

REGISTERED

CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE BENCH
* * * * *

Commercial Complex(BDA)
Indiranagar
Bangalore - 560 038

Dated 3-7-87

Application Nos. 1925 to 1940/86(F)

Applicant

Shri V.M. Vinayagamurthy & 15 Ors

To

1. Shri V.M. Vinayagamurthy
2. Shri P. Thersies
3. Shri K. Bhaskara Pillai
4. Shri M. Munikrishna
5. Shri A. Durgachalam
6. Shri M. Subbaraya
7. Shri M. Gajendra
8. Shri V.K. Subramanian
9. Shri K.G.J. Nair
10. Shri N.G. Shashisekhara

(Sl Nos. 1 to 10 - Tradesman 'A',
Electronics & Radar Development Establishment,
DRDO Complex, Ministry of Defence,
Jeevanbhimanagar Post, Bangalore - 560 075)

11. Shri M. Srinivasa

12. Shri D.V. Krishnappa

13. Shri Krishnamurthy

(Sl Nos. 11 to 13 - Tradesman 'C',
Electronics & Radar Development Establishment
DRDO Complex, Ministry of Defence,
Jeevanbhimanagar Post, Bangalore - 560 075)

Respondents

V/s The Director, LRDE & 10 Ors

14. Shri A.K. Banerjee
15. Shri U. Prabhakaran
16. Shri M. Dakshinamurthy
- (Sl Nos. 14 to 16 - Tradesman 'A'
Electronics & Radar Development
Establishment, DRDO Complex,
Ministry of Defence, Jeevanbhimanagar
Post, Bangalore - 560 075)
17. Shri A.C. Rajasekhar
Advocate
No. 82/8, 1st Cross, 12th Main Rd,
Banashankari I Stage, II Block,
Bangalore - 560 050
18. The Director and Chairman DPC III
Electronics & Radar Development
Establishment (LRDE)
DRDO Complex, Ministry of Defence,
Jeevanbhimanagar Post
Bangalore - 560 075
19. Shri S.S. Chandrasekharachary
Tradesman 'A', Purchase Section,
LRDE, DRDO Complex, M/o Defence,
Jeevanbhimanagar Post
Bangalore - 560 075
20. Shri M.R. Satyanarayana
Tradesman 'A', B.P.P.U., L.R.D.E.
Ministry of Defence
Cambridge Road
Ulsoor
Bangalore - 560 008

21. Shri M.D. Lakshmanarao
Tradesman 'C'
MEG(Fabrication)
LRDE, DRDO Complex
Jeevanbhimanagar Post
Bangalore - 560 075

22. Shri D.S. Rawat
Tradesman 'C'
En.S.D.
LRDE, DRDO Complex
Ministry of Defence
Jeevanbhimanagar Post
Bangalore - 560 075

23. Shri S.P. Mohan Kumar
Tradesman 'C'
CDE, LRDE
DRDO Complex
Jeevanbhimanagar Post
Bangalore - 560 075

24. Shri V. Shankar
Tradesman 'C'
C.P.G.
LRDE, DRDO Complex
Jeevanbhimanagar Post
Bangalore - 560 075

25. Shri M. Mayanna
Tradesman 'C'
En.S.D.
LRDE, DRDO Complex
Jeevanbhimanagar Post
Bangalore - 560 075

26. Shri K. Keshavalu
Tradesman 'A'
M.E.D.
LRDE, DRDO Complex
Ministry of Defence
Jeevanbhimanagar Post
Bangalore - 560 075

27. Shri B. Srinivas Narayana
Tradesman 'A'
Battery Pilot Plant Unit(BPPU)
LRDE, Ministry of Defence
Cambridge Road, Ulsoor
Bangalore - 560 008

28. Shri P,S. Srinivasa
Tradesman 'A'
LRDE, DRDO Complex
Jeevanbhimanagar Post
Bangalore - 560 075

29. Shri M.S. Padmarajaiah
Senior Central Govt. Stng 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 17-6-87.

Hari
SECTION OFFICER
(JUDICIAL)

Encl : As above

8/c

CENTRAL ADMINISTRATIVE TRIBUNAL:BANGALORE

DATED THIS THE 17TH DAY OF JUNE,1987.

