1981 on ad-hoc basis. His pay in the grade of EAD/AE was fixed at Rs.650 w.e.f. 8.6.81 as against Rs.740 which his junior Shri R.K. Kataria was drawing on that date. Both were promoted in the grade of EAD/AE on regular basis; the applicant having been promoted w.e.f. 26.12.83 and his junior Shri R.K. Kataria w.e.f. 31.12.84. But the applicant's pay was fixed at Rs.775/-

(10)

(6) O.A. 2330/1989. The applicant herein was a member of the Central Water Engineering (G.A.) Service and was promoted as Dy. Director / Executive Engineer on regular basis w.e.f. 15.6.1970 in the Central Water Commission. He went on deputation to Nigeria w.e.f. July, 1977 and on his repatriation to his Parent Organisation, he was promoted on ad-hoc basis as Director w.e.f. 19.9.1983. During his absence on deputation to Nigeria, his junior Shri M.S. Hussain was promoted as Director on ad-hoc basis in the scale of Rs.1500 - 2000, w.e.f. 20.8.1980. On promotion to the post of Director on ad-hoc basis, the pay of the applicant was fixed at Rs.1680 w.e.f. 19.9.83 as against Rs.1740 which his junior Shri Hussain was getting w.e.f. 1.8.83. As in other cases discussed above, the applicant herein also was informed of the observations of the Ministry of Finance contained in C.W.C I.D. Note dated 12.5.82 to the effect that the pay of the senior official may be considered for stepping up to the level of the pay drawn by the junior official retrospectively only when the promotion of the junior official is made regular without any break in service in the higher grade. It is alleged that both the applicant and his junior Shri M.S. Hussain were appointed as Director (O.G.) on regular basis w.e.f. 5.2.1986, but the pay of the applicant was not stepped up to the level of his junior. In reply to his representation dated 28.8.89, he was informed by a communication dated 18th September, 1989 (Annexure I to the application) that cases of stepping up of pay of C.W.C officers as per the C.A.T. Hyderabad judgement delivered in respect of Shri G. Kumaraswamy and Shri B.V. Penjaiah, is applicable to the petitioners only. He retired as Director (S.G.) on attaining the age of superannuation w.e.f. 30.11.1986. He filed this O.A. on 20.11.1989, praying for refixation of his pay in the grade of Director (O.G.) at Rs.1900 p.m. w.e.f. 19.9.1983 with consequential benefits including increments etc., and for refixation of his pay as

w.e.f. 1.2.85 whereas the pay of Shri R.K. Kataria was fixed at Rs.880 w.e.f. 1.4.85. The representation of the applicant dated 15.6.89 was rejected vide Office Memorandum dated 7th July, 1989 (Annexure II to the application), whereupon the applicant filed this O.A. on 5.9.1989, praying for refixation of his pay in the grade of Extra Assistant Director / Assistant Engineer w.e.f. 8.6.1981 at the level of pay drawn by his junior Shri R.K. Kataria with all consequential benefits of increments, allowances etc., and for payment of arrears of pay and allowances consequent on refixation of pay of the applicant, as also the cost of the proceedings.

(5) O.A. 1856/1989. The applicant herein was appointed as Supervisor in the Central Water Commission w.e.f. 17.8.1964. He went on deputation to the Chukha Hydel Project as Supervisor, having been relieved on 28.6.1980 and returned to his Parent Organisation in 1984. On his repatriation, he was promoted as E.A.D./A.E. on ad-hoc basis w.e.f. 6.9.1984 and his pay was fixed at Rs.740 as against Rs.775, which was being drawn by his junior Shri G.C. Roy on that date. Both were promoted in the grade of E.A.D. / A.E. on regular basis w.e.f. 31.12.1984, but the pay of the applicant was fixed at Rs.740 as against Rs.775 fixed in the case of Shri G.C. Roy. The representations of the applicant dated 29.3.89 and 26.7.89 were rejected vide Office Memorandum dated 31.7.1989 (Annexure II to the application) and thereafter the applicant filed this O.A. 13.9.1989, praying for refixation of his pay in the grade of Extra Assistant Director / Assistant Engineer w.e.f. 6.9.1984 at the level of pay drawn by his junior Shri G.C. Roy (as per Tribunal's judgement in the case of Shri Rangaiah) with consequential benefits including increments etc., and for payment of arrears of pay and allowances consequent on refixation of pay of the applicant and the cost of the proceedings.

stated to have been 12
O.A. 1096/88 and O.A. 1097/88/decided on 3.7.1989.

(e) Denial of refixation of pay at par with juniors is against the principle of natural justice and the decision of the respondents in the impugned orders is arbitrary, capricious, irrational and unjustified.

