

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

ADDITIONAL BENCH, BANGALORE

APPLICATIONS NOS. 935 to 371, 1986 (B)

Reposted
1/12/86
R
26/11/86

BETWEEN:

Sri. M. Srinivasa
and TWO Others .. Applicants

AND:

The Director and Chairman
DPC III
Electronics and Radar Development
Establishment, RDO Complex
Jeevanbhimanagar Post
Bangalore 560 075
and FIVE others .. Respondents

I N D E X

Sl.No.	Description	Pages
1.	Applications <u>List of enclosures</u>	1-18
2.	Extract of Daily Orders Part IA dated 14.12.79, 16.6.80 and 30.8.80 issued by the R&D HQrs in respect of seniority rules	Annexure 'A' 19-20
3.	Extract of Daily Orders Part IA dated 30.9.80 in respect of Seniority rolls issued by the 1st Respondent	" 'A1' 21
4.	Publication of list of eligible candidates for trade test including 2nd to 6 respondents	" 'B' 22
5.	The order of DPC III promotions Tradesman 'C' in respect of respondents dt 08.01.81	" 'C' 23
6.	The order of DPC III promotions Tradesman 'C' in respect of the applications dated 1.9.81	" 'D' 24



7. Representation by Sri.M.Srinivasa dt 15.1.86	Annexure 'E'	25
8. Reply by Ist Respondent in letter No 13403/Adm dt 12.3.86	Annexure 'F'	26
9. Reply by Ist Respondent in letter No. 13403/Adm dt 22.4.86	" 'F1'	27
10. Representation by Sri. DV Krishnappa dated 15.1.86 and 19.2.86	" 'H'	28
	& 'H1'	29
11. Reply by Ist Respondent in letter No. 13393/Adm dt 10.3.86	" 'J'	30
12. Reply by Ist Respondent in letter No. 13393/Adm dated 29.4.86	" 'K'	31
13. Legal notice dt 9.7.86 along with the postal receipt and acknowledgement card	" 'L' to 'N'	32-36
14. Vakalath	Annexure 'P'	37
15. Reply dt 22.4.86 in No. 13403/Adm - <u>in original</u>	Annexure 'F1'	38
16. Reply dt 29.4.86 in No. 13393/Adm - <u>in original</u>	Annexure 'K'	39

alone

*Attachment
Adopted All rights*

A.W. 1935 to 3786 (A)

APPLICATION UNDER SECTION 19 OF THE ADMINISTRATIVE
TRIBUNALS ACT 1985

For use in Tribunals Office

Date of Filing

26th November 1986 at
2 PM

OR

Date of Receipt
by post

Presented by
Sri A. Rajeshwar
Arnscoor

Registration No. _____

Signature

Registrar

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,
ADDITIONAL BENCH, BANGALORE

BETWEEN:

Sri. M. Srinivasa
AND TWO OTHERS .. Applicants

AND:

The Director and Chairman
D.P.C. III
Electronics and Radar Development
Establishment, DRDO Complex
Jeevanbhimanagar Post
Bangalore 560 075
AND FIVE OTHERS .. Respondents

2/-

21

1. Particulars of the applicants:

(i) and (ii) Name of the applicants and their fathers names:-

1. Sri. M. Srinivasa, 45 years
S/o Sri. N. Munivenkatappa

2. Sri. Sri. D.V. Krishnappa, 45 years
S/o Sri. Venkatappa

3. Sri. Krishnamurthy, 35 years
S/o Sri. Puttasharmachar

(iii) Designation and office in which employed:

All are Tradesman 'C'
in L.R.D.E., Bangalore

(iv) Office Address:

Electronics and Radar Development
Establishment, DRDO Complex
Ministry of Defence
Jeevanbhimanagar Post
Bangalore 560 075

(v) Address for service of all notices:

Sri. A.C. Rajasekhar, B.Com., LL.M
Advocate
No. 82/B, 1st Cross, 12th Main Road
Banashankari 1st Stage, IIInd Block
Bangalore 560 050

2. Particulars of the Respondents:

(i) Name and/or designation of the respondents:
and (ii) Office address of the respondents:

1. The Director and Chariman DPC III
Electronics and Radar Development
Establishment (ERDE)
DRDO Complex, Ministry of Defence
Jeevanbhimanagar Post
Bangalore 560 075

2. Sri. M.D. Lakshmanarao
Tradesman 'C'
MEG (Fabrication)
ERDE, DRDO Complex
Jeevanbhimanagar Post
Bangalore 560 075



3. Sri. D. S. Rawat
Tradesman 'C'
En. S. D.
LRDE, DRDO Complex
Ministry of Defence
Jeevanbhimanagar Post
Bangalore 560 075
4. Sri. S.P. Mohan Kumar
Tradesman 'C'
CDE, L.R.D.E.
DRDO Complex
Jeevanbhimanagar Post
Bangalore 560 075
5. Sri. V. Shankar
Tradesman 'C'
C.P.G.
LRDE, DRDO Complex
Jeevanbhimanagar Post
Bangalore 560 075
6. Sri. M. Mayanna
Tradesman 'C'
En. S. D
L.R.D.E., DRDO Complex
Jeevanbhimanagar Post
Bangalore 560 075

(iii) Address for service of all notices:

Same as above in 2 (i) & (ii)

3. Particulars of the order against which application is made:- The application is made against the following:

13393 and 13403
Order No: 13403/Adm - dated 22.4.1986
passed by the First Respondent and the
Direction is sought to direct the First
Respondent to prepare a Inter-se-
seniority list in accordance with law.

(iv) Subject in brief:

Preparation of a common seniority roster and for determining the inter-se-seniority roll of the applicants belonging to LRDE/Equipment Pilot Plant industrial staff on merger of Battery Pilot Plant

A.

industrial staff with LRDE from the date of receipt of P.E for Nickel Cadmium Battery Pilot Plant industrial staff sanctioned by R&D HQrs in Ministry of Defence letter No. 96485/RD-27 (c)/3210/D(R&D) dated 11.6.80 instead of maintaining separate seniority roll for Battery Pilot Plant Unit till 1984 as erroneously done by the First Respondent.

4. Jurisdiction of the Tribunal:

The Applicants declares that the subject matter of the order against which they want redressal is within the jurisdiction of the additional bench of the Tribunal at Bangalore.

5. Limitation:

The applicants further declare that their applications are within the limitation period of one year prescribed in Section 21 of the Administrative Tribunals Act 1985.

6. FACTS OF THE CASE

(i) All the Applicants are working as Tradesman 'C' in Electronics and Radar Development Establishment (LRDE) ~~at~~ Bangalore, which is one of the Research and Development Establishment under the Director General of Research and Development Organisation, Ministry of Defence, Sena Bhavan, New Delhi 110 011. The First Respondent is an authority to deal with all matter pertaining to recruitment, promotions and seniority etc, subject to instructions issued by the R&D HQrs from time to time of the staff working under him. It is submitted that the First Respondent shall adhere to the instructions and rules issued by the R&D

HQrs from to time in respect of matters relating to recruitment, promotion and fixation of seniority of both industrial and non-industrial staff working under him.

(ii) It is submitted that the Electronics and Radar Development Establishment had some staff on its regular P.E who were working on the development projects on a regular basis. There were two pilot Plant Divisions attached to LRDE, Bangalore. The First Pilot Plant Division was meant for the purpose of production of electronics equipments, which was known as Equipment Pilot Plant Division. The other Pilot Plant was dealing with the manufacture of Nickel Cadmium Batteries and was known Nickel Cadmium Battery Pilot Plant Unit or BPPU.

(iii) The staff working in both the Pilot Plants were recruited for the duration of the projects under the Pilot Plant Scheme purely on temporary basis, and their services were liable to be terminated on completion of the projects. However, their services were extended, since there was a need for production of many Equipments and also Nickel Cadmium Batteries.

(iv) It is submitted that the P.E for the Equipment Pilot Plant was received somewhere in 1978 or 1979, and the industrial staff who were working in the Equipment Pilot Plant were placed " En-block Juniors " to the regular staff belonging to LRDE. The said order was communicated by R&D HQrs in letter No. 98771/A/Pers/RD-21(c) dated 31.10.79 and reproduced by the First Respondent in para

para 1333 of Daily Orders at Sl. No. 276 dated 14.12.1979. The copy of the said order is filed herein as Part I at Annexure 'A'.