PRESENT:

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

And;

Hon'ble Mr.L.H.A.Rego, .. Member(A).

APPLICATIONS NUMBERS 1925 TO 1940 OF 1986.

1. V.M.Vinayagamurthy,
49 years,
S/o V.Muniswamy. .. Applicant in A.1925/86.
2. P.Tharsies,
46 years, S/o Ponnaiah. .. Applicant in A.1926/86.
3. K.Bhaskara Pillai,
42 years,
S/o Balakrishna Pillai, .. Applicant in A.1927/86.
4. M.Munikrishna,
36 years,
S/o Munivenkatappa, .. Applicant in A.1928/86.
5. A.Durgachalam,
39 years, S/o R.Adimulakonar. .. Applicant in A.1929/86.
6. M.Subbaraya,
42 years, S/o M.Munivenkatappa. .. Applicant in A.1930/86.
7. M.Gajendra,
38 years, S/o B.Muninarasappa, .. Applicant in A.1931/86.
8. V.K.Subramanian,
42 years, S/o Nakan Mudaliar. .. Applicant in A.1932/86.
9. K.G.J.Nair,
46 years, S/o Govinda Pillai. .. Applicant in A.1933/86.
10. Sri N.G.Shashisekhara,
37 years, S/o N.B.Gangappa, .. Applicant in A.1934/86.
11. M.Srinivasa,
45 years, S/o N.Munivenkatappa. .. Applicant in A.1935/86.
12. D.V.Krishnappa,
45 years, S/o Venkatappa. .. Applicant in A.1936/86.
13. Krishnamurthy,
35 years, S/o Puttasharmachar. .. Applicant in A.1937/86.
14. A.K.Banerjee,
37 years, S/o B.C.Banerjee. .. Applicant in A.1938/86.
15. U.Prabhakaran,
45 years, S/o K.R.Nair. .. Applicant in A.1939/86.
16. M.Dakshinamurthy,
38 years, S/o M.Doraiswamy .. Applicant in A.1940/86.

Applicants in A.Nos.1925 to 1934 and 1938 to 1940 of 1986 are working as Tradesman 'A' and Applicants in A.Nos.1935 to 1937 of 1986 are working as Tradesman 'C' in Electronics and Radar Development Establishment, DRDO Complex, Ministry of Defence, Jeevanbhima Nagar Post, Bangalore-75.

(By Sri A.C.Rasekhar,Advocate for Applicants)



1. The Director and Chairman
DPC III Electronics and Radar Development
Establishment (LRDE) DRDO Complex,
Ministry of Defence,
Jeevanbhimanagar Post, Bangalore-560 075. .. Respondent-1
in all Applications.
2. S.S.Chandrasekharachary,
Tradesman 'A' Purchase Section,
LRDE, DRDO Complex, Ministry of Defence,
Jeevanbhimanagar Post,
Bangalore-75.
3. M.R.Satyanaarayana,
Tradesman 'A', B.P.P.U., L.R.D.E.,
Ministry of Defence, Cambridge Road,
Ulsoor, Bangalore-8. .. Respondents 2 and 3
in A.Nos.1925 to 1934/86
4. B.D.Lakshmanarao,
Tradesman 'C' MEG (Fabrication),
LRDE, DRDO Complex,
Jeevanbhimanagar Post,
Bangalore 560 075.
5. D.S.Rawat,
Tradesman 'C', En.S.D.,
LRDE, DRDO Complex,
Ministry of Defence
Jeevanbhimanagar Post,
Bangalore-560 075.
6. S.P.Mohan Kumar,
Tradesman 'C', CDE,LRDE,DRDO
Complex,Jeevanbhimanagar Post,
Bangalore-560 075.
7. V.Shankar,
Tradesman 'C' CPG,LRDE,DRDO Complex,
Jeevanbhimanagar Post,
Bangalore-75.
8. M.Mayanna,
Tradesman 'C' En.S.D.,LRDE,DRDO Complex,
Jeevanbhimanagar Post,
Bangalore-560 075. .. Sl.Nos.4 to 8 are
Respondents 2 to 6 in A.Nos.1935
to 1937 of 1986.
9. K.Keshavalu,
Tradesman 'A',MED,Electronics and Radar
Development Establishment (LRDE),DRDO Complex,
Ministry of Defence, Jeevanbhimanagar Post,
Bangalore-560 075.
- 10.B.Sri man Narayana,
Tradesman 'A', Battery Pilot Plant Unit (BPPU) LRDE,Ministry
of Defence,Cambridge Road,
Ulsoor, Bangalore-8.
- II.P.S.Srinivasa,
Tradesman-A, LRDE,DRDO Complex,
Jeevanbhimanagar Post,
Bangalore-75. ..Sl.Nos.9 to 11 are
Respondents in A.Nos.1938
to 1940/86.

