

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

ADDITIONAL BENCH, BANGALORE

APPLICATION NOS 1938 & 40 / 1986 (F)

BETWEEN:

Sri.A.K. Banerjee
and TWO Others

.. Applicants

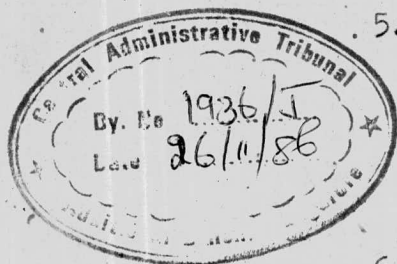
AND:

The Director and Chairman
DPC III
L.R.D.E., DRDO Complex
Jeevanbhimanagar Post
Bangalore 560 075
and THREE others

.. Respondents

I N D E X

Sl.No.	Description	Pages
1.	Applications	1-18
	<u>List of enclosures</u>	
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 First Respondent	" 'A1' 21
4.	Publication of list of eligible candidates for trade test including 2 to 4 Respondents	" 'B' 22
5.	The order of DPC III promotions to Tradesman 'A' dated 17.7.82 in respect of 2 to 4 Respondents wef 12.7.82 and 13.7.82	" 'C' 23
6.	The order of DPC III promotions to Tradesman 'A' in respect of the Applicants wef 15.3.84	" 'D' 24



7. Representation by Sir. A.K.
• Banerjee dt 24.3.86 • Annexure 'E' 225
8. Reply by the 1st Respondent
dated 19.3.86 Annexure 'F' 26
9. Reply by the 1st Respondent
dated 21.4.86 in No 13404/Adm Annexure 'G' 27
10. Legal notice dated 7.7.1986
alongwith the postal receipt
and acknowledgement card Annexure H -H2 28-31
11. Vakalat 32
12. Reply dt 19.3.86 in his
• No.13404/Adm - in original Annexure 'F' 33
13. Reply dt 21.4.86 in No.
13404/Adm - in original Annexure 'G' 34

*Subramaniam
Sethi*

A no. 1938 & 4086 (F)

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
ADDITIONAL BENCH, BANGALORE

APPLICATION UNDER SECTION 19 OF THE ADMINISTRATIVE
TRIBUNALS ACT 1985

For use in Tribunals Office

Date of Filing

26th Nov 1986 at
2pm

OR

Date of Receipt

BY Post

Presented by Son
H.C. Raj Reddy
Asst Secy

Registration No.

Signature

Registrar

Recd
26/11/86

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
ADDITIONAL BENCH, BANGALORE

BETWEEN:

Sri. A.K Banerjee
Tradesman 'A'
LRDE 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 Three others.. Respondents

1. Particulars of the applicants:

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

1. Sri. A.K. Banerjee, 37 years
S/o Sri. B.C. Banerjee

A.No. 1938/86 (F)

2. Sri. U. Prabhakaran, 45 years
S/o Sri. K.R. Nair

A.No. 1939/86 (F)

3. Sri. M. Dakshinamurthy, 38 years
S/o Sri. M. Doraiswamy

A.No. 1940/86 (F)

(iii) Designation and office in which employed:

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

(iv) Office Address:

Electronics and Radar Development
Establishment, DRDO Complex
Ministry of Defence
Jeevanbhimannagar 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 State, 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 Chairman DPC III
Electronics and Radar Development
Establishment (LRDE)
DRDO Complex, Ministry of Defence
Jeevanbhimannagar Post
Bangalore 560 075

5 2. Sri. K. Keshavalu
Tradesman 'A'
M.E.D.
Electronics and Radar Development
Establishment (LRDE)
DRDO Complex, Ministry of Defence
Jeevanbhimannagar Post
Bangalore 560 075

5 3. Sri. B. Srimannarayana
Tradesman 'A'
Battery Pilot Plant Unit (BPPU)
L.R.D.E. Ministry of Defence
Cambridge Road, Ulsoor
Bangalore 560 008

4. Sri. P.S. Srinivasa
Tradesman 'A'
L.R.D.E., DRDO Complex
Jeevanbhimannagar Post
Bangalore 560 075 .. Respondents

(iii) Address for service of all notices:

Same as above in 2 (i) and (iii)

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

Order No 13404/Adm dated 21.4.86
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.

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 industrial staff with LRDE from the date of receipt of PE 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 11.6.1980 instead of maintaining a 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.

