

REGISTERED

CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE BENCH

Commercial Complex(BDA)
Indiranagar
Bangalore - 560 038

Dated : 24/8/87

APPLICATION NOS. 1402/86(T) & 522/87(T)

W.P. NOS. 3478 & 79/84

Applicants

Respondents

Shri R. Anandarao Bhonsley & another
To

V/s The Secy, M/o Defence & 6 Ors

1. Shri R. Anandarao Bhonsley
Tech. Coord. Section
C.I.H.V.
Avadi, Madras - 54
2. Shri D. Vittal Rao
Senior Store Keeper
Controllerate of Inspection Electronics
Ministry of Defence (DGI)
M.R. Palyam P.O.
Bangalore - 560 006
3. Shri M. Narayanaswamy
Advocate
844 (Upstairs)
Vth Block, Rajajinagar
Bangalore - 560 010
4. The Secretary
Ministry of Defence
New Delhi - 110 011
5. The Director General of Inspection(DGI)
Department of Defence Production
Ministry of Defence
DHQ PO
New Delhi - 110 011

6. The Controller
Controllerate of Inspection
Electronics
Ministry of Defence (DGI)
M.R. Palyam P.O.
Bangalore - 560 006
7. Shri B.V. Thyagarajan
Senior Stores Superintendent
Stores Group, Controllerate of
Inspection Electronics
M.R. Palyam P.O.
Bangalore - 560 006
8. Shri Brij Mohan
Senior Stores Superintendent
Inspectorate of Military
Explosives
Itarsi (Madhya Pradesh)
9. Shri N. Bhaskaran
Senior Stores Superintendent
Controllerate of Inspection
Power Systems, C/o C.I.L.
M.R. Palya P.O.
Bangalore - 560 006

RECEIVED 25-08-87

Diary No. 1050/87 CR

Date: 25/8/87

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10. Shri K. Rathna Swamy
Stores Superintendent
Controllerate of Inspection(Radar)
C/o CIL, M.R. Palya P.O.
Bangalore - 560 006
11. Shri M.S. Padmarajaiah
Central Govt. Sng 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 13-8-87

Encl : As above

R. V. Muralidhar
DEPUTY REGISTRAR
(JUDICIAL)

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CENTRAL ADMINISTRATIVE TRIBUNAL : BANGALORE.

DATED THIS THE THIRTEENTH DAY OF AUGUST, 1987.

Present: Hon'ble Mr. Justice K.S. Puttaswamy,
Vice-Chairman,

and

Hon'ble Mr. B.N. Jayasimha, Vice-Chairman (A).

Application Nos. 1402/86 & 522/87

1. R. Anandarao Bhonsley,
Stores Superintendent,
No.4, Sample Room Indigenous Development,
Industrial Estate,
Ambatore,
MADRAS-600 058.

....Applicant in
A.No. 1402/86.

2. D. Vittal Rao,
Senior Store Keeper,
Controllerate of Inspection
Electronics, Bangalore.

...Applicant in
A. No. 522/87.

(Shri M. Narayanaswamy, Advocate)
Vs.

1. Union of India,
by the Secretary to Govt.,
Ministry of Defence,
D.H.Q.D.O. NEW DELHI.110011.
2. Director General of Inspection,
Dept. of Defence Production,
Ministry of Defence (DGI)
D.H.Q.P.O. NEW DELHI.110011.
3. Controller, Controllerate of
Inspection Electronics,
Ministry of Defence (DGI),
M.R.Palyam P.O. BANGALORE.
4. B.V. Thyagarajan,
Senior Stores ~~Supdt.~~ Supdt.,
Stores Group, CIL, M.R.Palyam, B'lore-6.
5. Brij Mohan,
Senior Stores Supdt., CIL of
Military Explosives.



6. N. Bhaskaran,
Senior Stores Supdt.,
CIL, Power Systems,
C/o CIL, M.R. Palya,
B'lore-6.

7. K. Rathnaswamy,
Stores Supdt.,
CIL (Radar),
C/o CIL, M.R. Palya,
B'lore-6.

...Respondents.