(By Sri M.S.Padmarajaiah,CGSSC).



These applications having come up for hearing this day, Vice-Chairman, made the following:

O R D E R

As the questions that arise for determination in these cases are common, we propose to dispose of them by a common order.

2. All the applicants who commenced their service as Tradesmen in the Department of Electronics and Radar Development Establishment, Government of India ('LRDE') were holding the posts of Tradesmen-C on 30th October, 1979. On that day there was also a temporary unit called 'Battery Pilot Plant Unit' ('BPPU') under the control of the LRDE which came to be merged with the LRDE from that very date. On such merger of the BPPU with its personnel with the LRDE, Government made an order on 31-10-1979 regulating the inter se seniority of those absorbed vis-a-vis working in the LRDE. That order reads thus:

"The case was referred to Department of Personnel and A.P. who have ruled that on merger, the staff belonging to the Pilot Plant Production should be placed enblock junior to the regular staff belonging to the LRDE. The inter se seniority of the individuals may, therefore, be fixed accordingly."

But, on a consideration of the representations made by the officials aggrieved by the order of Government, the Director General of the LRDE as the Head of the Department on 31-10-1979 directed as under:

" Para 957/80.

SENIORITY ROLLS FOR INDUSTRIAL STAFF

NICKEL CADMIUM BATTERY (PP UNIT).

Seniority rolls in respect of the industrial staff recruited for Pilot Plant Nickel Cadmium Batteries will be maintained separately from Group-VI onwards upto C/M II for Departmental Promotions through DPC III.

However there will be common seniority for C/M I upwards which come under DPC II. To enable consideration for promotion to C/M I by DPC II, the C/M of PP (Ni-Cd)



staff will come under the common roster.¹¹ On the basis of this decision and all other relevant factors, the competent authority had promoted respondents 2 and 3 in Applications Nos.1925 to 1934 of 1986, respondents 2 to 6 in Applications 1935 to 1937 of 1986 and respondents 2 to 4 in Applications Nos.1938 to 1940/1986 to be hereafter referred to as 'promotees' as Tradesman 'A' or 'C' on 8-1-1981 and 17-7-1982 respectively from which dates they are holding the respective promoted posts.

3. Evidently on the basis of his decisions and other relevant factors thereto, the Director had drawn up a seniority roll of Tradesman-A in January,1984 assigning higher ranks to the promotees and lower ranks to the applicants herein, who had been promoted on later dates. Aggrieved by the lower ranks assigned to them and the higher ranks to the promotees, the applicants made individual representations to the Director, who in July,1984 rejected all of them. But, notwithstanding the same, the applicants continued to make representations from time to time which have not found favour with the Director. Hence, the applicants have approached this Tribunal on 26-II-1986 by separate but identical applications under Section 19 of the Administrative Tribunals Act(Act) challenging the decision of the Director dated 30-9-1980, the promotion orders made on 8-1-1981 and 17-7-1982 and the seniority list drawn up by him in January,1984 on diverse grounds.

4. In their common reply, the respondents have inter-alia urged that these applications made on 26-II-1986 seeking to challenge the decision of the Director reached on 30-9-1980 and the promotions of several promotees made prior to 1-II-1982 were not entertainable under the Act and if those challenges cannot be entertained a fortiori their challenge to the seniority list of 1984 cannot be examined. In the very nature of things, it is necessary to examine this preliminary objection of the respondents first and then the merits, if that

becomes necessary.