A

6. FACTS OF THE CASE:

(i) All the Applicants are working as Tradesman 'A' in Electronics and Radar Development Establishment (LRDE), Bangalore, which is one of the Research and Development Establishment under the Director General Research and Development Organisation, Ministry of Defence, Sena Bhavan, New Delhi 110 011. The First Respondent is an authority to deal with all matters pertaining to recruitment, promotions and seniority etc, subject to instructions issued by the R&D Hqs 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 Hqs from time to time in respect of matters relating to recruitment, promotion and fixation of seniority of both industrial staff and non-industrial staff working under him.

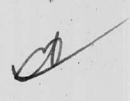
(ii) It is submitted that the Electronics and Radar Development Establishment had some staff on its regular P.E. who were working on the development projects on a regular basis. There were two Pilot Plant Divisions attached to LRDE, Bangalore. The First Pilot Plant Division was meant for the purpose 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 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} ~~Letter~~ No. 98771/A/Pers/RD-21(c) dated ~~14.12.1979~~. The dated 31.10.79 and reproduced by the First Respondent in 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 industrial staff was againn



referred to R&D Hqs 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 Hqs in their letter No 98771/A/Pers/RD-21(c) dated 3.6.80 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 16.6.1980 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 in 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 Hqs decision in his Daily Orders Part IA at 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 Hqs 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 also was also received from R&D Hqs 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 Hqs to place the staff belonging

to Nickel Cadmium Battery Pilot Plant
enblock juniors to LRDE staff.

(viii) That the First Respondent, pending a final decision from R&D Hqs 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 Hqs 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 Batteries on the one side, and non-industrial staff on the other side, which is as follows:-

Seniority rolls for industrial staff
Nickel Cadmium Battery (PP Unit):³/₄

" 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 Promotion through DPC III. However, there will be a common seniority for Chargemen Gde I upwards which come under DPC II. To enable consideration for promotion

A

to Chargemen Gde 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 dated 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 Tradesman 'A' has got a promotion channel to Chargemen Gde II which is a non-industrial post and a common seniority roster would be maintained from Chargemen II onwards covering both Chargemen Gde 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

belonging to Pilot Plant Nickel Cadmium Batteries staff had affected the right to seniority and future promotion of the applicants. Hence this rule framed by the First Respondent in respect of seniority for 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 respondents 2 to 4, ignoring the services rendered by the Applicants who were seniors.

(xii) That the Applicants were recruited/ promoted as Tradesman 'C' on 26.8.1975 and the Respondents 2 to 4 were appointed/ promoted subsequently. The Respondents 2 to 4 were promoted as Tradesman 'A' w.e.f. 12.7.82 and 13.7.82 on adhoc basis, pending de-reservation of 2 SC vacancies. The 3rd and 4th Respondents were promoted against SC vacancies in excess of quota of general candidates, though the 2nd applicant was an SC candidate. The right to promotion for the 2nd applicant was denied against the Quota reserved for SC candidates, which is violative 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 parz 298 in Sl. No 59 on 17.3.1982 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 'C' to 'A'. Consequent upon the above trade test, the industrial staff of Nickel Cadmium Battery staff were promoted from Tradesman 'C' to 'A' industrial posts and the Respondents 2 to 4 who were juniors to the Applicants were promoted.

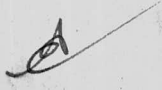
(xiv) It is submitted that the Respondents 2 to 4 were promoted with effect from 12.7.82 and 13.7.82 on the recommendation of DPC III from Tradesman 'C' to Tradesman 'A', Shri P.S. Srinivasa and Sriman Nayayana were promoted on adhoc basis against the vacancies reserved for SC/ST subject to the condition 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 Orders Part IA as published in Sl. No. 7 at para 39 dated 8.1.81 is filed herein as Annexure 'C' to these Applications.

(xv) It is submitted that all the applicants were subsequently promoted wef 15.3.1984 vide Annexure- 'D' on the recommendations of DPC III from Tradesman 'C' to Tradesman 'A' after a lapse of one year and 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 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 seniority roll is baseless and illegal. It has taken away the 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 Meeting in which the promotions of 2 to 4 Respondents was ordered wef 12.7.1982.

(xvii) It is submitted that the promotion ordered on the recommendations of the DPC III wef 12.7.1982 in respect of the Respondents 2 to 4 is illegal and not sustainable in law.



The VI Respondent 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, third and fourth respondents were eligible to be placed enblock juniors to the staff who were 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 DPC III promotions in respect of the second, third and fourth Respondents promoted wef 12.7.1982 which is published by the First Respondent in Daily Orders Part IA para 791 in Sl. No 158 on 17.7.1982 vide Annexure 'C' as illegal.

g

- (iii) To quash the common seniority roster prepared during the year 1984 in violation of the rules.
- (iv) To quash the cyclostyled order of the First Respondent dated ~~29.4.1986~~ 21.4.1986 in his No. 13404/Adm 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 ~~ith~~ with effect from the date of receipt of PE as he has already maintained in respect of non-industrial staff from Chargemen Gde II onwards who were similarly placed and to prepare a seniority roll during 1980 and 1984 afresh in accordance with rules.

