

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE BENCH, BANGALORE

DATED THIS THE 2ND DAY OF APRIL, 1987

Present : Hon'ble Justice K.S.Puttaswamy .. Vice-Chairman
Hon'ble Shri P.Srinivasan .. Member

Application No. 1441/86

M.R.Gundu Rao,
S/o. Late M.Ramaswamaiah,
aged 59 years, N. 63-A,
II Block, 22nd Cross,
Rajajinagar,
BANGALORE - 10.

.. Applicant

(Shri Narayanaswamy, Advocate)

Vs.

1. The Secretary,
Ministry of Communications,
Government of India,
No.20, Sanchara Bhavan, Ashoka Rd.,
NEW DELHI - 110 001.
2. The Director-General,
Posts and Telegraphs Board (CSC),
No.20, Sanchara Bhavan, Ashoka Rd.,
NEW DELHI.
3. The Chief Engineer,
(Posts and Telegraphs (Civil),
Sanchara Bhavan, Ashoka Road,
NEW DELHI.

.. Respondents

(Shri M.S.Padmarajaiah, Advocate)

The application has come up for hearing before
this Tribunal today. Shri P.Srinivasan, Hon'ble Member (AM)
made the following :

O R D E R

This application ⁰⁴ ~~has~~ originated as Writ Petition
No. 6098 of 1985 filed on 22.11.84 before the High
Court of Karnataka. It was transferred to this Tribunal
under Section 29 of the Administrative Tribunals Act,
1985.

P. Srinivasan

2. The applicant who was a Junior Engineer (JE) in the P & T Department from 1952 claims in this application that he should be considered for fixation of his pay as from 1.1.1973 in the grade of Assistant Engineer (AE). The brief facts of this case are : on 30.8.63, the applicant was promoted on an ad-hoc basis as AE and subsequently reverted back to his original post of JE by order dated 21.12.66. He challenged this reversion in Writ Petition No. 7506 before the High Court of Karnataka. But soon after, he withdrew this Writ Petition. Thereafter, he was promoted as AE on 26.7.73. He represented to the authorities that his promotion should date back to 1.1.73 and when he received no reply he filed another Writ Petition-W.P.No.19087/80 - before the High Court of Karnataka for issue of directions to the authorities to deal with his representation expeditiously. That WP was dismissed by the High Court on 6.10.80. Thereafter he filed the present application as a WP on 22.11.84 praying that respondents be directed to fix his pay from 1.1.73 in the revised pay scales recommended by the III Pay Commission for the post of AE.

3. Shri M.Narayanaswamy contends that persons junior to the applicant were working as ad-hoc AEs on 1.1.73 which was a totally fortuituous occurrence. The applicant was senior and should have been promoted in their place. Since that was not done, he

P. Narayanaswamy

should at least be treated as having been ^{an} AE on 1.1.73 and his pay regulated accordingly.

4. Shri M.S.Padmarajaiah opposes the application on the ground that the applicant had not actually worked as AE on 1.1.73 and he could claim the pay of that post only from the date of his promotion which was 26.7.73.

5. This application deserves to be dismissed on the ground of delay and laches because it seeks a relief from a period ^{VI} of 13 years before it was filed. Even on merits, the claim of the applicant has no foundation whatsoever. To claim the pay of a particular post, a person has to hold that post. The fact that his juniors were holding that post on 1.1.73 is neither here nor there. Thus, without either actually holding that post or any order by which he could be deemed to have held that post, he is not entitled to the pay of that post. We may notice here that the applicant challenged his reversion in 1966 but withdrew the WP and again made a representation to have his promotion given effect to from 1.1.73 but nothing happened on that representation also. Thus, the facts simply are that on 1.1.73, the applicant not having been an AE, he is not entitled to the pay of that post. In the result, the application is dismissed. Parties will bear their costs.

M. S. Padmarajaiah
VICE CHAIRMAN 2/4/87

P. S. ...
MEMBER(A) 2/4/87