5. Sri M.S.Padmarajaiah, learned Senior Central Government Standing Counsel appearing for the Union of India and its subordinate authorities contends that these applications made on 26-11-1986 under Section 19 of the Act seeking to challenge the decision reached by the Director on 30-9-1980 and the promotion orders made on 8-1-1981 and 17-7-1982 were not maintainable as ruled by the Principal Bench of this Tribunal in V.K.MEHRA v. THE SECRETARY, MINISTRY OF INFORMATION AND BROADCASTING, NEW DELHI (ATR 1986 CAT 203) and this Bench in Dr.(Smt.)KSHAMA KAPUR v. THE SECRETARY, MINISTRY OF HEALTH AND FAMILY WELFARE (A.No.46/87 decided on 12-6-1987) and on that very basis their challenge to the seniority roll of 1984 cannot be entertained by us at all.

6. Sri A.C.Rajasekhar, learned counsel for the applicants, refuting the contention of Sri Padmarajaiah, contends that these applications made on 26-11-1986, were well within time and this Tribunal should, therefore, adjudicate the claims on merits.

7. We have earlier noticed the decision reached by the Government on 31-10-1979 which was in favour of the applicants.

8. But, unfortunately, for the applicants, that decision of Government did not last long and on 30-9-1980 the Director reached a decision which is adverse to them and is even contrary to the earlier decision of Government. On the basis of new principles of seniority decided on 30-9-1980, he also promoted the promotees on 8-1-1981 and 17-7-1982. Both these substantial adverse orders against the applicants were made before 1-11-1982.

9. The question whether an order or proceeding concluded before 1-11-1982 is challengeable under the Act or not is no longer res integra. In Mehra's case, Justice Madhava Reddy, Hon'ble Chairman speaking for the Bench, has upheld a similar objection of the respondents in these words:



The Administrative Tribunals Act does not vest any power or authority to take cognizance of a grievance arising out of an order made prior to 1-II-1982. The petitioner requests that the delay in filing this application be condoned. But, the question is not at all one of condoning the delay in filing the petition. It is a question of the Tribunal having jurisdiction to entertain a petition in respect of grievance arising prior to 1-II-1982.

3. In Regn.No.T-34/85 Capt.Lachhman Singh v. Secretary, Ministry of Personnel and Training,we held:

"The period of three years laid down under sub-section (2) of Section 21 would have to be computed with reference to any order made on such a representation and not with reference to the earlier order.....the Tribunal would have jurisdiction under sub-section (2) of Section 21 to entertain an application in respect of "any order" made between 1-II-1982 and 1-II-1985"

The limited power that is vested to condone the delay in filing the application within the period prescribed is under Section 21 provided the grievance is in respect of an order made within 3 years of the constitution of the Tribunal.Though the present petition is filed within six months of the constitution of the Tribunal in respect of an order made prior to 1-II-1985 as contemplated by sub-section (3) of Section 21, since it relates to a grievance arising out of an order dated 22-5-1981, a date more than 3 years immediately preceding the constitution of the Tribunal, this Tribunal has no jurisdiction, power or authority to entertain the petition. This petition is, therefore dismissed.

In Dr.(Smt.) Kshama Kapur's case, we have followed this enunciation and have also held that later orders made rejecting repeated representations cannot be treated as revalidating the final orders made by an authority before 1-II-1982. On the principles enunciated in Mehra's and Dr.(Smt.) Kshama Kapur's cases, we are bound to uphold the objection of Sri Padmarajaiah.

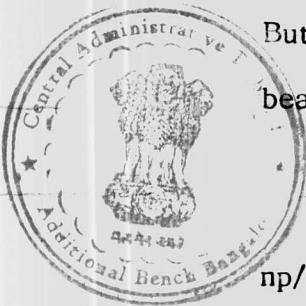
10. As noticed earlier also, the seniority list prepared in January,1984 only reflects the decision taken by the Director on 30-9-1980 and the promotion orders made on 8-1-1981 and 17-7-1982. When we hold that we cannot interfere with them, then we must also hold that we cannot interfere with that seniority list and dismiss these applications. This wil be the position, even if two seniority lists had been earlier maintained.

