

REGISTERED

CENTRAL ADMINISTRATIVE TRIBUNAL  
BANGALORE BENCH  
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Commercial Complex(BDA),  
Indiranagar,  
Bangalore - 560 038

Dated : 24-9-87

APPLICATION NO 2049 /86( F)

W.P. NO                     

Applicant

Shri T.V. Rajanna

V/s The PMG, Karnataka & 2 Ors

To

- |   |  |
|---|--|
| 1. Shri T.V. Rajanna<br>C/o Shri M. Raghavendra Achar<br>Advocate<br>1074-1075, Banashankari I Stage<br>Bangalore - 560 050 | 4. The Director of Postal Services<br>Bangalore Division<br>Bangalore                                  |
| 2. Shri M. Raghavendra Achar<br>Advocate<br>1074-1075, Banashankari I Stage<br>Bangalore - 560 050                          | 5. The Senior Superintendent of<br>Post Offices<br>Chitradurga Division<br>Chitradurga                 |
| 3. The Post Master General<br>Karnataka Circle<br>Palace Road, Bangalore - 560 001  | 6. Shri M.S. Padmarajaiah<br>Central Govt. Stng Counsel<br>High Court Buildings<br>Bangalore - 560 001 |

Subject: SENDING COPIES OF ORDER PASSED BY THE BENCH

Please find enclosed herewith the copy of ORDER/~~STAY~~/  
~~INTERIM ORDER~~ passed by this Tribunal in the above said  
application on 16-9-87.

Encl : as above

*[Signature]*  
DEPUTY REGISTRAR  
~~SECTION OFFICER~~  
(JUDICIAL)

RECEIVED

Diary No. 1176/CR/87

Date: 29/9/87

*[Handwritten notes]*  
o/c. Res copy for  
R-3 & R4  
# dco  
28-9-87

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL  
BANGALORE BENCH, BANGALORE

DATED THIS THE 16TH SEPTEMBER, 1987

Present: Hon'ble Shri Ch. Ramakrishna Rao Member (J)  
Hon'ble Shri P. Srinivasan Member (A)

APPLICATION NO. 2049/86(F)

T.V. Rajanna,  
C/o Sri Raghavendra Achar,  
Advocate,  
No. 1074 and 1075,  
Banashankari 1st Stage,  
Sreenivasa Nagar II Phase,  
Bangalore.

Applicant

(Shri M.R. Achar..... Advocate)

1. Post Master General in  
Karnataka, Bangalore.
2. Director of Postal Services,  
Bangalore Division, Bangalore.
3. Senior Superintendent of Post  
Offices,  
Chitradurga Division,  
Chitradurga.

Respondents

(Shri M.S. Padmarajaiah.... Advocate)

This application has come up for hearing  
before this Tribunal to-day, Hon'ble Member (A)  
made the following :

O R D E R

In this application made under Section 19  
of the Administrative Tribunals Act, 1985, the  
applicant who retired from service on 31.5.1985  
as Lower Selection Grade Post Master (LSGPM)  
complains that he should been given retrospective  
notional promotion <sup>as</sup> LSGPM from the date his  
junior Ahmed John was promoted to that grade  
and that he should have been given all consequential

*P. Srinivasan*

financial benefits flowing therefrom so that he would have got higher retirement benefits also.

2. Shri M.R. Achar, learned counsel for the applicant made the following submissions: By virtue of the decision of the Supreme Court in Union of India vs Ravivarma and Ors, 1972 S.L.R.211 the seniority of persons who entered service between 25.6.1949 and 22.12.1959 had to be regulated on the basis of their entry into service. The earlier practice was to determine the seniority on the basis of their dates of confirmation. The seniority of the applicant who entered service as a time Scale Clerk in the Post and Telegraph Department on 15.2.1956 and others who entered service before 22.12.1959 was redrawn in conformity with the decision of the Supreme Court. Ahmed John, who entered service after the applicant, became junior to the applicant on the revision of seniority made in this manner. However, since Ahmed John had been shown as senior to the applicant on the basis of earlier confirmation before such revision he was promoted as LSGPM on 10.9.1975. The revision of seniority in the grade of Time Scale Clerk to implement the decision of Supreme Court was completed in 1978. Shri Achar contends that on this revision the applicant should have been given notional promotion from 1975 when Ahmed John was promoted and this had not been done.