(v) The said decision of the Department of Personnel and A.R. who ruled that on merger the staff belonging to Pilot Plant Production should be placed enblock juniors to the regular staff of LRDE was opposed by the staff belonging to Equipment Pilot Plant Division and many representations were submitted by them being aggrieved by the said order. Hence the matter of fixation of seniority of those ~~applied~~ Industrial Staff was again referred to R&D HQrs by the First Respondent, who in turn has again referred the said matter to Ministry of Defence, Department of Personnel and A.R. It was communicated by the R&D HQrs in their letter No. 98771/A/Pers/RD-21(c) dated 3.6.1980 that the decision when arrived at will be communicated to the first respondent. The first respondent has reproduced the same in his Daily Orders Part IA at sl No 130 in para 581 on 16.6.80 for the information of all concerned. The extract of the same is reproduced in part II of Annexure 'A' to these Applications.

(vi) The First Respondent is pursuance of the communication in letter No 98771/Pers/RD-21(c) dated 31.10.1979 and 3.6.1980 has published a list of eligible 33 candidates, who will not be affected by the HQrs decision in his Daily Orders Part IA Sl.No. 191 at para 838 dated 30.8.1980 and has promoted the industrial staff belonging to LRDE development projects, pending a final decision.

from R&D HQrs for determining the inter-se seniority. The extract of the DO Part IA at Sl.No. 191 in para 383 dated 30.8.80 is filed herein as part III at Annexure - 'A'.

(vii) It is submitted that the P.E. for the industrial staff belonging to another Pilot Plant i.e. Nickel Cadmium Batteries Pilot Plant was received from R&D HQrs under letter No. 96485/RD-27(c)/3210/D(R&D) dated 11.6.1980.

The First Respondent should have followed the same procedure as in case of Equipment Pilot Plant staff and should have adhered to the instructions already given by the R&D HQrs to place the staff belonging to Nickel Cadmium Batteries Pilot Plant on block juniors to R&D staff.

(viii) That the first Respondent, pending a final decision from R&D HQrs for determining the inter-se seniority, has prepared a separate seniority roll for the industrial staff belonging to another unit called Nickel Cadmium Batteries Pilot Plant and has framed his own rules in respect of the seniority rolls for industrial staff of Nickel Cadmium Battery Pilot Plant Units in violation of the Ruling of R&D HQrs in respect of fixation of seniority on merger of Pilot Plants, which was still awaiting a final decision from the Ministry of Defence, Department of Personnel.

(ix) The First Respondent framed two different Rules in respect of industrial staff belonging to Pilot Plant Nickel Cadmium Batteries on the one side, and non-industrial staff on the other side, which is as follows:-

Seniority rolls for industrial staff

Nickel Battery (PP Unit):-

" Seniority rolls in respect of the industrial staff recruited for Pilot Plant Nickel Cadmium Batteries will be maintained separately from Group VI onwards upto Chargemen Gde II for Departmental promotions through DPC III. However, there will be a common seniority for Chargemen Gde I upwards which come under 'PC II. To enable consideration for promotion to Chargemen I by DPC II, to Chargemen Gde II of Pilot Plant (Nickel Cadmium Batteries) staff will come under the common roster ".

The extract of Daily Orders Part IA covering the above decision was published by First Respondent in Daily Orders Part IA at Sl. No 215 in para 957 on 30.9.1980 is filed herein and marked as Annexure - 'A1' to these Applications.

(x) It is submitted that on analysis of the above rule the industrial staff seniority roll from Group VI onwards i.e. from Tradesman 'E' to Tradesman 'A' in the industrial category would be maintained separately. The said Tradesman 'A' has got a promotional channel to Chargement Gde II which is a non-industrial post and a common seniority roster would be maintained from Chargemen II onwards covering both Chargemen II belonging to LRDE development project and also Chargemen II belonging to Pilot Plant Nickel Cadmium Batteries.

The First Respondent had maintained separate seniority roll for industrial staff. This order of the First Respondent is discriminatory in its nature. The different ruling for fixation of seniority, in respect of the industrial staff had acted as detrimental to the staff belonging to LRDE, who were on regular basis. Whereas the interest of non-industrial staff from Chargemen II onwards was protected by the first respondent. It is this contradicting decision to maintain a separate seniority roll for industrial staff belonging to Pilot Plant Nickel Cadmium Batteries staff had affected the right to seniority and future promotion of the applicants. Hence the rule framed by the First Respondent in respect of seniority of industrial staff is not sustainable in law and is liable to be quashed by this Hon'ble Authority.

(xi) It is submitted that in pursuance of the above decision of the First Respondent, to maintain a separate seniority roll in respect of the industrial staff belonging to pilot plant the second and the third respondents who were juniors to the applicants were promoted and they superseded their seniors. The preferential treatment was given to the 2 to 6 by the First Respondent, ignoring the services rendered by the Applicants who were seniors.

(xii) That the applicants were recruited/promoted as Tradesmen Mates prior to the

recruitment/promotion of the 2nd to 6th Respondents herein viz., the first applicant Sri. M. Srinivasa on 13.12.82, the 2nd applicant Shri.D.V. Krishnappa on 12.12.72 and the 3rd applicant Sri. Krishnamurthy on 17.5.1973. Whereas the Respondents 2nd to 6th appointed on 26.4.73, 25.5.73, 26.5.73, 28.5.73 and on 18.8.73 as Tradesman Mates.

The 6th Respondent, Sri. Mayanna though he was a general candidate, was promoted against the SC quota in excess of the Quota reserved for general candidates in violation of quota rule.

(xiii) It is submitted that a list of industrial staff who were eligible for trade test was published confining to the Nickel Cadmium Batteries Pilot Plant industrial staff in the Daily Orders Part IA at para 813 in Sl. No. 187 on 26.8.1980 vide Annexure-'B' excluding the names of the applicants who are also eligible to appear for trade test and also to be considered for promotion from Tradesman Mate to Fitter/Welder i.e. from Tradesman 'E' to Tradesmen 'C'. Consequent upon the above were promoted from Tradesman 'E' to industrial to 'C' industrial posts, the respondents 2 to 6 who were juniors to the applicants promoted.

(xiv) It is submitted that the respondents 2 to 6 were promoted wef 31.12.80 and 1.1.81 on the recommendation of DPC III from Tradesman 'E' to Tradesman 'C' Mr. Mayanna promoted on adhoc basis against the vacancies

reserved for SC/ST subject to the condition that their promotions will be regularised on receipt of approval of de-reservation of the reserved post from the competent authority, who is the Director General, Research and Development Organisation, New Delhi. The copy of the Daily Part IA as published in Sl. No. 7 at para 39 dated 8.1.81 is filed herein as Annexure 'C' to the application.

(xv) It is submitted that all the applicants were subsequently promoted wef 31.8.81 vide Annexure-'D' on the recommendations of DPC III from Tradesman 'E' to Tradesman 'C' after a lapse of 8 months, as a consequence of the wrong decision taken by the First Respondent to keep the separate seniority rolls. Thus the juniors working in the Nickel Cadmium Pilot Plant have superseded their seniors, who were working in LRDE on regular basis. This ruling of First Respondent is illegal and liable to be quashed by this Hon'ble Court.

(xvi) It is submitted that the decision of the first Respondent to maintain a separate seniority roll, in violation of the ruling given by the Ministry of Defence, Department of Personnel and A.R. is illegal. The First Respondent, the Director, LRDE being the Chairman of DPC III cannot frame his own rules, when the rules in respect of seniority were already in existence. The First Respondent has acted in excess of authority and he is not competent to exercise

the jurisdiction which is not vested with him. As such the order to maintain a separate roll is baseless and illegal. It has taken away the right to seniority and the legitimate right to be considered for promotion was denied to the applicants, when they were eligible to be considered both for trade test and promotion in the DPC III held on 31.12.80, when the respondents 2 to 6 were promoted.

(xvii) It is submitted that the promotions ordered on 8.1.81 on the recommendations of the DPC III held on 31.12.80 in respect of the respondents 2 to 6 are illegal and not sustainable in law. The VI respondents, though he was a general candidate was promoted against the vacancies reserved for SC/ST. Hence it is illegal.

(xviii) It is submitted that the second and third respondents and others who were promoted on 31.12.80 were eligible to be placed enblock juniors to the staff who are already working in LRDE on regular basis, in the common seniority roster as per the Rules of Seniority then in force as laid down by the R&D HQrs and also the Department of Personnel and A.R. and the matter was awaiting a final decision.

7. Relief(s) sought:-

In view of the facts mentioned in para 6 above, the Applicants prays for the following reliefs:-

- (i) To quash the order passed by the First Respondent in respect of seniority rolls for the industrial staff Nickel Cadmium Batteries Pilot Plant Unit, published in Daily Orders Part IA at para 957 in Sl.No. 215 dated 30.9.80 vide Annexure- 'A1' as illegal.
- (ii) To quash the consequential orders of DPO III promotions in respect of the second and third respondents and others promoted wef 31.12.80; which is published by the First Respondent in Daily Orders Part IA at para 39 in sl No 7 on 8.1.81 vide Annexure- 'C' as illegal.
- (iii) To quash the common seniority roster prepared during the year 1984 in violation of the rules.
- (iv) To quash the common cyclostyled order of the First Respondent dated 22.4.1986 and 29.4.86 in his Nos. 13403/Adm, 13373/Adm and other connected letter in the interest of justice, equity and good conscience.

