

CENTRAL ADMINISTRATIVE TRIBUNAL  
BANGALORE BENCHAPPLICATION No. 1263 to 1267/86(T)

(WP.NOS 1725 to 1729/83 )

COMMERCIAL COMPLEX, (BDA)  
INDIRANAGAR,  
BANGALORE-560 038.

DATED: 19-6-87

APPLICANT

Vs

RESPONDENTSShri A.N. Shashidhar & 4 Ors  
TOThe Secy, M/o Health & Family Welfare  
and 2 Ors

1. Shri A.N. Shashidhar  
Field Investigator  
National Tuberculosis Institute  
No. 8, Bellary Road  
Bangalore - 560 003
2. Smt K. Ranganayakamma  
W/o Late Shri K. Parthasarathy  
No. 97/14, I Main Road  
Seshadripuram  
Bangalore - 560 020
3. Shri P. Srinivas  
Field Investigator  
National Tuberculosis Institute  
No. 8, Bellary Road  
Bangalore - 560 003
4. Shri A.V. Nagaraja  
Field Investigator  
National Tuberculosis Institute  
No. 8, Bellary Road  
Bangalore - 560 003

5. Shri D. Narayana Prasad  
Field Investigator  
National Tuberculosis Institute  
No. 8, Bellary Road  
Bangalore - 560 003
6. Shri M. Narayana Swamy  
Advocate  
No. 844 (Upstairs)  
V Block  
Rajaji Nagar  
Bangalore - 560 010
7. The Secretary  
Ministry of Health & Family Welfare  
Nirman Bhavan  
New Delhi - 110 011
8. The Director General of Health  
Services  
Nirman Bhavan  
New Delhi-110 011

SUBJECT: SENDING COPIES OF ORDER PASSED BY THE  
BENCH IN APPLICATION NOS 1263 to 1267/86(T)

....

Please find enclosed herewith the copy of the Order  
passed by this Tribunal in the above said Application on  
16-6-87.

9. The Director  
National Tuberculosis Institute  
No. 8, Bellary Road  
Bangalore - 560 003
  10. Shri M.S. Padmarajaiah  
Central Govt. Stng Counsel  
High Court Buildings  
Bangalore - 560 001
- ENCL: As above.

for DEPUTY REGISTRAR  
(JUDICIAL)

Received two copies of  
Directors order & Shri N.S.P. Registrar  
19/6/87

Received copies of Application 1-5  
A.N. Shashidhar  
CAT-1267

Narayana Prasad

CR  
Shri  
please

15/6/87

29/6/87

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL  
BANGALORE BENCH BANGALORE

DATED THIS THE 16th JUNE 1987

Present : Hon'ble Sri Ch. Ramakrishna Rao - Member (J)

Hon'ble Sri L.H.A. Rego - Member (A)

APPLICATION Nos. 1263 to 1267/86(T)

44

Smt K.Ranga-  
nayakamma  
w/o late(LR)

- |                       |   |
|-----------------------|---|
| 1. A.N. Shashidhar    | } Field Investigators<br>N.T.I.,<br>Bangalore 3 |
| 2. K. Parthasarathy   |   |
| 3. P. Srinivasa       |   |
| 4. A.V. Nagaraja      |   |
| 5. D. Narayana Prasad |   |

- Applicants

(Sri M. Narayana Swamy, Advocate)

v.

1. The Union of India represented by its Secretary, Ministry of Health & Family Welfare Services, Nirman Bhavan New Delhi 110011
2. The Director General of Health Services, Nirman Bhavan, New Delhi 110011
3. The Director National Tuberculosis Institute No.8, Bellary Road, Bangalore - 3

- Respondents

(Sri M.S. Padmarajaiah, Senior C.G.S.C.)

These applications came up for hearing before this Tribunal and Hon'ble Sri Ch. Ramakrishna Rao, Member (J) to-day made the following

ORDER

These applications were initially filed as a composite ~~to~~ application writ petition in the High Court of Karnataka ('High Court') and subsequently transferred to this Tribunal. The prayer of the applicants, in the main,

....2



is that the respondents should be directed to extend to them the pay scale of Rs.210-425 as recommended by the 2nd Central Pay Commission (2nd CPC) <sup>with effect from 1.7.1959</sup> ~~which came~~ or from the respective date(s) of their appointment and further extend to them the pay scale of Rs.425-700 as recommended by the 3rd CPC from 1.1.1973 with all consequential benefits.

2. The brief facts are : the applicants were appointed as Upper Division Clerks; Census and Publicity Assistants; Field Assistants etc on the establishment of the National Tuberculosis Institute, Bangalore ('NTI') on diverse dates. The designation of the applicants was subsequently changed to that of Field Investigators ('FI') by an order dated 11.9.1970. However, this did not bring about any change in the pay scale admissible to them. This <sup>led</sup> to the filing of writ petitions by persons <sup>and the</sup> similarly situated <sup>as</sup> the applicants <sup>and</sup> fought two rounds of litigation before the High Court, ~~in the~~ ~~XXXX~~ on the ground, that their pay should be at par with the pay of FIs in similar organisations such as the National Sample Survey Organisation ('NSSO'). In the first round, the High Court granted the pay scale of Rs.150-300 from the date the petitioners were entitled to and in the second round, the petitioners were granted the pay scale of Rs-180-320 from 1.11.1972 and Rs. 380-640 from 1.1.1973. Aggrieved by the fact that the respondents declined to give effect to the pay scale of Rs.210-425 with effect from the date of their initial appointment and the scale of Rs.425-700 from

1.1.1973 as recommended by the 3<sup>rd</sup> CPC, the applicants have filed these applications.