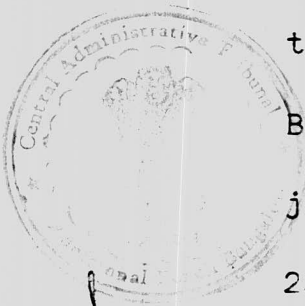
(Shri M.S. Padmarajaiah, Senior C.G.S.C. for R1 to 3)

These applications having come up for hearing today before this Tribunal, Hon'ble Vice-Chairman (J) made the following:-

O R D E R

These are transferred applications and are received from the High Court of Karnataka under Section 29 of the Administrative Tribunals Act, 1985.

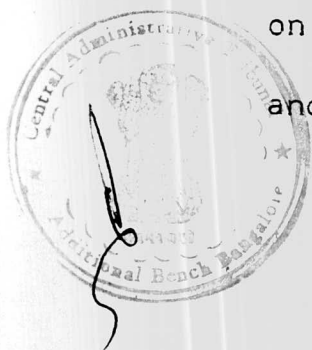
2. Sriyuths R. Anandaraao Bhonsley and D. Vittal Rao, applicants in A.Nos. 1402/86 and 522/87 initially joined service as Lower Division Clerks (LDCs) on 28.1.1959 and 30.1.1959 respectively in the Office of the Controller, Controllorate of Inspection Electronics ('CIL') in which capacity they continued to function till 1.3.1962. Sriyuths B.V. Thyagarajan and N. Bhaskaran, respondents 4 and 6 ('R4 & 6') initially joined service in the CIL as 'Storemen' on 14.3.1959 and 23.3.1959 respectively.



3. On and from 1.3.1962, though the posts of the applicants were redesignated or regraded as Storemen, they were denied the benefit of their earlier service as LDCs in determining their seniority, vis-a-vis respondents 4 and 6 and others. On that basis, an order was made by the competent officer of the CIL on 10.3.1962 against the applicants which was challenged by them before the High Court of Karnataka in W.P. Nos. 15219 & 15220 of 1981 (Annexure-A), and on 30.3.1982, Swami, J., disposed of them with these directions:

" For the reasons stated above, these writ petitions are allowed. A writ in the nature of mandamus shall issue to respondents 1 and 2 to refix the seniority of the petitioners as Storemen on taking into consideration the service rendered by them as LDC and also to refix the pay of the petitioners on the date of regradation at Rs. 119/- in the pay scale of Rs. 110-3-131-4-155-EB-4-175-5-180. Four months for compliance.xxxxx"

In compliance with this order, the Director General of Inspection, Department of Defence Production, Ministry of Defence, New Delhi ('DGI') made an order on 28.5.1985 (Annexure-B) in favour of the applicants and the same reads thus:



" The case was referred to Department of Personnel & A.R. for examination and proper ruling on the subject. They have confirmed that S/Shri AR Bhonsley and DV Rao will reckon their seniority in the grade of Storemen from the date of their initial appointment as LDCs ie. 28 Jan 59 and 30 Jan 59 respectively. These individuals are, therefore, required to be placed senior to Shri BV Thyagarajan as given in the comparative statement received under your letter of 26 Nov 82. Consequently, their seniority in the grades of Storemen and CSK IV/SSK will be ante-dated by you. Their adjustment of seniority/promotion in the grades of CSK-II/SS and SSS will be done by this HQ.

In the light of the above, proposals made by you in paras 2,3 and 4 of your letter, referred to above, are in order and are hereby confirmed. Necessary action to promote S/Shri Bhonsley and Rao as CSK II/SS and SSS with effect from 22.4.1972/16.1.75 and 18.1.81 respectively will be taken by this HQ separately.

It may, however, be added that consequent on ante-dating of their seniority in different grades, it will only be a notional adjustment without any financial benefit.

As regards fixation of pay of S/Shri Bhonsley and Rao as per the judgment of the High Court, action will be taken by you in consultation with the audit authorities."

On 23.7.1983, the Controller of CIL made a consequential order in favour of the applicant and the same reads thus:

" ANTEDATING OF SENIORITY IN THE GRADE OF STOREMEN AND SUBSEQUENT PROMOTIONS

Having ordered by the High Court of Karnataka by their order dt. 30 May 82 on writ petition Nos. 15219 and 15220 of 1981 filed by S/Shri R. ANANDA RAO BHONSLEY, SSK (now SS in CIHV Avadi) and D. VITTAL RAO, SSK of this establishment respectively and also as clarified by DGI HQ vide their letter No. 98009/DGI (Admn-10) dt. 28 May 83, the DPC III has approved antedating of seniority in the



