

REGISTERED

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

Dated : 17-8-87

APPLICATION NO 1882 /86(T)

W.P. NO 8518/85

Applicant

Shri V. Venkatadri

V/s The Secy, CPWD, New Delhi & 2 Ors

To

1. Shri V. Venkatadri
No. 215, 5th Block
Rajajinagar
Bangalore - 560 010

2. Shri Ranganatha S. Jois
Advocate
36, 'Vagdevi'
Shankarapuram
Bangalore - 560 004

3. The Secretary
Central Public Works Department
Nirman Bhavan, New Delhi

4. The Commissioner of Income Tax
Karnataka
Bangalore

5. The Accountant General in
Karnataka
Bangalore - 560 001

6. Shri M.S. Padmarajaiah
Central Govt, Sng Counsel
High Court Blds
Bangalore - 560 001

Subject: SENDING COPIES OF ORDER PASSED BY THE BENCH

Please find enclosed herewith the copy of ORDER/~~XXXX~~/

~~XXXXXXXXXXXXXX~~ passed by this Tribunal in the above said

application on 5-8-87.

[Signature]
Deputy Registrar

~~XXXXXXXXXXXXXX~~
SECTION OFFICER
(JUDICIAL)

Encl : as above

Diary No. 108/108/87
Jms Date: 21/8/87
Reminded 18/8/87
Jms
18/8/87

[Signature]

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE BENCH, BANGALORE

DATED THIS THE FIFTH DAY OF AUGUST 1987

Present : Hon'ble Shri P. Srinivasan

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Member (A)

APPLICATION NO.1882/86(T)

V. Venkatadri,
Retd. Executive Engineer,
No.215, 5th Block, Rajajinagar,
Bangalore-560 010.

...

Applicant

(Shri Ranganath Jois .. Advocate)

v.

The Union of India represented
by its Secretary,
Central Public Works Department,
New Delhi.

The Commissioner of Income Tax
in Karnataka,
Bangalore

The Accountant General in
Karnataka, Bangalore.

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Respondents

(Shri M.S.Padmarajaiah . Advocate)

This application came up for hearing before this Tribunal today,
Hon'ble Shri P. Srinivasan, Member (A), made the following:

O R D E R

The applicant who took voluntary retirement from the post of Executive Engineer (EE) in the Central Public Works Department with effect from 31.3.1982 filed this application as a writ petition before the High Court of Karnataka challenging the decision of the Respondents not to give him the benefit of what is known as "the Concordance Table" for fixing his pay on his promotion as EE and thereby denying him increments of pay from 1.8.1977. The respondents have filed their reply and Shri Ranganath Jois and Shri M.S. Padmarajaiah, Counsel for the applicant and respondents respectively have been heard.



P. Srinivasan

2. The whole dispute in this case centres round only one issue viz., whether the benefit of the aforesaid Concordance Table is available to persons promoted as EE on ad hoc basis like the applicant or whether such benefit is available only to those who were regularly promoted to that post.
3. Shri Jois submitted that the applicant who was earlier working as Assistant Engineer (AE) in Group B was promoted as EE on an ad hoc basis from 17.8.1973. According to the instructions issued by the Government of India persons promoted from Group B to posts of EE were entitled to have their initial pay as EE fixed in accordance with the Concordance Table. The initial pay of a person promoted from Group ^B to the post of EE was to be fixed in the senior Group A scale with reference to the pay to which he would have been entitled if promoted to the Junior Scale of Group A. Thus the pay of a person so promoted had to be ^{of first} ~~just~~ fixed as on the date of promotion notionally in the Junior Scale of Group A and thereafter he would be allowed the corresponding pay in the senior scale as per the Concordance Table. On this basis, the applicant was entitled to a pay of Rs.1250 per month on his promotion as EE with effect from 17.8.73 and the Accountant General (Respondent 3) in fact fixed his pay at Rs.1250 from that date. However, subsequently, by Office Memorandum dated 12.9.1977, the Engineer-in-Chief, CPWD, Delhi, conveyed the decision of the Government to the effect that only persons promoted as EE on regular basis were entitled to the benefit of the Concordance Table and not persons promoted to that post on ad hoc basis, like the applicant (Annexure C): the latter would be governed by the Fundamental Rules for pay fixation. On that view the applicant's pay as from 1.8.1977 was refixed at Rs.1350, while he was actually drawing Rs.1450 from that date as a



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result of the earlier fixation and he was allowed to draw the difference of Rs.100 as personal pay to be absorbed in future increments. In effect, therefore, he was not allowed any increment from 1.8.1977 till his pay rose on the basis of the revised fixation to Rs.1500. Shri Jois relied on the decision of the Principal Bench of this Tribunal in *M.D. Piplani v. Union of India* ATR 1987 (1) CAT 253 where an identical question arose. The Principal Bench decided that the applicants were entitled to the benefits of ^{of the} Concordance Table even though they were ad hoc promotees because ad hoc promotion in their cases were not made to short term vacancies and they were described as ad hoc only because the seniority list of AE was under challenge before the Supreme Court. It was not also as if the applicants in that application did not fulfill the qualifications for promotion. A special leave petition against this decision was dismissed by the Supreme Court. In view of that decision, Shri Jois urged, this application should also be allowed.

4. Shri M.S.Padmarajaiah appearing for respondents did not fairly dispute the facts as presented by Shri Jois, but, however, reiterates that the benefit of the Concordance Table is available only to regular promotees and secondly that the Government had decided that the benefit of the Concordance Table would be allowed only to the petitioners in Piplani's case and not to others. He urged that the application should be dismissed.

5. After hearing counsel for both sides I have no hesitation in allowing this application. The facts of this case are in pari materia with those in Piplani's case decided by the Principal Bench, a decision against which special leave petition has been rejected by the Supreme Court. Here also the promotion of the applicant



P. Jois

cannot be said to have been made to a short term vacancy nor can it be said that the applicant did not fulfill the qualifications required for regular promotion. He was promoted as EE in 1973 and continued in that capacity till his retirement in 1982 which by no stretch of imagination can be called a short term. It is also not disputed that he had the necessary qualification and eligibility for promotion and as pointed out by the Principal Bench in Piplani's case it was purely because of appeals pending in the Supreme Court that the seniority of the applicant and others in the grade of AE could not be finalised and their promotion to the post of EE regularised. In view of this I hold that the applicant was clearly entitled to the benefit of the Concordance Table from the date from which he was promoted as EE and that, therefore, he is entitled to increment on that basis from 1.8.1977 onwards. I direct the respondents to give the applicant all increments due from 1.8.1977 accordingly and settle the amounts due to him including retirement benefits on that basis within four months from the date of receipt of this order.

6. In the result the application is allowed. Parties to bear their own costs.



True Copy

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(P. SRINIVASAN)
MEMBER (A)

B. Venkatesh Reddy
DEPUTY REGISTRAR
CENTRAL ADMINISTRATIVE TRIBUNAL
ADDITIONAL BENCH
BANGALORE
17/8/77