The ~~applicati-abeve~~ applicants above named urge the following among other grounds in support of their 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 by the First Respondent in his daily orders part IA at para 957 inSl. No.215 dt 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 order of promotion in respect of III and IV Respondents is violative of Quota Rule as the general candidates were promoted against the quota reserved for SC candidates, though the II applicant was belonged to SC was available to be considered for promotion against SC vacancy.
- 

- (d) That the orders of promotion in respect of the second and third respondents is 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 respondents 2 to 4 who were juniors to Applicants in Tradesman 'C' were made to supersede their seniors as a result of of maintaining a separate seniority roll in respect of the industrial staff belonging to Pilot Plant Nickel Cadmium Battery Pilot Plant to which category the 2 to 4 Respondents were belonged.
- (e) 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.
- (f) 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 the First Applicant has submitted his representation on 15.1.1986 and 24.3.1986..The copy of the representation dated 24.3.1986 is filed herein and marked as Annexure 'E'. Whereas a reply was furnished by the First Respondent on 19.3.1986 and 21.4.1986 in his No. 13404/Adm, stating that the Applicant's name cannot be placed above the Respondents since they were promoted earlier and the Applicants were promoted to Tradesman 'A' on 15.3.1984. There was no question of making common seniority roll of Pilot Plant Unit staff with LRDE/EPD industrial staff which was sanctioned on regular basis during 1980. The copy of the reply received from the First Respondent dated 19.3.1986 and 21.4.1986 are filed herein and marked as Annexure 'F' and 'G' to these applications. A legal notice dated 7.7.86 was also served on the First Respondent. The copy of the notice dated 7.7.86 is filed herein and marked as Annexure-'H' to these applications. Postal receipt and acknowledgement card are filed herein and marked as Annexure 'J1-&-J2
Annexure 'J' and JU'.

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
Hannumanthavagar
Blaker, Blom

2. Demand Draft No

No. 979662
dated 25-11-86.
For Rs. 150/-

Bangalore

Date: 26 Nov 86

1.

Banerjee
(A.K. BANERJEE)

2.

D. Dakshinamurthy
(D. DAKSHINAMURTHY)

3.

U. Prabhakaran
(U. PRABHAKARAN)

Signature of the Applicants

A. C. Rajasekhar
Advocate for applicants

A. C. RAJASEKHAR, B.Com. LL.M.

ADVOCATE,

No. 82/B, 1st Cross, 12th Main Road

Banashankari I Stage, II Block,

Bangalore-560 050.

VERIFICATION

I, Sri. A.K. Banerjee, S/o. Sri. B.C. Banerjee
aged about 37 years working as Tradesman 'A'
resident of Bangalore do hereby verify on behalf
of myself and other applicants 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

Signature of the applicant

Date: 26th NOV 86

To

The Registrar

The Central Administrative Tribunal
Additional Bench, Bangalore

EXTRACT OF DAILY ORDERS PART IA SL.NO. 276 DT 14.12.79Para 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 16.6.80Para 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/Deptt of Personnel and AR and the decision when arrived at will be communicated to you".

EXTRACT OF DAILY ORDERS PART IA, SL NO NO 191 DT 30.8.80

838
Para 838/80: TRADE TEST: INDUSTRIAL STAFF (AUTH: 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 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~~

Is -
defence
sch

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
Adhikary
Adm.

INDUSTRIAL STAFF: PROMOTION

The following promotions are ordered with effect from 15.3.84 EN:-

<u>Sl.No.</u>	<u>P.No.</u>	<u>Name and Designation</u>	<u>Promoted to</u>
1.	-	-	-
2.	-	-	-
3.	-	-	-
4.	-	-	-
5.	-	-	-
6.	-	-	-
7.	-	-	-
8.	-	-	-
9.	-	-	-
10.	-	-	-
11.	-	-	-
12.	-	-	-
13.	366	Shri AK Banerjee, TMC	Offg TMA
14.	369	Shri D Dakshnimamurthy(SC)	"
15.	362	Shri U Prabhakaran	"

True copy
Subferman
Adv.