/5/

grade of Storemen and subsequent promotions in higher grades in respect of the above individuals as per details given below:-

Name	Seniority in the grade of Storemen		Promotion/ seniority in the Gr. of CSK IV.		Promotion/ seniority in the Gr. of CSK III/SSK.	
	From	To	From	To	From	To

S/Shri						
ANANDA						
RAO BHON-						
SLEY.	1.3.62	28.1.59	18.11.64	25.10.61	26.4.72	23.6.67
					16.1.75	23.6.67.
D.VITTAL					(SSK)	
RAO.	1.3.62	30.1.59	-do-	-do-	1-12-73	23.6.67
					16.1.75	
					(SSK)	

The above antedating will be a notional adjustment only and the individuals are not entitled for any financial benefit.

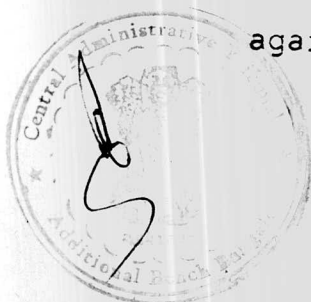
(Auth DGI L/No.98009/DGI (Adm-10) dt.28.5.83)

Sd/-

SAO,

For C I L."

On a re-examination of these orders, as also in compliance with the instructions issued by the DGI thereto, the Controller, CIL, made a further order on 2.3.1984 against the applicants and the same reads thus:



" CONTROLLER OF INSPECTION ELECTRONICS
BANGALORE 6

LAST PART II ORDER

DAILY ORDER PART II NO 52

No 51, Dt. 29 Feb 1984

Bangalore Dt. 02 Mar 1984.

I. x x x x

x x x

x x x x

II. x x x x x x

x x x

x x x x

III. ANTEDATING OF SENIORITY IN THE GRADE OF
STOREMEN

Ref DO Part II No. 166 dt. 23 Jul 83 (Item III)

The order published under above quoted reference
is reconstructed as under:

Having ordered by the High Court of
Karnataka by their order dt. 30 Mar 1982
on writ petition Nos. 15219 and 15220 of
1981 filed by S/Shri R. ANANDA RAO BHONSLEY,
SSK (now SS in CIHV Avadi) and D VITTAL RAO,
SSK of this establishment respectively,
their seniority in the grade of Storemen
has been ante-dated from the date of their
appointment as LDCs as mentioned below:

Name	Seniority in the grade of Storemen ante-dated:	
	<u>From</u>	<u>To</u>
Shri RAR BHONSLEY	1.3.62	28.1.59
Shri D VITTAL RAO	1.3.62	30.1.59

Sd/-
SAO,
for CIL."



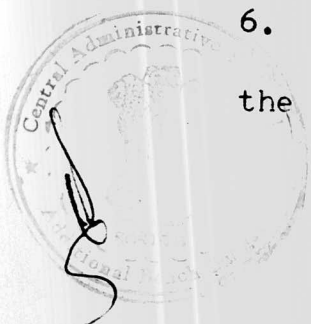
Even before the Controller had made this order, the
applicants approached the High Court in W.P. Nos. 3478

and 3479 of 1984 for diverse reliefs and on their transfer, they have been registered as A. Nos. 1402/86 and 522/87 respectively.

4. Among others, the applicants have urged that on a proper and faithful implementation of the order of the High Court in W.P. Nos. 15219 & 15220 of 1981, which had become final, they were entitled to be promoted to the higher posts of Senior Store Keeper ('SSK'), Store Superintendent ('SS') and Senior SS ('SSS'), very much earlier to respondent No.4, who was their junior and had been promoted earlier, to them.

5. In justification of their orders made, and the one made on 2.3.1984 (Annexure-R6) in particular, respondents 1 to 3 ('R1 to 3') have filed their reply. R4 & 6 have filed their separate replies supporting R1 to 3. R-5 who has been duly served has remained absent and is unrepresented. On 25.5.1987, we have dispensed with the service of notice on R-7 for the reasons stated in the order of that date.

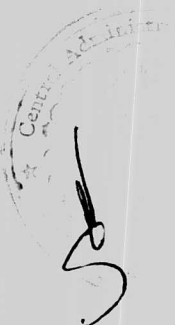
6. Shri M. Narayanaswamy, learned counsel for the applicants, contends that in terms of the order



of the High Court in W.P. Nos. 15219 & 15220 of 1981, the applicants must always be treated as appointed as Storemen from the date of their respective initial appointments as LDCs and their promotions and seniority to the higher cadres of SSK, SS and SSS should be regulated and all such benefits as are due to them from time to time should be accorded thereto, and the denial of the same by R1 to 3 was contrary to the order made by the High Court and Articles 14 and 16 of the Constitution.