(v) To direct the First Respondent to maintain a common roster of seniority on merger of Pilot Plant Nickel Cadmium Battery industrial staff with effect from the date of receipt of P.E. as he has already maintained in respect of non-industrial staff from Chargemen-II onwards and who were similarly placed and to prepare a seniority roll during 1980 afresh in accordance with law rules.

The Applicants above named urge the following among other grounds in support of the reliefs claimed by them:-

G R O U N D S

(a) That the order of maintaining a separate seniority rolls for industrial staff, when the First Respondent has maintained a common roster for the non-industrial staff from Chargemen Gde II onwards is illegal and not sustainable in law.

(b) That the rules for fixation of seniority rolls in respect of industrial staff was to place the Pilot Plant Staff en-block juniors to the LRDE staff working on regular basis in the common roster of seniority. The decision in respect of fixing the seniority on merger of Pilot Plant was awaiting final decision by the R&D HQrs and Department of Personnel and A.R., Ministry of Defence, New Delhi.

When that being the fact, the First Respondent has erred in passing the orders to maintain a separate seniority rolls in respect of industrial staff belonging to Nickel Cadmium Batteries Pilot Plant Unit. Hence the orders passed in Sl.No. 215 dated 30.9.1980 vide Annexure - A1' is illegal and liable to be quashed. The said order was contrary to the rules laid down by the R&D HQrs and Department of Personnel and A.R. for fixation of seniority in respect of industrial staff vide Annexure-'A' at part I and II.

(c) That the orders of promotion in respect of the second and others respondents is ~~wa~~ violative of Article 14 and 16(1) of the Constitution of India as the preferential treatment was given to those staff ignoring the applicants who were eligible to be considered for promotion, being their seniors. Consequently the 2 to 6 respondents who were juniors to ~~Applicants~~ in Tradesman 'C' were made to supersede their seniors as a result of maintaining a separate seniority roll in respect of the Industrial staff belonging to Pilot Plant Nickel Cadmium Battery Pilot Plant to which category 2 to 6 respondents were belonged.

(d) That the order of the First Respondent to maintain a separate seniority roll in the lower grade during 1980 and to maintain a common seniority roll in the higher grade during 1984 is discriminatory opposed to law and not sustainable in law. Hence the seniority roll in respect of the applicants

is required to be refixed in the common roster during 1980 on merger of Pilot Plant Nickel Cadmium Batteries staff with LRDE staff.

(e) The illegal decision by the First Respondent has denied the legitimate rights of the applicants. Consequently it has resulted in the loss of seniority and affected their right to future promotion.

8. Interim Order, if prayed for:

No Interim Order is required to be passed.

9. Details of the remedies exhausted:

The Applicants declare that they availed the remedy available to them under the relevant service rules. The First Applicant has submitted his representation on 15.1.1986 vide Annexure-'E'. Whereas a reply was furnished by the First Respondent on 12.3.1986 and 22.4.1986 in his No ~~ss~~ 13403/Adm vide Annexure-'F and F1' stating that the applicant's name cannot be placed above the respondents since they were promoted on 31.12.80 and the applicant was promoted to Tradesman 'C' 31.8.1981. There was no question of making common seniority roll of Pilot Plant Unit Staff with LRDE/EPD industrial staff which was sanctioned as regular during 1980. The second respondent has submitted his representation on 15.1.1986 and on 19.2.1986 vide Annexure 'H and H1'. Whereas a common cyclostyled reply was furnished to him by the First Respondent in his letter No 13393/Adm dated 10.3.1986 and 29.4.1986 vide Annexure 'J and 'K'. A legal notice dated 9.7.1986 was

by the First Respondent in his letter No. 13393/ Adm dated 10.3.1986 and 29.4.1986 vide Annexure 'J' and 'K'. A legal notice dated 9.7.1986 dated 9.7.86 was also served on the First Respondent vide Annexure 'L'. Postal receipt and acknowledgement card are filed herein as Annexures 'M' and 'N'.

10. Matter not pending with any other court etc.

The Applicants further declare that the matter regarding which these applications have been made are not pending before any court of law or any other authority or any other Bench of the Tribunal.

11. Particulars of Bank Draft/postal order in respect of the Applications fee:-

1. Name of the Bank on which drawn

State Bank of
Mysore, Hanumantha
nagar, Bangalore
19

2. Demand Draft No.

979663 dated 25/11/86

for Rs. 150/-

Bangalore

Date: 26 NOV 86

1. M. Srinivas
(M. SRINIVASA)

2. D. V. Krishnappa
(D. V. KRISHNAPPA)

3. Krishna Murthy
(KRISHNAMURTHY)

Signature of the applicants

A. C. Rajasekhar
Advocate for applicants
A. C. RAJASEKHAR, B.Com, LL.M.
ADVOCATE,
No. 82/B, 1st Cross, 21st Main Road,
Banashankari 3rd Stage, 11 Block,
Bangalore-560 050.

VERIFICATION

I, Sri. M. Srinivasa, S/o. Sri. N. Munivenkatappa,

aged about 45 years, working as Tradesman 'C'
resident of Bangalore do hereby verify that the
contents from para 1 to 13 are true to my personal
knowledge and belief and that I have not suppressed
any material facts.

Bangalore

Date: 9 NOV 86

M. Srinivasa

Signature of the applicant

To

The Registrar

The Central Administrative Tribunal
Additional Bench, Bangalore

EXTRACT OF DAILY ORDERS PART IA, SL.NO 276 DT 14.12.79

Para 1333/79: FIXATION OF SENIORITY IN RESPECT OF
INDUSTRIAL STAFF

HQrs DRDO letter No. 98771/A/Pers/RD-21(c) dated 31 Oct 79 on the above subject is reproduced below for information of all concerned:-

" The case was referred to Department of Personnel and A.R. who have ruled that on merger the staff belonging to the Pilot Plant Production should be placed enblock junior to the regular staff belonging to the LRDE. The inter-se-seniority of the individuals may, therefore, be fixed accordingly ".

EXTRACT OF DAILY ORDERS PART IA SL NO 130 DT 16.6.80

Para 581/80: FIXATION OF SENIORITY IN RESPECT OF
INDUSTRIAL STAFF

In continuation of DO part IA No. 1333 dated 14.12.79 and 215 dated 10.3.80 communication received from R&D HQ vide their letter No. 98771/A/Pers RD-21 (c) dated 3.6.80 is reproduced below for information of all concerned:-

" The case on the above subject has again been referred to Ministry of Defence/Dept of Personnel and AR and the decision when arrived at will be communicated to you ".

EXTRACT OF DAILY ORDERS PART IA SL NO 191 DT 30.8.80

Para 838/80: TRADE TEST: INDUSTRIAL STAFF (AUHH:
SRO NO.87 DATED 4.3.77

Ministry of Defence R&D HQ had ruled vide letter No. 98771/Pers/RD-21(c) dated 31.10.79 that " on merger the Industrial Staff belonging

(Signature)

to the Pilot Plant Production should be placed enblock juniors to the regular staff belonging to LRDE". On a further representation by some staff the R&D HQ have intimated that the case of seniority between the Development Staff and Staff recruited to Pilot Plant (EPD) which subsequently merged with a single PE is under reconsideration.

Pending a final decision from R&D HQ for determining the inter-se-seniority, it has been decided to conduct Trade Test as per the SRO quoted above for the senior Industrial Staff (not affected by letters mentioned in para 1 above) as in the attached list who belong to Group C Industrial posts included under the Heading Group III in the schedule to the Defence R&D Organisation, Min of Defence Recruitment Rules (i.e. SRO 87 dated 4.3.77). These officials will reckon seniority in the order they are shown irrespective of the R&D HQ decision referred in para 1 above.

List of eligible 33 candidates for 16 posts was published.

The above serialisation represent the seniority of the candidates who will not be affected by the HQ decision. The Seniority Roll has already been perused by the concerned earlier. Objection on the aspect of seniority, if any, may be sent to ADM (LB) by 3.9.80. The programme for Trade Test will be announced thereafter.

For promotion to the vacant and resultant vacancies in Group II and also for subsequent groups viz., Group III and Group V, Trade Test will be conducted only after receipt of confirmation referred to in para 1 above.

EXTRACT OF DAILY ORDERS PART IA SL NO 215 DT\30.9.80

Para 957/80: SENIORITY ROLLS FOR INDUSTRIAL STAFF
NICKEL CADMIUM BATTERY (PP UNIT)

Seniority rolls in respect of the Industrial staff

True copy
Act forwar
Adv.