EXTRACT OF DAILY ORDERS PART IA SL NO 158 DT 17.7.82Para 791: PROMOTION - INDUSTRIAL STAFF

On the recommendation of the DPC III, the following Tradesman 'C' have been promoted as T/Man 'A' wef the dates shown against their names:-

<u>Sl.No.</u>	<u>TokenNo.</u>	<u>Name and Designation</u>	<u>Date of promotion</u>
---------------	-----------------	-----------------------------	--------------------------

Sl.No. 1 to 40 other promotees

BPPU

1.	465	Shri B Sriman Narayanna	12.7.82(FN)
2.	436	Shri K Keshavalu (SC)	12.7.82(FN)
3.	438	Shri PS Srinivasa **	13.7.82(FN)

** On adhoc basis pending de-reservation of SC vacancy by the competent authority.

The above named individuals will be on promotion for a period of two years.

True copy
Adferhans
AAU

EXTRACT OF DAILY ORDERS PART IA. SL.NO.59 DT 17.3.82

Para 298/82: ANNUAL TRADE TEST FROM T/MAN TO (T/MAN B) AND A.

23 posts of Tradesman B and A will be filled by promotion from T/Man C to B and A in Development (LRDE) and 3 posts in BPPU in accordance with SRO 245/75 and 87/77. These posts will be filled by promotion of general candidates and SC/ST. In accordance with the management instructions on the subject the eligible candidates will have to undergo a period of training followed by a Trade Test and DPC. The details of the training will be issued subsequently.

It has also been decided to keep a panel of a few additional names who will be considered for DPC quota for future. The following T/Man 'C' will be considered for promotion:-

Development (LRDE)

Sl. No. 1 to 33 from Development *projects Staff*

Pilot Plant (BPPU)

Sl.No.	Token No	Name
1.	465	Shri B Sriman Narayana
2.	436	Shri K Keshavalu (SC)
3.	438	Shri PS Srinivasa

Reservation: SC 3 (three)
ST Nil

True CSPH

Act Forwards
Adv

To

The Director
L.R.D.E.
High Grounds
Bangalore 560 001

(Through Proper Channel)

Sir,

Subject: SENIORITY

Reference My representation letter dated 15.1.86 &
your letter No 13404/Adm dt 19.3.86

With reference to above I studied carefully and I have clearly indicated above my juniors S/Sri Keshavalu, P.No. 436, TMA and Sriman Narayan, P.No. 465, TMA have been promoted separately without giving me a chance for test/and interview along with at the time of his promotion. Detaching of BPPU from LRDE and subsequent merging of BPPU with LRDE is not my fault, in any case. And I should not be allowed to suffer on this account. Hence I request you to kindly maintain justice in my case by placing me above him, who is basically junior to me.

However, the reply received (ref above) is not justified and not satisfactory, to me.

In case this is not possible I may please be permitted to approach the Court of Law.

An early reply is awaited.

Thanking you,

Yours faithfully,

SA/4 AK Banerjee
P.No. 366, TMA
EPD

Dated 24.3.86

/true copy/

Act Banerjee
Adv

NO: 13404/Adm

To

19.3.86

Sri AK Banerjee
P.No 366 TMA

Through EPDO

Subject: Seniority

Reference your application dated 15.1.86

Your application referred to above regarding fixation of seniority in Tradesman 'A' claiming that you are senior to S/Sri Keshavalu, P.No 436 TMA and Sriman Narayan P.No 465, TMA have been examined. As per existing rules seniority will reckon from the date of promotion/appointment in the post of Tradesman 'A' but not on the length of service in various grades/posts. S/Sri Keshavalu P.No. 436 and Sriman Narayan P.No 465 have been promoted as T/man 'A' earlier to you, your fixation of seniority has been done correctly.

Sd/-
(MR PALSHIKAR)
SAO II
for DIRECTOR

/true copy/

Act Secy
Adm

Grams: DEVELECTRONICS

Phone: 73205

NO: 13404/Adm

Government of India-Ministry of Defence
Research and Development Orgn.
Electronics & Radar Development Estt
~~Leam~~ PB No 5108, High Grounds
Bangalore 560 001

To .

21.4.86

Sri. A.K. Banerjee

P.NO 366 TMA

Through EPDO

Subject: RECTIFICATION OF SENIORITY

Reference your a plication dt 24.3.86

Your case on the above subject has been examined once again. Your contention regarding detaching BPPU from LRDE and subsequent merger in LRDE for purpose 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 of 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 of 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 Keshavalu TMA and Sriman Narayanan has been promoted to T/Man 'A' wef 12.7.1982 and you have been promoted to T/Man 'A' wef 5.3.84.

Your request for placing your name above Shri Keshavalu P.No 436 and B.S. Narayana L 465 who has been promoted earlier to you cannot be done. The seniority has been fixed as per rules on the subject.