7. Shri M.S. Padmarajaiah, learned Senior Standing Counsel for the Central Government, appearing for R1 to 3, and R4 and 6 who have appeared in person, contend that the order made by the CIL on 2.3.1984 (Annexure-R6) had correctly implemented the order of the High Court and that all such promotions as are legitimately due to the applicants from time to time had been given to them, and there was no justification whatsoever for this Tribunal to grant them any more reliefs.

8. We have earlier noticed as to how the applicants were appointed and the developments that ensued in treating their appointments as LDCs as



Storemen from the date of their initial appointment.

9. The High Court, in its order dated 30.3.1982 (Annexure-A) had unequivocally declared that the very initial appointments of the applicants from 28.1.1959 and 30.1.1959 respectively, had the effect of appointing them as Storemen. This order had become final and was binding on the respondents, who were parties to the said order. It is not open to any one now to sit in judgment over the order made by the High Court in W.P. Nos. 15219 and 15220 of 1981. We must, therefore, proceed on this basis only, and no other.

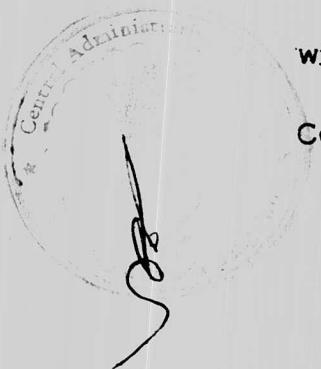
10. When once it is held that the applicants had been appointed as Storemen from 28.1.1959 and 30.1.1959 respectively, it also follows from the same that their claims for promotions to the next higher posts of SSK, SS and SSS must necessarily to be regulated on that basis only and on no other basis. But unfortunately this position had not been fully appreciated by the authorities and appropriate actions and orders, which so justify from time to time had not so far been made by them. In this view, it is not very necessary for us



to minutely examine all the orders so far made by them.

11. When once we find that the authorities have not properly understood the true effect of the order of the High Court and had not fully given effect to the same, we must necessarily direct them to re-examine the cases of the applicants for retrospective promotions to the various higher grades from time to time as the law then stood and pass appropriate orders as are justified in the circumstances. When once that is done, the question of determining their seniority vis-a-vis R4 to 7 and others, which necessarily follows from them had to be then done.

12. From time to time, the applicants have been already promoted to the several higher grades. Their claim is only for retrospective promotions from the dates they became due for promotions consequent on the order of the High Court, the effect of which we have earlier indicated. We need hardly say that this has to be re-examined and decided by R1 to 3, if need be, with the assistance of a Departmental Promotion Committee ('DPC'), in accordance with the law then



in force. But in doing so, we consider it proper to direct the authorities to deny all monetary benefits even if they promote the applicants from any earlier dates to the dates they have already been promoted.

13. In the light of our above discussion, we make the following orders and directions:-

(1) We declare that the applicants are deemed to have been appointed as Storemen, instead of as LDCs, from 28.1.1959 and 30.1.1959 respectively.

(2) We direct respondents 1 to 3 to consider the cases of the applicants for promotions to all the next higher grades from time to time in accordance with the law then in force, and if they are found fit for promotion, accord only pro forma promotions to them from such dates as they are entitled, denying all monetary benefits, and thereafter determine their seniority vis-a-vis respondents 4 to 7 and others in all the respective cadres.

(3) We direct respondents 1 to 3 to re-examine the cases of the applicants and re-determine all the matters, indicated in paragraph 2 supra, with all such



/12/

expedition as is possible in the circumstances of the cases, and in any event, within a period of nine months from the date of receipt of the order of this Tribunal.

14. Applications are disposed of in the above terms. But in the circumstances of the cases, we direct the parties to bear their own costs.



"True copy"

VICE CHAIRMAN (J)

13/5/87

VICE CHAIRMAN (A) 13.8.87

B. M. Choudhury
DEPUTY REGISTRAR
CENTRAL ADMINISTRATIVE TRIBUNAL
ADDITIONAL DEPUTY
BANG. dms.