EXTRACT OF DAILY ORDERS PART IA SL NO 215 DT 30.9.80

Para 957/80: SENIORITY ROLLS FOR INDUSTRIAL STAFF
NICKEL CADMIUM BATTERY (PP UNIT)

Seniority rolls in respect of the industrial staff recruited for Pilot Plant Nickel Cadmium Batteries will be maintained separately from Group VI onwards upto C/M II for Departmental Promotions through DPC III.

However there will be common seniority for C/M I upwards which come under DPC II. To enable consideration for promotion to C/M I by DPC II, the C/M II of PP (Ni-Cd) staff will come under the common roster.

Sd/- x PK Sundaram
Chief Administrative Officer
for DIRECTOR

True copy

Adferanw
AdW.

EXTRACT OF DAILY ORDERS PART IA, SL.NO 187, DT 26.8.80

Para 813/80: TRADE TEST FOR PROMOTION INDUSTRIAL STAFF
OF NICKEL CADMIUM BATTERY PILOT PLANT UNIT

A list of industrial staff who are eligible to appear for the trade test for promotion in 'Nickel Cadmium Battery Pilot Plant Unit' is given below. This trade test is confined to industrial staff recruited for Nickel Cadmium Battery Pilot Plant Unit. The programme for the trade test will be notified.

List of group V tradesman eligible for promotion to group III.

<u>Sl.No.</u>	<u>Token No.</u>	<u>Name and designation</u>
1.	434	-
2.	437	-
3.	440	-
4.	442	-
5.	441	-
6.	444	-
7.	445	-
8.	446	-
9.	448	Shri MD Lakshman Rao T/Mate
10.	451	Shri DS Rawat "
11.	452	Shri SP Mohan Kumar "
12.	453	Shri V Shankar "
13.	456	Shri Balachandra (SC) "
14.	460	Shri M Mayanna "

True copy

23/

Acting
Secretary
M&E

EXTRACT OF DAILY ORDERS PART IA SL NO 71 DT 08.1.81

Para 39/81: NICKEL CADMIUM BATTERY (PP UNIT):

Ref No D~~2~~ Part IA No. 957 dated 30.9.80

As already decided, the seniority rolls of the Industrial Staff of the Nickel Cadmium Battery (PP Unit) as maintained separately and consequently promotions and recruitments of Industrial Staff are made separately for the Nickel Cadmium Battery (PP Unit).

Having taken into account departmental promotion quota of Industrial Staff of Pilot Plant Unit, the result of relevant Trade Test, work and conduct of the individuals concerned, the DPC III have recommended the promotion of the following individuals which have been approved by the appointing authority:-

<u>Sl. No.</u>	<u>Token No.</u>	<u>Name & Designation</u>	<u>Promoted to</u>	<u>wef</u>
1.	-	-	-	-
2.	-	-	-	-
3.	-	-	-	-
4.	-	-	-	-
5.	-	-	-	-
6.	-	-	-	-
7.	-	-	-	-
8.	-	-	-	-
9.	-	-	-	-
10.	-	-	-	-
11.	-	-	-	-
12.	-	-	-	-
13.	448	Shri MD Lakshman Rao, T/Mate	Fitter	31.12.81
14.	451	" DS Rawat, T/M	Fitter	31.12.80
15.	452	" SP Mohan Kumar, T/Mate	Fitter	31.12.80
16.	453	" V Shankar, T/Mate	Welder	31.12.80
17.	* 460	" M Mayanna, T/Mate (adhoc)	Fitter	1.1.81

" Promoted on adhoc basis against vacancies reserved for SC/ST. Promotion will be regularised on receipt of approval of de-reservation of the reserved post from the competent authority.

True copy

Subrahmanyam
Adv.

EXTRACT OF DAILY ORDERS PART IA. SL.NO. 193 DT 1.9.81

Para 947/81: PROMOTIONS - INDUSTRIAL STAFF

On the recommendations of the DPC III, the following promotions are made as per the particulars shown against each:-

<u>Sl. No.</u>	<u>Token No.</u>	<u>Name & Designation</u>	<u>Post to which promoted</u>	<u>Effective date</u>
1.	365.	Shri M Srinivasa, T/Mate	Offig Fitter	31.8.81(FN)
2.	359	" DV Krishnappa "	"	31.8.81(FN)
3.	372	" HG Gopalaiah "	"	on leave
4.	376	" D Puttasanganna "	"	31.8.81(FB)
5.	377	" Krishnamurthy "	Offg P/Artist	31.8.81 (FN)

6 to 30 other promotees.

All the above promotions are made on adhoc basis. Promotions will be regularised on receipt of SC/ST roster from HQ R&D.

1) True copy //

Atchaykumar
Adm.

To

The Director
LRDE
Bangalore 1

through proper channel

Sir,

Subject: CORRECTION OF DISCREPANCIES IN
SENIORITY ROLL T/M 'C'

Reference: DO Part I No 20 dt 7.1.86

I was appointed as T/man mate on 12.12.1972 in this establishment. whereas the following individuals namely

Sl.No.	Names	P.No	Date of appointment
1.	Shri MD Lakshman rao	448	26.4.73
2.	Shri DS Rawat	451	25.5.73
3.	Shri SP Mohan Kumar	452	25.5.1973
4.	Shri V Shankar	453	28.5.73
5.	Shri M Mayanna	460	18.8.73

were appointed during 1973 (the date of appointment is shown against their names) much junior to me.

The above individuals (sl No 1 to 5) were promoted to T/man 'C' during Dec 80 - Jan 81 (ref Do Part I no 39 dated 8.1.81) in a separate DPC. Whereas I was promoted to T/M C only on 31.8.81 (DO part I no 947 dated 1.9.81)

In the process of the above individuals who were junior to me were superseded which is an injustice.

Again after merging of BPPU staff back in LRDE, their names are still appeared above my name in the seniority roll, though they are junior to me in RDE.

This I request you to kindly make the necessary corrections by placing me above them at the earliest and oblige.

Thanking you,

Yours faithfully,

Sd/-
(M. Srinivasa)
T/M C P.No. 365

Bangalore

Dated 15.1.86

True copy

Subba Rao
Mol U

Grams: Develectronics
Phone: 73205

NO: 13403/Adm
Government of India -Min of Defence
Defence Research and Development Orgn
Electronics and Radar Development Estt
Post Box No 5108, High Grounds
Bangalore 560 001

To

12 Mar 86

Sri M Sreenivasa, T/M 'C'. P.No. 365

Through EPDO

Subject: SENIORITY

Reference your application dated 15.1.86

Your application referred to above regarding fixation of seniority in tradesman 'C' claiming that you are senior to S/S MD Lakshman rao, P.No 448, TMC, DS Rawat, P.No 451, TMC SP Mohan Kumar, P.No 450, TMC V. Shankar, P.No 453, TMC and M.Mayanna, P.No. 460, TMC of BPPU has been examined. As per existing rules seniority will reckon from the date of promotion/appointment in the post of tradesman 'C' but not on the length of service in various grades/posts. As these individuals mentioned above have been promoted as Tradesman 'C' much earlier to you, they are senior to you. Hence fixation of your seniority in T/man 'C' has been done correctly.

Sd/-x
(MR PALSHIKAR)
SAO II
for DIRECTOR

True copy

Act forward

Ad U.

Grams: Develectronics
Phone 73205

No 13403/Adm
Government of India- Min of Def
Def Research and Development Orgn
Electronics and Radar Development Estt
PB No 5108, High Grounds, Bangalore

To

22.4.86

Sri M Srinivasa
P.No 365, TMA

Through EPDO

Subject: RECTIFICATION OF SENIORITY

Reference your application dated 19.3.86

Your case on the above subject has been examined once again. Your contention regarding detaching BPPU from LRDE and subsequent merger in LRDE for purposes of seniority is not correct. It may be noted that till the PE for industrial staff of BPPU was sanctioned during 1980, the industrial staff of BPPU was on purely temporary basis for duration of the project. There was no question making combined seniority roll of BPPU staff with LRDE/LRDE EPD industrial staff which was sanctioned on regular basis. BPPU industrial staff has been sanctioned separately during 1980 and the staff has become regular since then. Seniority roll for BPPU has also been prepared separately. As per decision taken during 1984, industrial staff of BPPU has been merged alongwith LRDE industrial staff and seniority has been fixed as per existing rules ie. from the date of appointment/promotion Shri M.D.Lakshman Rao 448, DS Rawat, 451, Mohan Kumar 450, V Shankar 453 and M Mayanna 460 has been promoted to TMC wef 31.12.80 and you have been promoted to tradesman 'C' wef 31.8.81.