3. The pleas of the respondents are as under: -

(a) The applications are barred under Sections 20 and 21 of the Administrative Tribunals Act, 1985.

(b) The judgements relied upon by the applicants were judgements in personam and not judgements in rem and as such, they are not applicable to the applicants.

(c) The applicants had gone on deputation / foreign service on their own volition and they being away from their cadres, their juniors, who were available in the cadres, had to be promoted to the higher grades on ad-hoc basis and they were entitled to fixation of pay in the scales of pay attached to the posts and as such they continued to draw higher pay by virtue of their actually performing the duties of higher posts.

(d) The stepping up of pay at par with their juniors in the case of the applicants, is not covered by the Government of India decision No.10 under FR-22-C as the anomaly is not directly as a result of the application of FR. 22-C. (Ministry of Finance O.M. No.F.2(78)-E.III (A)/66, dated 4.2.1966).

4. I have gone through the material on record and have also heard the learned counsel for the parties.

5. In support of his plea that the applications are barred by limitation under Sections 20 and 21 of the Administrative Tribunals Act, 1985, the learned counsel for the respondents cited the case of Ratanjit Krishna Bhattacharyay Vs. Union of India & Others (O.A. No.300 of 1988) decided on

13

Director (S.G.) consequent on refixation of his pay in the grade of Director (O.G.) with consequential benefits, as also for payment of arrears of pay and allowances consequent on refixation of pay and revision of pension and pensionary benefits on account of refixation of pay and payment of arrears thereof, including the cost of proceedings.

2. There are some common pleas taken by all the applicants which are summarised as under: -

(a) While on deputation / foreign service, the applicants were not intimated about the orders of promotion of their juniors; nor were they given an opportunity to exercise their option whether to continue on deputation or return to their Parent Organisation to avail themselves of promotion, which for all intents and purposes was on long term basis.

(b) They were advised of the observations of the Ministry of Finance contained in C.V.C. I.D. Note dated 12.5.1982 to the effect that after the promotion of junior official is made regular without any break in service in the higher grade, the pay of the senior official may be considered for stepping up to the level of the pay drawn by the junior official retrospectively under F.R. 27.

(c) Even on promotion on regular basis, the applicants have not been given the benefit of refixation / stepping up of their pay at the level of pay drawn by their juniors.

(d) All the applicants are relying upon the judgement of the Hyderabad Bench of the Tribunal in the case of B.V. Rangaiah Vs. U.O.I. & Others (TA-1/1988) decided on 7.10.1988, and judgments of the Principal Bench of the Tribunal in O.A. 1095/88,

had he remained in the original line i.e., he should be given proforma officiating promotion into such scale or grade on each occasion on which the officer immediately junior to him in the cadre of his service draws officiating pay in that scale or grade. So far as the applicability of "next below rule" to Government servants deputed abroad, the matter was held to be covered by G.I.M.F. O.M. No.F.2(10)-E.III/60 dated 17.10.1960." Applying the principle of Next Below Rule and the clarification of the Government of India dated 17.10.1960 (Government of India Order No.5 below FR 30), it was held in the case of B.V. Rangaiah that if during the period an officer is deputed abroad, his junior is given officiating promotion to a higher post, immediately on his return, the deemed date of promotion in the post which may fall dur ng the tenure of deputation, shall be arrived at by applying the conditions of the "Next Below Rule" and the pay of the actual appointment shall be fixed by assuming that the officer has been promoted from the date of the deemed date of promotion. The applicant was held to be entitled to fixation of pay on par with his junior Shri B.R. Reddy with monetary benefits from 26.6.1981 and also entitled to all consequential increments and the differen ce in pay, which would accrue to him from time to time on the basis of such fixation of pay. On the point of limitation, it was stated as below: -

> "In O.A. No.101 of 1988, I had limited payment of arrears for three years prior to the filing of the application applying the normal law of limitation applicable as in the case of a civil suit has been filed. In the instant case, however, this limitation cannot apply. The applicant had admittedly made a representation in 1982 i.e., within a reasonable time of his promotion on 26.6.1981. At that time the Department put him off stating that his case will be considered at the time of regularisation. Since such consideration was not given to him after regularisation in 1984, he again made a representation in 1985. Soon

14.6.1988 by the Calcutta Bench of the Central Administrative Tribunal (1989 (3) SLJ (CAT) - Short Note at p. 447, wherein it was held that "In any case the other party's case can't save limitation for the applicant." The learned counsel for the respondents has not supplied, even on request, either a full copy of the judgement or another citation where it may be perused; the citation given has only Short Note.