S/
(MR PALSHIKAR)
SAO II
for DIRECTOR

/true copy/

Act & Encl
Adv

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

REGD/AD

S/2/86

7.7.1986

To

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

Dear Sir,

Under instructions from my clients, S/s U. Prabhakaran, D. Dakshinamurthy, and A.K. Banerjee, I issue notice as hereunder:-

1. That my clients are serving under you^x as Tradesman 'A'. They were appointed/promoted as Tradesman 'C' on 26.8.1975.
2. That the P.E. for Nickel Cadmium Battery Pilot Plant Unit was received from R&D Hqrs under Ministry of Defence letter No. 96485/RD-27(c)/3210/D(R&D) dated 11.6.1980. Consequently the inter-se-seniority list merging the Nickel Cadmium Battery Pilot Plant staff with my clients should have been prepared based on the date of appointment and a common seniority roster should have been maintained. Whereas a separate seniority roll for those staff was maintained in accordance with Daily Order Part IA No. 957 dated 30.9.1980. This decision to maintain a separate seniority roll is illegal because an unjust benefit was given to one class of staff, ignoring the other staff which is discriminatory and violative of Article 14 and 16 (1) of the Constitution of India.
3. That the annual trade test from Tradesman 'C' to 'A' was published in Daily Order Part IA in No 298 dated 17.3.82 indicating the names of thirty three eligible candidates against development (LRDE) and three other candidates against BPPU excluding the names of my clients, who were senior to the Battery Pilot Plant Unit industrial staff.
4. Therefore my clients submitted their representations bringing out the discrimination made against them and not considering them for trade test and promotion as their right to promotion was affected. Hence the seniority roll and consequential promotion giving a preferential treatment to one class of staff is liable to be struck down and as it is baseless and illegal.
5. My clients submit that there were three posts of Tradesman 'A' which were reserved for SC candidates in Pilot Plant Battery Unit. One SC candidate Mr. K. Keshavalu was promoted wef 12.7.1982 along with two general candidates viz., Mr. B. Sriman Narayana, and P.S. Srinivasa in No. 791 of Daily Orders Part IA dated 17.7.1982. It was stated therein that Mr. P.S. Srinivasa who was a general candidate was promoted on an adhoc basis, pending de-reservation of SC vacancy by the competent authority. Mr. B Sriman Naryana, who also promoted against SC vacancy but against his name

[Signature]

it is not stated that he was promoted against an SC vacancy, intentionally to benefit him.

6. My clients submit that among my clients one Mr. D. Dakshinamurthy was an SC candidate. He was also senior to Mr. K. Keshavalu and two others, who were promoted on 17.7.82. Therefore, Sri. D. Dakshinamurthy and two others were eligible to be considered for trade test and promotion, whereas, their right to appear for trade test and promotion was denied, which is discriminatory and illegal. Hence the promotion of Mr. K. Keshavalu and two others is not sustainable in law.

7. That the said promotion dated 17.7.82 are violative of quota rule. The quota rule fixed by the Central Government is a statutory rule and there is a corresponding duty to maintain the quota. It is not open to alter the quota in violation of quota rule ~~must be strictly observed~~ on account of promotion situations. It is mandatory that the quota rule must be strictly observed. Whereas the promotions were made filling up the posts reserved for SC candidates by the general candidates against the SC vacancies, which were not permitted to be de-reserved by the competent authority, hence the promotion in respect of those three BPPU industrial staff is illegal and liable to be struck down.

8. That my clients submit that the decision to maintain a separate seniority roll for Nickel Cadmium Battery Pilot Plant industrial staff; though a common seniority list was maintained for non-industrial staff of LRDE and pilot plant Nickel Cadmium Battery staff from Chargemen-II upwards; is discriminatory and illegal. Hence the consequential promotion is not sustainable in law.

9. That my clients were subsequently promoted from Tradesman 'C' to 'A' wef 15.3.1984 as a consequence of maintaining a separate seniority roll for BPPU industrial staff. My clients were not considered for trade test and promotion in March 82, though they were eligible to be considered for promotion based on their seniority.

10. Therefore it is just and necessary to protect the interest of my clients, who lost their seniority and to give benefit of seniority by preparing a fresh seniority list merging both the category of staff as on Jun 1980, which is proper and appropriate. The belated decision to merge the BPPU staff and to prepare a common roster cannot take away the rights of my clients to future promotions.

11. It is, therefore, requested to readjust the seniority and to reply this notice within 10 days from the date of receipt of this notice. Otherwise my clients are restrained to institute legal proceedings.