Your request for placing your name above shir MD Lakhsman Rao 448, DS Rawat 451, Mohan Kumar 450, V. Shankar 453 and M Mayanna 460 who have been promoted earlier to you cannot be done. The seniority has been fixed as per rules on the subject.

Sd/-x
(MR PALSHIKAR)
SAO II
for DIRECTOR

True copy

Adfeknawal

AdU.

To

The Director
LRDE
Bangalore 1

(Through proper channel)

Sir,

Subject: CORRECTION OF DISCREPANCIES IN
SENIORITY ROLL T/M 'C'

Reference: DO Part I No 20 dt 7.1.86

I was appointed as T/Man Mate on 12.12.1972, in this establishment. Whereas the following individuals namely.

Sl.No.	Names	P.No	Date of appointment
1	MD. Lakshman rao	448	26.4.1973
2	DS Rawat	451	25.5.1973
3	SP Mohan Kumar	452	26.5.1973
4	V Shankar	453	28.5.1973
5	M Mayanna	460	18.8.1973

were appointed during 1973 (the date of appointment is shown against their names) much junior to me.

The above individuals (sl No 1 to 5) were promoted to T Man C during Dec 80 - Jan 81 (ref Do Part I no 39 dt 8.1.81) in a separate DPC. Whereas I was promoted to T/M 'C' only on 31.8.81 (DO Part I No 947 dt 1.9.81). In the process the above individuals who were junior to me were superseded which is an injustice.

Again after merging of BPPU staff back in LRDE, their names are still appeared above my name in the seniority roll though they are junior to me in LRDE.

Thus I request you to kindly make the necessary corrections by placing me above them at the earliest and oblige.

Thanking you

Yours, faithfully,

DV Krishnappa.

Bangalore
Dt 15.1.86

True copy
Achutanarayana
Achut

To

The Director
LRDE
High Grounds
Bangalore 1

Through proper channel

Subject: RECTIFICATION OF SENIORITY ROLL

Reference my application dated 15.1.1986.

Sir,

The descrepancy observed in my seniority roll was requested to be rectified at the earliest, through the letter dated 15.1.1986. However no reply has yet been received.

Hence, I request you further to intimate me the position of the seniority at the earliest and oblige.

Thanking you,

Yours faithfully,

Sd/-x
DV Krishnappa
p.no 359

Bangalore
Dated 19.2.86

True copy

Afternoon
Adv.

Grams: DEVELECTRONICS
Phone: 73265

NO: 13395/Adm
Government of India-Min of Defence
Def Research and Development Orgn
Electronics and Radar Development
Establishment PB No 5108,
High Grounds, Bangalore

To

29.4.1986

Shri Dv Krishnappa
p.no 359, TMC

Through EPDO

Subject: RECTIFICATION OF SENIORITY

Reference your application dated 19.3.1986

Your case on the above subject has been examined once again. Your contention regarding detaching BPPU from LRDE and subsequent merger in LRDE for purposes of seniority is not correct. It may be noted that till the PE for industrial staff of BPPU was sanctioned during 1980, the industrial staff of BPPU was on purely temporary basis for duration of the project. There was no question making combined seniority roll of BPPU staff with LRDE/EPD industrial staff which was sanctioned on regular basis. BPPU industrial staff has been sanctioned separately during 1980 and the staff has become regular since then. Seniority roll for BPPU has also been prepared separately. As per decision taken during 1984, industrial staff of BPPU has been merged alongwith LRDE industrial staff and seniority has been fixed as per existing rules i.e. from the date of appointment/promotion. S/Shri T. Lawrence D Muthu has been promoted to TMC wef 12.1.81 and 15.1.81 respectively and you have been promoted to TMC wef 31.8.81.

Your request for placing your name above Shri/shri T Lawrence, D Muthu who has been promoted earlier to you cannot be done. The seniority has been fixed as per rules on the subject.

Sd/-x
(MR PALSHIKAR)
SAO II
for DIRECTOR

True copy
Acharya
Addl

A.C. Rajasekhar, B.Com., LL.M.
Advocate

S/3/86

Date 9.7.86

To

The Director & Chairman, DPC III
LRDE, High Grounds
Bangalore 560 001

Dear Sir,

I have instructions from my clients S/S. D.V. Krishnappa, M. Srinivasa, and Krishnamurthy working as Tradesman 'C' serving under you to issue notice as hereunder:-

1. That my clients Mr. D.V. Krishnappa, Mr. M. Srinivasa and Mr. Krishnamurthy were appointed as Tradesman Mates on 12.12.1972, 13.12.1972 and on 17.5.1974 respectively; whereas Mr. M.D. Lakshmanrao, Mr. D.S. Rawat, Mr. S.P. Mohan Kumar, Mr. V. Shakar and Mr. M. Mayanna were appointed on 26.4.1973, 25.4.1973, 26.5.1973, 28.5.1973 and on 18.8.1973 as Tradesman Mates in your Establishment.
2. That my clients submit that PE for Nickel Cadmium Battery Pilot Plant Unit was received on 11.6.1980 under Government of India, Ministry of Defence letter No. 96485/RD-27/03210/D(R&D) dated 11.6.1980 in order to regularise the services of those who were working on the said pilot plant for the duration of that project. It was decided to keep a separate seniority list for pilot plant industrial staff from Group VI onwards upto Chargemen Gde II for Departmental promotion through DPC III and to keep a common seniority roll for Chargement II onwards to consider them for promotion to Chargemen I by DPC-II. The Chargemen II onwards of Pilot Plant Nickel Cadmium staff were merged together with development LRDE staff and a common roster was maintained as per Daily Order Part IA No. 957 dated 10.9.1980. Whereas the merger of Industrial Staff who were similarly placed was not done in 1980.
3. That as a consequence of the above decision, the seniority roll of the industrial staff of the Nickel Cadmium Battery Pilot Plant was maintained separately and a list of eligible candidates to appear for trade test of Nickel Cadmium Battery Pilot Plant staff was published confining only to industrial staff recruited for Nickel Cadmium Battery Pilot Plant Unit in No. 813 Daily Orders dated 26.8.1980. The names of Mr. M.D. Lakshmanrao, Mr. D.S. Rawat and Mr. S.P. Mohan Kumar



Mr. V. Shankar and Mr. M Mayanna were published in the said daily order excluding the names of my clients who were senior to them. A preferential treatment to one class of staff was shown, ignoring others, which is discriminatory and violative of Article 14 and 16 (1) of the Constitution of India.

4. That the above persons were promoted to the post of Fitters etc now termed as Tradesman 'C' with effect from 31.12.80 and 1.1.81 respectively in No. 39 of Daily Orders Part IA dated 8.1.1981. Equal opportunity should have been given to my clients and they had a right to be considered for trade test and promotion. But this has been denied to them. Hence DPC III promotions ordered as a consequence of maintaining separate seniority roll for Pilot Plant Industrial staff is illegal and liable to be quashed.

5. My clients submit that one Mr. M Mayanna was promoted on adhoc basis as a fitter against the vacancy reserved for SC/S₊ subject to approval of de-reservation of the reserved posts reserved for SC/ST candidates. The posts reserved for SC/S₊ candidates cannot be filled by a general candidate, without obtaining a prior sanction from the competent authority. Hence the promotion ordered on 8.1.1981 in excess of quota is violative of quota rule and liable to be struck down.

6. That my clients were promoted on 31.8.1981 by DPC III from Tradesman Mates to Fitters and Poster Artist, which is now termed as Tradesman 'C'. Thereby my clients lost their seniority over the staff belonging to Nickel Cadmium Batteries, who were promoted earlier as a consequence of separate seniority roll.

7. That it was decided to merge the said staff in 1984 with LRDE after effecting the promotion. Instead of merging them when PE was received in Jun 1980 and the names of my clients were placed below their juniors in the inter-se-seniority list. Therefore the seniority list is required to be readjusted as it is illegal and baseless. Belated decision to prepare a common seniority roll cannot take away the rights of my clients as to their seniority and future promotion.



8. Therefore, you are hereby called upon to furnish reply within 10 days from the date of receipt of this notice, as to the authority, or source of law; on which the said decision was taken in 1984, after effecting promotion and thereby affecting a loss of seniority and right to future promotion of my clients.

9. It is, therefore, requested that an inter-se-seniority roll may be prepared merging the industrial staff of Bilot Plant Nickel Cadmium as on the date of merger i.e. wef Jun 80 and to fix the seniority of my clients in the appropriate place. Otherwise my clients are restrained to institute legal proceedings.

Cost of this notice if Rs 200/-

Yours faithfully,

Bangalore

Sd/-

Date: 9.7.86

Advocate

True copy
Ad. Fernando
Adv.