6. The learned counsel for the applicants cited the following judgements in support of his cases wherein it has been held that the applicants would be entitled to the refixation of pay on par with their juniors with consequential benefits: -

(1) Transferred Application No.1 of 1988 (writ petition No.11833 of 1985) - B.V. Rangaiah Vs. The Chairman, Central Water Commission and Another - decided by the Hyderabad Bench of the Central Administrative Tribunal on 27.10.1988.

(2) O.A. No.1096/88 - Shri V.V.G. Rao Vs. Union of India - decided by the Principal Bench, New Delhi of the Central Administrative Tribunal on 3.7.1989.

(3) O.A. 753/86 - Shri B.S. Bhandari Vs. Union of India - decided by the Principal Bench, New Delhi of the Central Administrative Tribunal on 10.1.1990.

According to the learned counsel for the applicants, the cases of the applicants are on all fours with the aforecited cases and as such they are entitled to the reliefs claimed by them.

7. In the case of B.V. Rangaiah Vs. The Chairman, Central Water Commission and Another (supra), the applicant, while working as Supervisor in the CWC, was deputed on foreign service with Water & Power Development Consultancy Service (India) Ltd. (WAPCOS). While he was on foreign service, some of his juniors were promoted as Assistant Engineer on ad-hoc basis in April 1978. On return to his parent Department in 1981, he was promoted on temporary basis as Assistant Engineer w.e.f. 26.6.81 and was regularised with effect from 31.12.1984. By the same notification, two of his juniors were also appointed on regular basis as Assistant Engineer. The learned Hon'ble Member (Judicial) of the Hyderabad Bench of this Tribunal, in his judgement in the said case observed: "In an identical case viz. O.A. No.101/1989 dated 11.10.1988, I have considered the very same question in regard to the fixation of pay of a senior who had been on deputation and held that the matter is governed by the principle contained in F.Rs under the head "Next Below Rule". Under this rule, it is provided that an officer out of his regular line should not suffer by forfeiting the officiating promotion which he would otherwise have received

16

10. In the case of Shri B.S. Bhandari Vs. Union of India (O.A. 753/86), the applicant was appointed as Supervisor in the C.W.C. on 17.4.65, went on deputation on foreign service with the Government of Iraq in August, 1976 and came back in August, 1981. On 11.9.1981, he was promoted on ad-hoc basis and was made regular with effect from 31.12.1984. During the period of his deputation abroad, two Supervisors junior to him were promoted on ad-hoc basis in April, 1978. The judgement in the case of Shri B.V. Rangaiah (supra) was followed in this case also and the respondents were directed to step up the pay of the applicant to that drawn by his junior retrospectively with effect from 11.9.1981, the date when he was promoted on ad-hoc basis with all consequential benefits of arrears and salary etc. The question of limitation was raised in that case also, and it was contended by the respondents that the cause of action arose in September, 1981 when the applicant was given promotion on an ad-hoc basis and that he did not challenge the order during the period from September 1981 till his regular promotion in December, 1984. On behalf of the applicant, it was contended that in view of the Finance Ministry's advice conveyed through CWC I.D. dated 12.5.1982, there was no scope for making any further representation and the real cause of action arose only when regular promotions on the basis of recommendations of the D.P.C. followed ad-hoc promotions without any period of break. Regular promotion made with effect from 31.12.1984 was notified in the CWC Notification dated 16.1.1985 and the applicant lost no time on receipt of the impugned order and submitted as many as four representations during February to December, 1985. He, therefore, contended that the application has been made within time. The application in that case was filed in 1986, though the exact date of filing is not known.

11. It is seen that the applicants in all the cases before me were employees of the Central Water Commission and had gone on deputation / foreign service in public interest.

after his being informed in 1985 that he is not entitled to the benefits of fixation of pay on par with Shri B.R. Reddy on the ground that the Finance Ministry has not agreed to extend the benefits of "next below rule", he has filed the Writ Petition. Hence, there is no delay or laches on the part of the applicant in the instant case."

8. The Chairman, Central Water Commission & Another filed a S.L.P. in the Supreme Court against the above judgement and the S.L.P. was dismissed, vide order dated 17.3.89. The learned counsel for the applicants produced a copy of the order by which the pay of Shri B.V. Rangaiah has already been refixed on the basis of the above judgement on 19.5.1989 giving the benefit retrospectively, i.e., with effect from 26.6.1981.