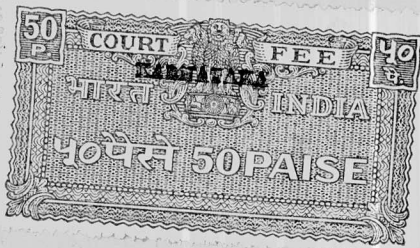
Notice charge is Rs 200/-

Yours faithfully,

[Signature]
Advocate

Bangalore
Date: 7.7.86

True copy
Dakshinamurthy
Adv.



-32



No. 14906

Central Administrative Tribunal
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-Debtor/s,
Opponent/s.

A. K. Banerjee &
two others

The director & Chairman
D. P. C. III, L.R.D.E.

I/We A. K. Banerjee, D. Dakshinamurthy,

U. Prabhakaran,

the

Nos. in the above matter hereby appoint and retain

Sri A. C. Rajasekhar, B.Com. L.L.M. 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 25 date of Nov-1986 at Bangalore

1, (A. K. BANERJEE)

D. Dakshinamurthy

2, (D. DAKSHINAMURTHY)

3, (U. PRABHAKARAN)

Signature/s

Executants are personally known to me and they have 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

ADDRESS FOR SERVICE

A. C. RAJASEKHAR, B.Com. L.L.M.
ADVOCATE,

No. 82/B, 1st Cross, 12th Main Road,
Banashankari Stage, II Block,
Bangalore-560 050.

ADVOCATES FOR Applicants.
DATE - 1986.

पार : डेवइलेक्ट्रॉनिक्स
Grams : DEVELECTRONICS
टेलिक्स : 0845288
Telex : 0845288
फोन :
Phone :

संख्या

No. 13404/Adm

भारत सरकार

रक्षा मंत्रालय

GOVERNMENT OF INDIA — MINISTRY OF DEFENCE

रक्षा अनुसंधान तथा विकास संगठन

DEFENCE RESEARCH & DEVELOPMENT ORGANISATION

इलेक्ट्रॉनिक्स तथा रडार विकास स्थापन

ELECTRONICS & RADAR DEVELOPMENT ESTABLISHMENT

पोस्ट बक्स सं. 5108 — हाईग्राउन्ड्स — बंगलोर-560 001

POST BOX No 5108—HIGH GROUNDS—BANGALORE-560 001

19 Mar 86

To

Sri AK BANERJEE
P. No 366, TMA

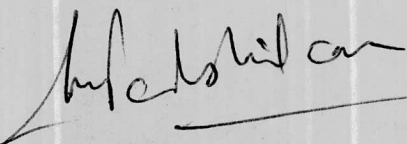
Through EPDO ✓
21/2

Subject:- SENIORITY

Reference your application dt 15 Jan 86

Your application referred to above regarding fixation of seniority in Tradesman 'A' claiming that you are senior to S/sri KESHAVALU, P. No 436, TMA and SRIMAN NARAYAN, P. No 465, TMA have been examined. As per existing rules seniority will reckon from the date of promotion/appointment in the post of Tradesman 'A' but not on the length of service in various grades/posts. S/Sri KESHAVALU, P. No 436, and SRIMAN NARAYAN, P. No 465 have been promoted as T/Man 'A' earlier to you, your fixation of seniority has been done correctly.

PEGA


(MR PALSHIKAR)
SAO II
for DIRECTOR

कृपया सदैव उत्तर देते समय हमारे पत्र संख्या तथा दिनांक लिखें।
Kindly always quote our letter number and date while replying.

यह आपके पत्र संचार के उत्तर देने में अधिक सहायता देगी।
This will immensely assist prompt attention to your communication.

Grams: Develectronics
telex: 0845288
Phone: 73205

34
No 13404/Adm

Government of India-Min of Def
Def Research & Development Orgn
Electronics & Radar Development Est
PB No 5108-High Grounds,
Bangalore, 21 April 1986

To
Shri A K BANERJI
Per NO 366. TMA
Through EPDO

Subject: RECTIFICATION OF SENIORITY

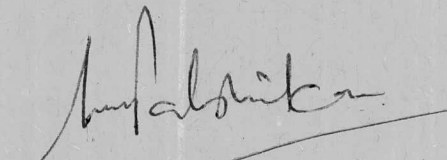
Reference your application dt 24 Mar 1986

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 along with LRDE industrial staff and seniority has been fixed as per existing rules ie from the date of appointment/promotion. S/Shri Keshavaly TMA 8 Saiman Narayana has been promoted to TMA A wef 12 Jul 1982 and you have been promoted to TMA A wef 5 March 1984.

S/ Your request for placing your name above Shri Keshavaly L 436 and /who has been promoted earlier to you cannot be done. The Seniority has been fixed as per rules on the subject.