- 37 -



No. 14907

IN THE HIGH COURT OF KARNATAKA AT BANGALORE

No.

of 1986.

Appellant/Petitioner/s

Plaintiff/s Complainant/s

Decree-Holder/s, Applicant/s

Vs

Defendants, Respondent/s,
Accused/Judgement-Debtors,
Opponent/s.

I/We M. Sreenivasa, D. V. Krishnappa
Srinivamurthy the

Nos. in the above matter hereby appoint and retain
Sri A. C. Rajasekhar B. Com. LLM. Advocate.

to appear, act and plead for me/us in the above matter and to conduct, prosecute and defend the same and all Interlocutory or miscellaneous proceedings connected with the same or with any decree or orders passed therein, appeals and/or other proceedings arising there from and also in proceedings for review of judgement and for leave to appeal to Supreme Court, and to obtain return of any documents filed therein or to receive any money which may be payable to me/us in the said matter.

2. I/We hereby authorise him/them on my/our behalf to enter into a compromise in the above matter, to execute any decree or order therein, to appeal from and decree/order therein and to appear, to act and to plead in such appeal or in any appeal preferred by any other party from any decree order therein.

3. I/We further agree that if I/we fail to pay the fees agreed upon or to give due instructions at all stages, he/they is/are at liberty to retire from the case and recover all amounts due to him/them and retain all my/our papers and moneys till such dues are paid.

Executed by me/us this 25th date of Nov 1986 at Bangalore

M. Sreenivasa

(M. SREENIVASA)

D. V. Krishnappa

(D. V. KRISHNAPPA)

Krishna Murthy

(KRISHNAMURTHY)

Signature/s

Executants are personally known to me and..... Key Lanes signed before me

Satisfied as to Identity of Executant's Signature.

(where executant is illiterate, blind or unacquainted with the language of Vakalath)

Certified that the contents were explained to the executants in my presence in English language, known to him/them who appeared perfectly to understand the same and have signed in my presence.

Accepted

ADVOCATES FOR Appellant
DATE 25/11/1986.

ADDRESS FOR SERVICE

A. C. RAJASEKHAR, B.Com. LLM.
ADVOCATE,
No. 82/B, 1st Cross, 12th Main Road
Banashankari I Stage, II Block
Bangalore-560 050.

Grams: Develectronics
t elex: 0845288
Phone: 73205

No 13403/Adm
Government of India-Min of Def
Def Research&Development Orgn
Electronics&Radar Development Est
PB No 5108-High Grounds,
Bangalore, 22 April 1986

To Srs M Srinivasa
P. no 365, TMA

Through: CPDO ✓

Subject: -RECTIFICATION OF SENIORITY

23/4 Reference your application dt 19 Mar 1986

Your case on the above subject has been examined once again. Your contention regarding detaching BPPU from LRDE and subsequent merger in LRDE for purposes of seniority is not correct. It may be noted that till the PE for Industrial Staff of BPPU was sanctioned during 1980, the Industrial Staff of BPPU was on purely temporary basis for duration of the project. There was no question making combined seniority roll of BPPU staff with LRDE/EPD industrial staff which was sanctioned on regular basis. BPPU Industrial Staff has been sanctioned separately during 1980 and the staff has become regular since ~~then~~ then. Seniority roll for BPPU has also been prepared separately. As per decision taken during 1984, industrial staff of BPPU has been merged alongwith LRDE industrial staff and seniority has been fixed as per existing rules ie from the date of appointment/promotion. S/ Shri M D Lakshman Rao, 448, DS Rawat, 451 has been promoted to IMC wef 31.12.80 Mohan Kumar 451, and you have been promoted to Tradesman C wef 31.8.1981.

V Shankar 453, and
M Mayanna, 460

5/ Your request for placing your name above Shri ~~*~~ who ~~has~~ been promoted earlier to you cannot be done. The Seniority has been fixed as per rules on the subject.

(MR PALSHIKAR)

Senior Administrative Officer II
for DIRECTOR

* MD Lakshman Rao 448
DS Rawat, 451 Mohan

Kumar, 450, V Shankar 453 &

M Mayanna 460

PE/IV Please take record
V24/4
Mr. Allam

Grams: Develectronics
t lex: 0845288
Phone: 73205

To: Shri DV KRISHNAPPA
Per NO 359, TMC

Through EPD ✓

W
✓ 29/4

No 13393/Adm
Government of India-Min of Def
Def Research & Development Orgn
Electronics & Radar Development Est
PB No 5108-High Grounds,
Bangalore, 29 April 1986

Subject: - RECTIFICATION OF SENIORITY

Reference your application dt 19 Mar 1986

Your case on the above subject has been examined once again. Your contention regarding detaching BPPU from LRDE and subsequent merger in LRDE for purposes of seniority is not correct. It may be noted that till the PE for Industrial Staff of BPPU was sanctioned during 1980, the Industrial Staff of BPPU was on purely temporary basis for duration of the project. There was no question making combined seniority roll of BPPU staff with LRDE/EPD industrial staff which was sanctioned on regular basis. BPPU Industrial Staff has been sanctioned separately during 1980 and the staff has become regular since ~~then~~ then. Seniority roll for BPPU has also been prepared separately. As per decision taken during 1984, industrial staff of BPPU has been merged alongwith LRDE industrial staff and seniority has been fixed as per existing rules ie from the date of appointment/promotion. Shri T Lawrence Amuthu has been promoted to TMC wef 12.1.81 & 15.11.81 respectively and you have been promoted to TMC wef 31 Aug 1981.

8/ Your request for placing your name above Shri T Lawrence Amuthu who has been promoted earlier to you cannot be done. The Seniority has been fixed as per rules on the subject.

REGD

MR Palshikar

(MR PALSHIKAR)
Senior Administrative Officer II
for DIRECTOR

17. WP.8800/86(E)
Re: steps to be taken
in respect of R.5 and 6
Sri S.K. Kulkarni for petr.
Sri S.S. Koti and
Sri Guttal for R.2

18. WP.2265/86 (LR)
for further orders
Sri T.J. Chouta for petr.
Sri M. Virappa Moily for R.3
Sri V.V. Upadhyaya for R.6
Sri K.S. Vyasa rao for R.5
L.T. Karkala R.1, State R.2
R.7, 8 and 9 sd.,

19. WP.16898/85(LR)
IA II for V. Stay
Sri B.K. Manjunath for petr.
Sri F.V. Patil for applicant in
IA II
notice issued to R.1 and 2
on 6-11-85 Ack NYR.

20. WP.19861/85 "
for further orders
Sri H.G. Hande for petr.

21. WP.15210/86(E)
Re: Amendment
Sri S.B. Adi for petr.
Govt. Adv. to take notice for
respts.
Sri H.N. Narayana for IA II

22. WP.19278/86(LR)
Furnishing of PF, Copies cover ack .. Sri A.V. Gangadharappa
etc., to respts 1 to 3 for petr.

23. WP.9838-39/86(LR)
Re: refiling of process memo
after rectifying
defects.
Sri B.R.S. Gowda for petr.

24. WP.10043 to 44/86(LR)
- do -
- do -

25. WP.10067/86(LR)
- do -
- do -

26. WP.10062/86(LR)
- do -
- do -

27. WP.13629/86(S)
- do -
Sri R. Sundar Rajan for petr.

28. WP.21418/82(LR)
Re: FPF, C.A for R.2
Sri D.L.N.Rao for petr.
Govt. Adv. is directed to take
notice for R.3, 4

29. WP.26891/82(IR)
Re: PF, C.A for R.1, 2 to
be issued notice
Sri T.Umeshankar for petr.

30. WP.18303/82(LR)
steps take against R.3 who
is reported to be dead
Sri B.Bhavani shankar Rao for
petr.
Sri P.Ganapathy Bhat for
R.4
Govt. Adv. is directed to take
notice for R.1, 2
Sri N.Krishna nanda Gupta applicant
in IAI

31. WP.19987/82(LR)
Steps in respect of R.3
who is reported to be dead
Sri M.Shivappa for petr.

32. WP.19251/86(Eds)
further orders
Sri J.A.Sequeira for petr.
Govt. Adv. for respts.

33. WP.19252/81(Eds)
-do-
- do -

34. WP.5333/86(LR)
- do -
Smt. M.N.Pramila
for petr.
Sri S.Shivaswamy
advocate for caveator for
R.3
Sri P.Krishnappa for R.4
L.T.Hosakote, State,
G.Gurucharan R.1, 2, 5 sd.,

CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE BENCH
* * * * *

Commercial Complex(BDA)
Indiranagar
Bangalore - 560 038

Dated 3-7-87

Application Nos. 1925 to 1940/86(F)

