

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE BENCH, BANGALORE

DATED THIS THE FIRST DAY OF OCTOBER 1986

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

APPLICATION NO. 181/86

Balram Gupta,
Senior Scientific Officer Grade I,
Directorate of Aeronautics (R&D),
Resident Technical Office (Engines),
Ministry of Defence, C/o H.A.L.,
Bangalore.

.. Applicant

(Shri V.H. Ron ... Advocate)

Vs.

The Union of India
represented by Secretary
Ministry of Defence, New Delhi.

The Chief Inspector of Vehicles,
Chief Inspectorate of Vehicle,
Ahmednagar (Maharashtra).

Controller of Defence Accounts,
Southern Command, Pune-1.

.. Respondents

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

The application has come up for hearing before Court
today, Member (A) made the following:

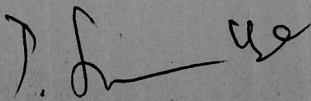
ORDER

This is a transferred application received from the High
Court of Karnataka.

2. The applicant is working as a Senior Scientific Officer
Grade I in the Directorate of Aeronautics at Bangalore. He
joined service on 4.5.1964 as Assistant Foreman at Ahmednagar
and was later appointed through open selection as Foreman again
at Ahmednagar, from 27.8.1985. He was selected by the UPSC for
the post of Junior Scientific Officer Class II, a gazetted post,
in 1966 from which he obtained a further promotion to become
Senior Scientific Officer Grade I, a post which he is currently
holding. He obtained a degree in Engineering before he entered

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service as Assistant Foreman on 4.5.1964. By a letter dated 4.2.1969 of the Ministry of Defence read with another letter dated 2.6.1971 issued by the same Ministry, the decision of the President was conveyed to the grant of three advance increments to non-gazetted civilian employees ^{paid from the Defence Services Estimates and} working in technical/scientific posts who held a degree in Engineering whether acquired prior to joining service or subsequently; the three increments were to be given with effect from 1.12.1968 or from the date the degree was acquired whichever was later. However, by a subsequent letter dated 19.2.1972, the Ministry of Defence withdrew the benefit of three advance increments to persons who, though having the requisite qualification, had been promoted to a gazetted post prior to 1.12.1968. Under the first two letters the applicant who was appointed as Assistant Foreman and was subsequently appointed as Foreman claimed that he should be given three increments because he held an Engineering degree acquired before he joined service. This was rejected by the authorities relying on the third letter of the Ministry of Defence dated 19.2.1972 to which we have made reference earlier. The applicant relies on a judgment of the Andhra Pradesh High Court in Writ Petitions No. 5739 and 3825 of 1972 where the facts were similar to those of the present case, in which "the action of the respondents either refusing to grant the three advance increments and re-fix the pay as envisaged by the President's decision communicated in letter dated 4.2.1969 or seeking to recover the advance increments already paid to some of the petitioners is declared to be illegal and petitioners are declared to be entitled to receive the same." According to the applicant, the cases of two out of the six petitioners who went before the Andhra Pradesh High Court, viz. Shri S.R. Sahay and Shri B.P. Mandal were identical to those of the applicant because both of them were selected for appointment by the UPSC for the gazetted post

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of Junior Scientific Officer before 1.12.1968 alongwith the applicant. This contention has not been specifically contradicted in the reply of the respondents nor was it contradicted before us. We have, therefore, to proceed on the basis that the applicant's case is on all fours with the cases of the two petitioners viz., S/Shri S.R. Sahay and B.P.Mandal who went before the Andhra Pradesh High Court. We understand that a Special Leave Application was made to the Supreme Court against the judgment of the Andhra Pradesh High Court and that this was rejected and that the decision of the Andhra Pradesh High Court has thus become final.

3. Learned counsel for the respondents Shri M.S.Padmarajiah stated before us that instructions had been issued to extend the benefit of the judgment of the Andhra Pradesh High Court to all persons similarly placed, whether they were petitioners before the Andhra Pradesh High Court or not. Learned counsel for the applicant Shri V.H. Ron represented that the request of the applicant for the grant of three increments as in the case of the petitioners before the Andhra Pradesh High Court had been rejected on the ground that his request was belated. We feel that Government having agreed in principle that the benefit of the judgment of the Andhra Pradesh High Court should be made available to all persons similarly circumstanced, it is an unkind cut to deny the same on a mere technical ground of delayed application. We would, therefore, direct the respondents to extend the same benefit to the applicant as was done in the cases of S/Shri S.R. Sahay and B.P. Mandal.

4. In the result the application is allowed but there will be no order as to costs.

M. S. Padmarajiah
Vice-Chairman

P. S. S. S. S.
Member