11. The representations made by the applicants and others on



the placements of the **promotees** and others and their own were first rejected on 17-9-1984. If that is so, then these applications challenging the same are barred by time. As pointed out by us in Kshama Kapur's case the later order made on 21-4-1986 reiterating the earlier decision of 17-9-1984 will be of no avail to hold that they are not barred by time.

12. On the foregoing discussion, we hold that these applications are liable to be dismissed. We, therefore, dismiss these applications. But, in the circumstances of the cases, we direct the parties to bear their own costs.



np/

SD — — VICE-CHAIRMAN

17/6/87.

SD — — MEMBER(A) 17/6/87

- True Copy -

Harris
SECTION OFFICER 317
CENTRAL ADMINISTRATIVE TRIBUNAL
ADDITIONAL BENCH
BANGALORE

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|--|--|------------------------------------|--|--|---|--|--|--------------------------|
| 94 A. No. 1686 (F) <i>Workeenmuraquona Murthy</i> 16-6-87 | A.N.O. 1105 (T) <i>A.M. Sudarmanan</i> 17-6-87 | (W.P. 8603/83) <i>Q. Officer</i> | 102 A. No. 1925 (F) <i>U.B. Unnayagamurthy</i> 17-6-87 | A.N.O. 1925 (F) <i>H.U. Krishnayya Swamy</i> 18-6-87 | (W.P. 19788/84) <i>V. Shrivama</i> | 103 A. No. 52187 (F) <i>V. Shrivama</i> 18-6-87 | 104 A. No. 7185 (T) <i>H.U. Krishnayya Swamy</i> 18-6-87 | (W.P. 19788/84) <i>-</i> |
| 95 A. No. 1263 + 67/86 (T) <i>A.N. Shashidhar & H. Qas</i> 16-6-87 | 16. A. No. 1263 + 67/86 (T) <i>A.N. Shashidhar & H. Qas</i> 16-6-87 | (W.P. No. 5270/85) <i>T. Raina</i> | 96 A. No. 1725 & 29/83 <i>T.K. Jammalayya</i> 16-6-87 | 97 A. No. 1436/86 (T) <i>T. Raina</i> | (W.P. No. 5270/85) <i>91 A. No. 1436/86 (T) <i>T. Raina</i></i> | 98 A. No. 56187 <i>R.A. No. 79187 (T) <i>T.K. Jammalayya</i></i> 16-6-87 | 99 A. No. 10987 <i>R.A. No. 56187 (T) <i>T.K. Jammalayya</i></i> 16-6-87 | |
| 96 A. No. 1263 + 67/86 (T) <i>A.N. Shashidhar & H. Qas</i> 16-6-87 | 16. A. No. 1263 + 67/86 (T) <i>A.N. Shashidhar & H. Qas</i> 16-6-87 | (W.P. No. 5270/85) <i>T. Raina</i> | 96 A. No. 1725 & 29/83 <i>T.K. Jammalayya</i> 16-6-87 | 97 A. No. 1436/86 (T) <i>T. Raina</i> | (W.P. No. 5270/85) <i>91 A. No. 1436/86 (T) <i>T. Raina</i></i> | 98 A. No. 56187 <i>R.A. No. 79187 (T) <i>T.K. Jammalayya</i></i> 16-6-87 | 99 A. No. 10987 <i>R.A. No. 56187 (T) <i>T.K. Jammalayya</i></i> 16-6-87 | |
| 97 A. No. 56187 <i>R.A. No. 79187 (T) <i>T.K. Jammalayya</i></i> 16-6-87 | 98 A. No. 56187 <i>R.A. No. 79187 (T) <i>T.K. Jammalayya</i></i> 16-6-87 | (W.P. No. 5270/85) <i>T. Raina</i> | 99 A. No. 10987 <i>R.A. No. 56187 (T) <i>T.K. Jammalayya</i></i> 16-6-87 | 100 A. No. 1725 & 29/83 <i>T.K. Jammalayya</i> 16-6-87 | (W.P. No. 5270/85) <i>T. Raina</i> | 101 A. No. 1436/86 (T) <i>T. Raina</i> 16-6-87 | 102 A. No. 79187 (T) <i>T.K. Jammalayya</i> 16-6-87 | |

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