L B. S. Narayana
L 465

REGD


(MR PALSHIKAR)
Senior Administrative Officer II
for DIRECTOR

7. WA 3025/86 (LA) Sri. Padubidri Raghavendra Rao for applt.,
Sri. Shivaraj Patil, Advocate for caveator R-1.,
8. WA 3026/86 (LB) Sri. S. Vijay shankar for applt.,
alongwith IA I for stay
9. WA 3031 & 3032/86 (MV) Sri. H.G. Balakrishna for applt.,
alongwith IA I, II & III for orders.
IA I for C.D. in refiling.
IA II for C.D. in filing the WA and
IA III for stay.
10. WA 3034/86 (GM) Sri. S.G. Sundaraswamy for applt.,
11. WA 3035/86 (E) The Government Advocate for applt.,
alongwith IA I for stay.
12. WP 149/86 (HC) Sri. Kiran S. Javali for petr.,
- For Admission
1. CRPS 4120 & 4121/86 Sri. K.R. Prasad for petr.,
IA I for stay
2. CRPS 4122 and 4123/86 - do -
-do-
3. CRPS 4124 to 4126/86 - do -
-do-
4. CRP 4138/86 Sri. S.P. Bhat for petr.,
-do-
5. WA 2996/86 (Eds) The Govt. Advocate for applt.,
alongwith IA I for Emergency notice Re-admission
dispensation and order to be sd. Larwyer. Ack.
production of annexure 'C' not yet filed for having sd.,
6. WA 2994/86 The Govt. Advocate for applt.,
Sri. Jayavittal, Advocate for Caveator for R-1.,

For Hearing

- WA 690/81 (CS) Sri. G.V. Shantharaju for applt.,
Alongwith IA, V for Sri. G.N. Seshagiri Rao Adv.
orders Reg: Bank for R-1 to 3.,
guarantee (WP5037/80
kept below)

2. WP 19635/80 M

Sri. Shakershetty for petr.,
Central Govt. Sr. Standing
Counsel for respdt.,

3. CCC 27/86

Sri. T. Venkanna for complt.,
Govt. Adv. for R-1 to 3.,

4. CCC 214/86

Sri. A. V. Alabal and
Smt. Yashodha A. Rao for complt.,
Govt. Adv. is directed to
take notice for accused.

5. WA 779/81
(W.P. 7573/78 placed
below)

Sri. S. G. Sundaraswamy, Ramdas for applt.,
The Adv. General for R-1.,
Sri. K. Subba Rao for R-15 & 16.,
Sri. M. C. Narasimhan for R-3, 10 & 13.,
Sri. K. S. Gowrishankar for R-11,
Sri. S. B. Swethadri for R-9.,
Sri. D. Chaluvvaraj for R-14.,
Sri. K. Subba Rao & V. S. Naik for R-17.,

Other R. sd.,
Workmen Employed in Plywood
Industry, Veneer Mills and
Mysore City Wood Works Union,
Mysore, Veneer Mills Works
Union, Mysore, Chamarajendra
Technical Institute Employees
Union, Mysore, Plywood Staff
Association, Nettana, General
Employees Union, Chickmagalur
and Belgaum Majadthur Subha,
Belgaum R-2, 4 to 8 & 12 as.,

6. WA 1917/81 (S)
(WP 8841/76 kept below)

Sri. S. Shamanna and
Smt. S. Pramila for applt.,
Govt. Adv. for Rs.

7. WA 1460/85 (S)

Sri. R. U. Goulay for applt.,
M/s. Simha for R-3, 5 to 7 sd.,
High Court Govt. Adv.
for R-1 & 2.,
R-4 & 6 sd.,

C/W
WA 1714/85 (S)
alongwith IA III for
impleading.

Sri. Ravivarmakumar for applt.
Govt. Adv. for R-1 & 2.,
Notice to R-3 to 512 di
pensed with.

Sri. K. S. Desai for applican
IA III.

.....

CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE BENCH

Commercial Complex(BDA)
Indiranagar
Bangalore - 560 038

Dated 3-7-87

Application Nos. 1925 to 1940/86(F)

Applicant

Respondents

Shri V.M. Vinayagamurthy & 15 Ors

V/s The Director, LRDE & 10 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,
Jeevanbhimannagar 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,
Jeevanbhimannagar Post, Bangalore - 560 075)

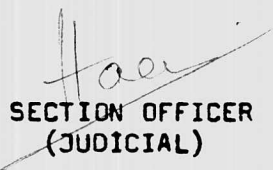
14. Shri A.K. Banerjee
 15. Shri U. Prabhakaran
 16. Shri M. Dakshinamurthy
- (Sl Nos. 14 to 16 - Tradesman 'A'
Electronics & Radar Development
Establishment, DRDO Complex,
Ministry of Defence, Jeevanbhimannagar
Post, Bangalore - 560 075)
17. Shri A.C. Rajasekhar
Advocate
No. 82/B, 1st Cross, 12th Main 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,
Jeevanbhimannagar Post
Bangalore - 560 075
 19. Shri S.S. Chandrasekharachary
Tradesman 'A', Purchase Section,
LRDE, DRDO Complex, M/o Defence,
Jeevanbhimannagar 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
Jeevanbhimnagar Post
Bangalore - 560 075
22. Shri D.S. Rawat
Tradesman 'C'
En.S.D.
LRDE, DRDO Complex
Ministry of Defence
Jeevanbhimnagar Post
Bangalore - 560 075
23. Shri S.P. Mohan Kumar
Tradesman 'C'
CDE, LRDE
DRDO Complex
Jeevanbhimnagar Post
Bangalore - 560 075
24. Shri V. Shankar
Tradesman 'C'
C.P.G.
LRDE, DRDO Complex
Jeevanbhimnagar Post
Bangalore - 560 075
25. Shri M. Mayanna
Tradesman 'C'
En.S.D.
LRDE, DRDO Complex
Jeevanbhimnagar Post
Bangalore - 560 075
26. Shri K. Keshavalu
Tradesman 'A'
M.E.D.
LRDE, DRDO Complex
Ministry of Defence
Jeevanbhimnagar Post
Bangalore - 560 075
27. Shri B. Sriman 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
Jeevanbhimnagar 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.

Encl : As above


SECTION OFFICER
(JUDICIAL)

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,
Jeevanbhimannagar Post, Bangalore-560 075.
2. S.S.Chandrasekharachary,
Tradesman 'A' Purchase Section,
LRDE, DRDO Complex, Ministry of Defence,
Jeevanbhimannagar 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.
4. M.D.Lakshmanarao,
Tradesman 'C' MEG (Fabrication),
LRDE, DRDO Complex,
Jeevanbhimannagar Post,
Bangalore 560 075.
5. D.S.Rawat,
Tradesman 'C', En.S.D.,
LRDE, DRDO Complex,
Ministry of Defence
Jeevanbhimannagar Post,
Bangalore-560 075.
6. S.P.Mohan Kumar,
Tradesman 'C', CDE, LRDE, DRDO
Complex, Jeevanbhimannagar Post,
Bangalore-560 075.
7. V.Shankar,
Tradesman 'C' CPG, LRDE, DRDO Complex,
Jeevanbhimannagar Post,
Bangalore-75.
8. M.Mayanna,
Tradesman 'C' En.S.D., LRDE, DRDO Complex,
Jeevanbhimannagar Post,
Bangalore-560 075.
9. K.Keshavalu,
Tradesman 'A', MED, Electronics and Radar
Development Establishment (LRDE), DRDO Complex,
Ministry of Defence, Jeevanbhimannagar Post,
Bangalore-560 075.
10. B.Sriman Narayana,
Tradesman 'A', Battery Pilot Plant Unit (BPPU) LRDE, Ministry
of Defence, Cambridge Road,
Ulsoor, Bangalore-8.
11. P.S.Srinivasa,
Tradesman-A, LRDE, DRDO Complex,
Jeevanbhimannagar Post,
Bangalore-75.

.. Respondent-1
in all Applications.

.. Respondents 2 and 3
in A.Nos.1925 to 1934/36

.. Sl.Nos.4 to 8 are
Respondents 2 to 6 in A.Nos.1935
to 1937 of 1986.

.. 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 afortiori 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.Padmarajalah, learned Senior Central Government Standing Counsel appearing for the Union of India and its subordinate authorities contends that these applications made on 26-11-1986 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 8-1-1981 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 Padmarajalah, contends that these applications made on 26-11-1986, 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 8-1-1981 and 17-7-1982. Both these substantial adverse orders against the applicants were made before 1-11-1982.

9. The question whether an order or proceeding concluded before 1-11-1982 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 1-11-1982. 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 1-11-1982.

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 1-11-1982 and 1-11-1985"

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 1-11-1985 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 1-11-1982. 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 will 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/

8d — —
VICE-CHAIRMAN.

MEMBER(A) 14.6.87

- True copy -

Handwritten signature
SECTION OFFICER 3/7
CENTRAL ADMINISTRATIVE TRIBUNAL
ADDITIONAL BENCH
BANGALORE