Applicant

Shri V.M. Vinayagamurthy & 15 Ors

To

1. Shri V.M. Vinayagamurthy
2. Shri P. Tharsies
3. Shri K. Bhaskara Pillai
4. Shri M. Munikrishna
5. Shri A. Durgachalam
6. Shri M. Subbaraya
7. Shri M. Gajendra
8. Shri V.K. Subramanian
9. Shri K.G.J. Nair
10. Shri N.G. Shashisekhara

(Sl Nos. 1 to 10 - Tradesman 'A',
Electronics & Radar Development Establishment,
DRDO Complex, Ministry of Defence,
Jeevanbhimanagar Post, Bangalore - 560 075)

11. Shri M. Srinivasa
12. Shri D.V. Krishnappa
13. Shri Krishnamurthy

(Sl Nos. 11 to 13 - Tradesman 'C',
Electronics & Radar Development Establishment
DRDO Complex, Ministry of Defence,
Jeevanbhimanagar Post, Bangalore - 560 075)

Respondents

v/s The Director, LRDE & 10 Ors

14. Shri A.K. Banerjee
15. Shri U. Prabhakaran
16. Shri M. Dakshinamurthy
- (Sl Nos. 14 to 16 - Tradesman 'A'
Electronics & Radar Development
Establishment, DRDO Complex,
Ministry of Defence, Jeevanbhimanagar
Post, Bangalore - 560 075)
17. Shri A.C. Rajasekhar
Advocate
No. 82/B, 1st Cross, 12th Main Rd,
Banashankari I Stage, II Block,
Bangalore - 560 050
18. The Director and Chairman DPC III
Electronics & Radar Development
Establishment (LRDE)
DRDO Complex, Ministry of Defence,
Jeevanbhimanagar Post
Bangalore - 560 075
19. Shri S.S. Chandrasekharacharya
Tradesman 'A', Purchase Section,
LRDE, DRDO Complex, M/o Defence,
Jeevanbhimanagar Post
Bangalore - 560 075
20. Shri M.R. Satyanarayana
Tradesman 'A', B.P.P.U., L.R.D.E.
Ministry of Defence
Cambridge Road
Ulsoor
Bangalore - 560 008

21. Shri M.D. Lakshmanarao
Tradesman 'C'
MEG(Fabrication)
LRDE, DRDO Complex
Jeevanbhimanagar Post
Bangalore - 560 075

22. Shri D.S. Rawat
Tradesman 'C'
En.S.D.
LRDE, DRDO Complex
Ministry of Defence
Jeevanbhimanagar Post
Bangalore - 560 075

23. Shri S.P. Mohan Kumar
Tradesman 'C'
CDE, LRDE
DRDO Complex
Jeevanbhimanagar Post
Bangalore - 560 075

24. Shri V. Shankar
Tradesman 'C'
C.P.G.
LRDE, DRDO Complex
Jeevanbhimanagar Post
Bangalore - 560 075

25. Shri M. Mayanna
Tradesman 'C'
En.S.D.
LRDE, DRDO Complex
Jeevanbhimanagar Post
Bangalore - 560 075

26. Shri K. Keshavalu
Tradesman 'A'
M.E.D.
LRDE, DRDO Complex
Ministry of Defence
Jeevanbhimanagar Post
Bangalore - 560 075

27. Shri B. Srikan Narayana
Tradesman 'A'
Battery Pilot Plant Unit(BPPU)
LRDE, Ministry of Defence
Cambridge Road, Ulsoor
Bangalore - 560 008

28. Shri P.S. Srinivasa
Tradesman 'A'
LRDE, DRDO Complex
Jeevanbhimanagar Post
Bangalore - 560 075

29. Shri M.S. Padmarajaiah
Senior Central Govt. Stng Counsel
High Court Buildings
Bangalore - 560 001

Subject : SENDING COPIES OF ORDER PASSED BY THE BENCH

Please find enclosed herewith the copy of ORDER passed by this Tribunal
in the above said Applications on 17-6-87.

Hare
SECTION OFFICER
(JUDICIAL)

Encl : As above

CENTRAL ADMINISTRATIVE TRIBUNAL:BANGALORE

DATED THIS THE 17TH DAY OF JUNE,1987.

PRESENT:

Hon'ble Mr.Justice K.S.Puttaswamy,

.. Vice-Chairman.

And;

Hon'ble Mr.L.H.A.Rego,

.. Member(A).

APPLICATIONS NUMBERS 1925 TO 1940 OF 1986.

1. V.M.Vinayagamurthy,
49 years,
S/o V.Muniswamy. .. Applicant in A.1925/86.
2. P.Tharsies,
46 years, S/o Ponnaiah. .. Applicant in A.1926/86.
3. K.Bhaskara Pillai,
42 years,
S/o Balakrishna Pillai, .. Applicant in A.1927/86.
4. M.Munikrishna,
36 years,
S/o Munivenkatappa, .. Applicant in A.1928/86.
5. A.Durgachalam,
39 years, S/o R.Adimulakonar. .. Applicant in A.1929/86.
- 6.M.Subbaraya,
42 years, S/o M.Munivenkatappa. .. Applicant in A.1930/86.
7. M.Gajendra,
38 years, S/o B.Muninarasappa, .. Applicant in A.1931/86.
8. V.K.Subramanian,
42 years, S/o Nakan Mudaliar. .. Applicant in A.1932/86.
9. K.G.J.Nair,
46 years, S/o Govinda Pillai. .. Applicant in A.1933/86.
- 10.Sri N.G.Shashisekhara,
37 years, S/o N.B.Gangappa, .. Applicant in A.1934/86.
- 11.M.Srinivasa,
45 years, S/o N.Munivenkatappa. .. Applicant in A.1935/86.
12. D.V.Krishnappa,
45 years, S/o Venkatappa. .. Applicant in A.1936/86.
- 13.Krishnamurthy,
35 years, S/o Puttasharmachar. .. Applicant in A.1937/86.
- 14.A.K.Banerjee,
37 years, S/o B.C.Banerjee. .. Applicant in A.1938/86.
- 15.U.Prabhakaran,
45 years, S/o K.R.Nair. .. Applicant in A.1939/86.
16. M.Dakshinamurthy,
38 years, S/o M.Doraiswamy .. Applicant in A.1940/86.

Applicants in A.Nos.1925 to 1934 and 1938 to 1940 of 1986 are working as Tradesman 'A' and Applicants in A.Nos.1935 to 1937 of 1986 are working as Tradesman 'C' in Electronics and Radar Development Establishment, DRDO Complex, Ministry of Defence, Jeevanbhimanagar Post, Bangalore-75.

(By Sri A.C.Rasekhar,Advocate for Applicants)



1. The Director and Chairman
DPC III Electronics and Radar Development
Establishment (LRDE) DRDO Complex,
Ministry of Defence,
Jeevanbhimanagar Post, Bangalore-560 075. .. Respondent-1
in all Applications.
2. S.S.Chandrasekharachary,
Tradesman 'A' Purchase Section,
LRDE, DRDO Complex, Ministry of Defence,
Jeevanbhimanagar Post,
Bangalore-75.
3. M.R.Satyanarayana,
Tradesman 'A', B.P.P.U., L.R.D.E.,
Ministry of Defence, Cambridge Road,
Ulsoor, Bangalore-8. .. Respondents 2 and 3
in A.Nos.1925 to 1934/86
4. J.D.Lakshmanarao,
Tradesman 'C' MEG (Fabrication),
LRDE, DRDO Complex,
Jeevanbhimanagar Post,
Bangalore 560 075.
5. D.S.Rawat,
Tradesman 'C', En.S.D.,
LRDE, DRDO Complex,
Ministry of Defence
Jeevanbhimanagar Post,
Bangalore-560 075.
6. S.P.Mohan Kumar,
Tradesman 'C', CDE,LRDE,DRDO
Complex,Jeevanbhimanagar Post,
Bangalore-560 075.
7. V.Shankar,
Tradesman 'C' CPG,LRDE,DRDO Complex,
Jeevanbhimanagar Post,
Bangalore-75.
8. M.Mayanna,
Tradesman 'C' En.S.D.,LRDE,DRDO Complex,
Jeevanbhimanagar Post,
Bangalore-560 075. .. Sl.Nos.4 to 8 are
Respondents 2 to 6 in A.Nos.1935
to 1937 of 1986.
9. K.Keshavalu,
Tradesman 'A',MED,Electronics and Radar
Development Establishment (LRDE),DRDO Complex,
Ministry of Defence, Jeevanbhimanagar Post,
Bangalore-560 075.
10. B.Sriman Narayana,
Tradesman 'A', Battery Pilot Plant Unit (BPPU) LRDE, Ministry
of Defence,Cambridge Road,
Ulsoor, Bangalore-8.
- H.P.S.Srinivasa,
Tradesman-A, LRDE,DRDO Complex,
Jeevanbhimanagar Post,
Bangalore-75. .. Sl.Nos.9 to 11 are
Respondents in A.Nos.1938
to 1940/86.