3. Sri M. Narayana Swamy, learned counsel for the applicants, invites our attention to the following recommendation contained in the report of the 2nd CPC :

"Qualifications for recruitment are not the same in all departments, but a broad analysis is given below:

<u>Grade (Rs.)</u>	<u>Qualifications</u>
250-500	A second class Master's degree and practical experience of 1-3 years
160-330	A second class Bachelor's degree; preference is given to those having some post-graduate training or practical experience.
120-220 80-220	A university degree with Economics, Statistics or Mathematics as a subject

For posts in the highest grade in Class III, we recommend the same scale as we have proposed for Research Assistants, Senior Investigators etc., in Class II, for the qualifications, duties etc., of the two groups of posts are the same. For the next lower grade, we recommend the scale of Rs. 210-10-290-15-320-EB-15-425. The lowest grade, for which a degree is the prescribed qualification, should be in the scale of Rs. 150-5-160-8-240-EB-8-280-10-300."

and strongly contends that the recruitment policy was

changed in 1965 as a result of which, the minimum qualifications of a particular university of ~~Inter Science~~ came

to be prescribed for recruitment as FIs, instead of

graduation. It was only after 1978, that graduates again came to be appointed as FIs, having regard to the nature of duties attached to the post of FIs. In view of the

qualifications possessed by his clients, Sri Nagaraja submits that his clients' prayer for the benefit of higher pay scales of Rs. 210-425 and Rs. 425-700 from the relevant dates should be granted.



4. Sri M.S.Padmarajaiah, Senior C.G.S.C., appearing for the respondents vehemently opposes the prayer of the applicants on the ground, that the plea for granting the benefit of higher scales of pay from the relevant dates correlated to their qualifications was not ~~xxx~~ raised in the earlier writ petitions. According to Sri Padmarajaiah, the petitioners in the writ petitions claimed only parity with their counterparts in organisations like the NSSO and that was granted to them and as such the claim now put forward is untenable.

5. We have considered the rival contentions carefully. In our view, the plea now put forward by the applicants should have been raised in the earlier writ petitions and since they have not done so, it is too late in the day to seek redress. Further, the acceptance of the recommendations <sup>of</sup> ~~made by~~ the Pay Commission, by the Central Government, is based mainly on considerations of policy and they cannot be gone into in proceedings in a court of law.

6. We, therefore, reject this contention.

7. Sri Narayana Swamy, next contends, that the applicants are deprived of promotional avenues and it is, therefore, legal and equitable, to take this into account in granting them the higher scales of pay.

8. Sri Padmarajaiah, on the other hand, submits that it is not correct to say that the applicants have no promotional avenues in view of the following <sup>posts</sup> existing in the cadre of NTI

- |                                   |   |                       |
|-----------------------------------|---|-----------------------|
| (1) Field Investigators           | - | Rs.380-640 Basic post |
| (2) 2x Field Investigators (S.G.) |   | Rs.425-640            |
| (3) Team Leader                   |   | Rs.425-640            |
| (4) Investigators                 |   | Rs.425-700            |
| (5) Senior Investigators          |   | Rs.550-990            |

9. We have given careful thought to the rival contentions. We are satisfied that the plea that of lack of promotional avenues put forward on behalf of the applicants has no substance. We cannot also help taking note of the fact, that the pay scales have been revised in the light of the recommendations made by the 4th Pay Commission. We, therefore, reject this contention as well.

10. Taking an overall view of the matter, we do not find any justification for granting the applicants the relief prayed by them.

11. In the result, the applications are dismissed. There will be no order as to costs.



Sd/-  
(Ch. Ramakrishna Rao)  
Member (J)

Sd/-  
(L.H.A. Rego) 16-6-87  
Member (A)

- True copy -

bsg/-

AP 19/6/87  
SECTION OFFICER  
CENTRAL ADMINISTRATIVE TRIBUNAL  
ADDITIONAL BENCH  
BANGALORE



SECTION IV-A

D.No. 2480/88

Supreme Court of India  
New Delhi.

Dated 20th March 1990

From:

The Additional Registrar,  
Supreme Court of India,

To:

The Registrar.

*Central Administrative Tribunal  
Bangalore Bench, Bangalore*

PETITION FOR SPECIAL LEAVE TO APPEAL (CIVIL) NO. 5923 of 1988

(Petition under Article 136 of the Constitution of India for  
Special leave to appeal to the Supreme Court from the judgment  
and Order dated 19th June 1987 of the High Court of  
*Central Administrative Tribunal Bangalore*)

In Apph. No 1263 of 1986)

*A. N. Sasidhara*

-Versus-

*Union of India & ors*

... Petitioner

... Respondent

Sir,

I am to inform you that the petition above-mentioned for  
Special Leave to Appeal to this Court was filed on behalf of the  
petitioner above-named from the judgment and Order of the High  
Court noted above and that the same was/were dismissed by this  
Court on the 19th day of March 1990.

Yours faithfully

*Senja*  
2480  
FOR ADDITIONAL REGISTRAR  
*Jem*

*212/90-S.N.  
215/90*

arun/-

*20/4/90*

*R.20/4 S  
Shankar*