3. Shri M.S. Padmarajaiah, learned counsel for the respondent points out that as a result



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of the judgement of <sup>the</sup> Supreme Court, a wholesale revision of seniority of people who entered service between 1949 and 1959 was undertaken. While the applicant became senior to Ahmed John in the grade of Time Scale Clerk many more persons who were earlier shown to be juniors to the applicant on the basis of their later confirmation became senior to the applicant by virtue of their entry into service before the applicant. Thereafter, all promotions to posts of LSGPM made on the basis of the pre-revised seniority of Time Scale Clerks were reviewed in the light of <sup>the</sup> revised seniority list drawn up to give effect to the judgement of the Supreme Court. In this review, it was found that the turn of the applicant as well as of Ahmed John for promotion came only in 1980: they became eligible for promotion only against vacancies that arose in 1980. By this token, the earlier promotion of Ahmed John in 1975 was clearly incorrect. The vacancies of 1980 were filled up in 1981. The authorities accordingly treated both the applicant and Ahmed John as having been promoted in 1981 as LSGPM and placed Ahmed John below the applicant in the seniority list of LSGPMs in accordance with their relative seniority in the grade of Time Clerks after the revision. Since Ahmed John's promotion in 1975 was not in accordance with the revised seniority of Time Scale Clerks drawn up after the Supreme Court decision the



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question of giving the applicant promotion from that date notionally did not arise. The applicant was thus rightly promoted in 1981 and was rightly denied the notional promotion from 1975 claimed by him.

4. Shri M.R. Achar, countered Shri Padmarajaiah by stating that if Ahmed John's promotion in 1975 was wrong and if he should have been promoted in 1981 only, his pay as LSGPM should also have been brought down accordingly or, alternatively, the applicant's pay in 1981 on promotion to LSG should have been stepped up in accordance with the instructions issued by the Government on 4.2.1966 to equal the pay being drawn by Ahmed John at the time.

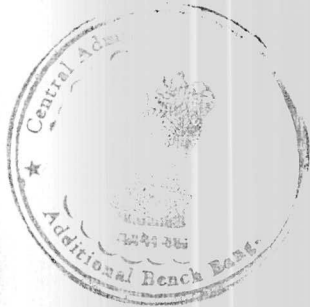
5. Having considered the submission of both sides carefully we are of the view that this application deserves to be dismissed. As has been explained on behalf of the Respondents, it was not as if only the <sup>seniority</sup> benefits of the applicant and of Ahmed John were interchanged as a result of the Supreme Court decision. There was a wholesale recasting of the seniority list in which many persons who were earlier shown as junior to the applicant became senior to him as well as to Ahmed John by virtue of having entered service earlier. The persons eligible for promotion

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to vacancies arising from time to time were now different from those who were earlier eligible and were promoted <sup>or earlier</sup> On this basis both the applicant and Ahmed John became eligible for promotion in 1981 to vacancies that arose in 1980. Technically Ahmed John's promotion in 1975 was not a proper promotion but that promotion having actually been given to him, for no fault of his, he could not be deprived of increments of pay that became due to him from 1975 to 1981. Thus though Ahmed John was actually treated as promoted only in 1981 and placed below the applicant in the final seniority list of LSGPMs, he happened to draw higher pay than the applicant because of the accident of his earlier promotion. The applicant has got his rightful seniority above Ahmed John but his claim for notional promotion from 1975 cannot be acceded to because, as stated earlier, his turn for promotion even on his revised seniority came only in 1981. His contention that Ahmed John's salary should be reduced is also not tenable because it is no fault of Ahmed John that he was promoted in 1975 on the basis of a seniority list which held the field then but was later found to be wrong in 1978 when the decision of the Supreme Court came to be implemented. The question of stepping up the applicant's pay <sup>H</sup> ~~the~~ to equality with that of Ahmed John cannot also be allowed

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because the difference of pay drawn by them was not entirely the result of application of FR 22C. The difference in pay arose because of the accidental promotion of Ahmed John earlier. A look at the instructions of Government of India on 4.2.1966 would show that the pay of a senior can be stepped up to equality with that of a junior only when the difference in pay is entirely due the application FR 22C in both cases, but that is not the position here.

5. In the result the application is dismissed. Parties to bear their own costs.

Sd/-  
MEMBER (J) 10.7.81

Sd/- 10.7.81  
MEMBER (A)

sb.

- True Copy -

*R. V. M. S. S. S.*  
DEPUTY REGISTRAR  
CENTRAL ADMINISTRATIVE TRIBUNAL  
ADDITIONAL BENCH  
BANGALORE  
24/7