(By Sri M.S.Padmarajaiah,CGSSC).



These applications having come up for hearing this day, Vice-Chairman, made the following:

O R D E R

As the questions that arise for determination in these cases are common, we propose to dispose of them by a common order.

2. All the applicants who commenced their service as Tradesmen in the Department of Electronics and Radar Development Establishment, Government of India ('LRDE') were holding the posts of Tradesmen-C on 30th October, 1979. On that day there was also a temporary unit called 'Battery Pilot Plant Unit' ('BPPU') under the control of the LRDE which came to be merged with the LRDE from that very date. On such merger of the BPPU with its personnel with the LRDE, Government made an order on 31-10-1979 regulating the *inter se* seniority of those absorbed vis-a-vis working in the LRDE. That order reads thus:

"The case was referred to Department of Personnel and A.P. who have ruled that on merger, the staff belonging to the Pilot Plant Production should be placed enblock junior to the regular staff belonging to the LRDE. The *inter se* seniority of the individuals may, therefore, be fixed accordingly."

But, on a consideration of the representations made by the officials aggrieved by the order of Government, the Director General of the LRDE as the Head of the Department on 31-10-1979 directed as under:

" Para 957/80.

SENIORITY ROLLS FOR INDUSTRIAL STAFF

NICKEL CADMIUM BATTERY (PP UNIT).

Seniority rolls in respect of the industrial staff recruited for Pilot Plant Nickel Cadmium Batteries will be maintained separately from Group-VI onwards upto C/M II for Departmental Promotions through DPC III.

However there will be common seniority for C/M I upwards which come under DPC II. To enable consideration for promotion to C/M I by DPC II, the C/M of PP (Ni-Cd)

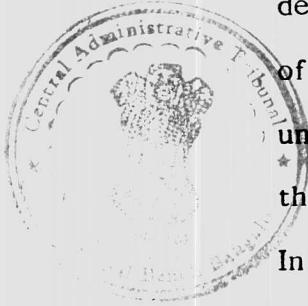


staff will come under the common roster."

On the basis of this decision and all other relevant factors, the competent authority had promoted respondents 2 and 3 in Applications Nos.1925 to 1934 of 1986, respondents 2 to 6 in Applications 1935 to 1937 of 1986 and respondents 2 to 4 in Applications Nos.1938 to 1940/1986 to be hereafter referred to as 'promotees' as Tradesman 'A' or 'C' on 8-1-1981 and 17-7-1982 respectively from which dates they are holding the respective promoted posts.

3. Evidently on the basis of his decisions and other relevant factors thereto, the Director had drawn up a seniority roll of Tradesman-A in January,1984 assigning higher ranks to the promotees and lower ranks to the applicants herein, who had been promoted on later dates. Aggrieved by the lower ranks assigned to them and the higher ranks to the promotees, the applicants made individual representations to the Director, who in July,1984 rejected all of them. But, notwithstanding the same, the applicants continued to make representations from time to time which have not found favour with the Director. Hence, the applicants have approached this Tribunal on 26-11-1986 by separate but identical applications under Section 19 of the Administrative Tribunals Act(Act) challenging the decision of the Director dated 30-9-1980, the promotion orders made on 8-1-1981 and 17-7-1982 and the seniority list drawn up by him in January,1984 on diverse grounds.

4. In their common reply, the respondents have inter-alia urged that these applications made on 26-11-1986 seeking to challenge the decision of the Director reached on 30-9-1980 and the promotions of several promotees made prior to 1-11-1982 were not entertainable under the Act and if those challenges cannot be entertained a fortiori their challenge to the seniority list of 1984 cannot be examined. In the very nature of things, it is necessary to examine this preliminary objection of the respondents first and then the merits, if that



becomes necessary.

5. Sri M.S.Padmarajaiah, learned Senior Central Government Standing Counsel appearing for the Union of India and its subordinate authorities contends that these applications made on 26-II-1986 under Section 19 of the Act seeking to challenge the decision reached by the Director on 30-9-1980 and the promotion orders made on 8-I-1981 and 17-7-1982 were not maintainable as ruled by the Principal Bench of this Tribunal in V.K.MEHRA v. THE SECRETARY, MINISTRY OF INFORMATION AND BROADCASTING, NEW DELHI (ATR 1986 CAT 203) and this Bench in Dr.(Smt.)KSHAMA KAPUR v. THE SECRETARY, MINISTRY OF HEALTH AND FAMILY WELFARE (A.No.46/87 decided on 12-6-1987) and on that very basis their challenge to the seniority roll of 1984 cannot be entertained by us at all.

6. Sri A.C.Rajasekhar, learned counsel for the applicants, refuting the contention of Sri Padmarajaiah, contends that these applications made on 26-II-1986, were well within time and this Tribunal should, therefore, adjudicate the claims on merits.

7. We have earlier noticed the decision reached by the Government on 31-10-1979 which was in favour of the applicants.

8. But, unfortunately, for the applicants, that decision of Government did not last long and on 30-9-1980 the Director reached a decision which is adverse to them and is even contrary to the earlier decision of Government. On the basis of new principles of seniority decided on 30-9-1980, he also promoted the promotees on 8-I-1981 and 17-7-1982. Both these substantial adverse orders against the applicants were made before 1-II-1982.

9. The question whether an order or proceeding concluded before 1-II-1982 is challengeable under the Act or not is no longer res integra. In Mehra's case, Justice Madhava Reddy, Hon'ble Chairman speaking for the Bench, has upheld a similar objection of the respondents in these words:



The Administrative Tribunals Act does not vest any power or authority to take cognizance of a grievance arising out of an order made prior to 1-II-1982. The petitioner requests that the delay in filing this application be condoned. But, the question is not at all one of condoning the delay in filing the petition. It is a question of the Tribunal having jurisdiction to entertain a petition in respect of grievance arising prior to 1-II-1982.

3. In Regn.No.T-34/85 Capt.Lachhman Singh v. Secretary, Ministry of Personnel and Training,we held:

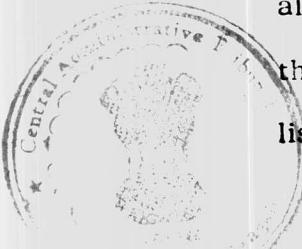
"The period of three years laid down under sub-section (2) of Section 21 would have to be computed with reference to any order made on such a representation and not with reference to the earlier order.....the Tribunal would have jurisdiction under sub-section (2) of Section 21 to entertain an application in respect of "any order" made between 1-II-1982 and 1-II-1985"

The limited power that is vested to condone the delay in filing the application within the period prescribed is under Section 21 provided the grievance is in respect of an order made within 3 years of the constitution of the Tribunal.Though the present petition is filed within six months of the constitution of the Tribunal in respect of an order made prior to 1-II-1985 as contemplated by sub-section (3) of Section 21, since it relates to a grievance arising out of an order dated 22-5-1981, a date more than 3 years immediately preceding the constitution of the Tribunal, this Tribunal has no jurisdiction, power or authority to entertain the petition. This petition is, therefore dismissed.

In Dr.(Smt.) Kshama Kapur's case, we have followed this enunciation and have also held that later orders made rejecting repeated representations cannot be treated as revalidating the final orders made by an authority before 1-II-1982. On the principles enunciated in Mehra's and Dr.(Smt.) Kshama Kapur's cases, we are bound to uphold the objection of Sri Padmarajaiah.

10. As noticed earlier also, the seniority list prepared in January,1984 only reflects the decision taken by the Director on 30-9-1980 and the promotion orders made on 8-1-1981 and 17-7-1982. When we hold that we cannot interfere with them, then we must also hold that we cannot interfere with that seniority list and dismiss these applications. This wil be the position, even if two seniority lists had been earlier maintained.

11. The representations made by the applicants and others on



the placements of the promotees and others and their own were first rejected on 17-9-1984. If that is so, then these applications challenging the same are barred by time. As pointed out by us in Kshama Kapur's case the later order made on 21-4-1986 reiterating the earlier decision of 17-9-1984 will be of no avail to hold that they are not barred by time.

12. On the foregoing discussion, we hold that these applications are liable to be dismissed. We, therefore, dismiss these applications. But, in the circumstances of the cases, we direct the parties to bear their own costs.



np/

VICE-CHAIRMAN

17/6/87

MEMBER(A) 11.6.87

-True Copy-

Hari
SECTION OFFICER 3/7
CENTRAL ADMINISTRATIVE TRIBUNAL
ADDITIONAL BENCH
BANGALORE