9. In the case of Shri V.V.G. Rao Vs. Union of India (O.A. 1096/88), Hon'ble Shri B.C. Mathur, Vice Chairman, allowed the application and directed that the pay of the applicant be stepped up to that drawn by his junior retrospectively from 5.2.81 with all consequential benefits of arrears and salary etc. The judgement in the case of Shri B.V. Rangaiah Vs. Union of India was relied upon and was followed in this case. It was also observed that the applicant was on deputation and since the promotions of his juniors were on long term basis, it would be denial of natural justice if he is not allowed the pay drawn by his juniors especially when he was not given any option to revert to his cadre when his juniors were promoted on an ad-hoc basis to the next grade. In this case also, the applicant was appointed as Supervisor on 3.3.1965 and proceeded on deputation to M/s. WAPCOS (India) Ltd., New Delhi, from 13.3.1978. The applicant's juniors were promoted on an ad-hoc basis, but the applicant was not informed of the promotion order. On joining back on 5.2.1981, the applicant was not promoted, but he was promoted on 10.8.1981 on an ad-hoc basis and the regular promotion order was issued on 26.12.1983. The question of limitation is not discussed in this judgement as it was probably not raised.

grade, the pay of the senior official may be considered for stepping up to the level of the pay drawn by the junior official retrospectively under F.R. 27, which amounts to a virtual commitment on the part of the Government, the applicant's cases were not taken up suo-moto by the respondents after their ad-hoc promotions along with their juniors were regularised some years back. In equity, the respondents are estopped from taking a different view at this stage. Further, in any case, the respondents should have allowed the due claims and more so, when the SLP filed by them was dismissed by the Hon'ble Supreme Court.

13. As stated in para 11 above, the judgement of the Tribunal in the case of Shri B.V. Rangaiah (supra) and the dismissal of the SLP filed by the respondents by the Supreme Court amounts to declaration of law on the subject at issue in these applications. In view of this, the applicants acquired a fresh cause of action as they were also similarly situated (decision of a Division Bench of the Central Administrative Tribunal, Principal Bench, New Delhi, delivered on 17.11.1989 in O.A. Nos. 1046/88, 778/87, 182/88, 439/87, 1864/87, 721/88 and 1550/87). The judgement in Shri B.V. Rangaiah's case was delivered on 27.10.1988 and the SLP was dismissed on 17.3.89. The applicants in these six cases have filed their applications soon thereafter. In view of these facts and circumstances, the contention of the respondents that these applications are barred by limitation, cannot be upheld.

14. In view of the above discussion, the respondents are directed to refix the pay of each of the applicants with effect from the date(s) of their ad-hoc promotion to the next higher grade at the same level at which their immediate juniors were drawing on that date(s) in that grade, and also grant consequential monetary benefits including refixation of pay in the new scales sanctioned in pursuance of the Fourth Central Pay Commission. The arrears of pay and allowances

Promotions of their juniors were made, though initially on ad-hoc basis, during the period the applicants were on deputation or on foreign service. They were not given the option to avail of the promotion by reverting back or to forego their promotion. I respectfully agree with the ratio of the judgement in the case of Shri B.V. Rangaiah (supra) which was also followed in the other two cases discussed above. The SLP filed by the respondents in that case was also dismissed and thus it amounts to declaration of law on the subject.

12. The Supreme Court has observed that when a citizen aggrieved by the action of the Government department has approached the Court and obtained a declaration of law in his favour, others, in like circumstances, should be able to rely on the sense of responsibility of the Department concerned and to expect that they will be given the benefit of this declaration without the need to take their grievances to the Court (Amrit Lal Berry Vs. Collector of Central Excise and Others, 1975 (1) SLR (SC) 153). In A.K. Khanna & Others Vs. Union of India and Others (ATR 1988 (2) CAT 518), this Tribunal has observed that not extending similar benefit to persons similarly situated would amount itself to a discrimination violative of Articles 14 and 16 of the Constitution. It was held in Thakar Das Sapra Vs. Lt. Governor (1987 (3) ATC 849) that justice, fairness and equity demand that when the principle decided in one case has become final and binding on the respondents, similar benefit should be extended to persons belonging to the same category and who are similarly placed. Similarly in Dharam Pal & Others Vs. Union of India (1988 (6) ATC 396), this Tribunal observed that the cases of employees similarly situated should be examined by the Government suo moto, without driving them to seek redress in a Court of law. It is, therefore, unfortunate that in spite of the Ministry of Finance advice contained in CWC I.D. dated 12.5.82 to the effect that after the promotion of the junior official is made regular without any break in the service in the higher

thereon on the above basis shall be allowed to the applicants within three months from the date of receipt of a copy of this order by the respondents.

15. The applications are allowed in terms of the above directions. Parties to bear their own costs. A copy of this order shall be placed on each of the six case files.

CERTIFIED TRUE COPY

(P.C. JAIN)
MEMBER(A)