

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE BENCH, BANGALORE

DATED THIS THE 15TH OCTOBER, 1986

Present: Hon'ble Mr Justice K.S. Puttaswamy Vice-Chairman
Hon'ble Mr L.H.A. Rego Member(A)

Application Nos. 788 to 795/86

1. A.R. Anand, major,
S/o A.N.R. Doss,
No. 4, Subbiah Reddy Block,
Ulsoor, Bangalore-8.
2. K.K. Simon, major,
S/o K.P. Kuru,
No. 121, IIInd Stage,
Indiranagar,
Bangalore-38.
3. P.P. Bhaskaran, major,
S/o A.V. Kunhambu,
353/A, Kammanahalli Main,
Ramaswamy Palayam,
Po. M.S. Nagar,
Bangalore-33.
4. R. Seetharamu, major,
S/o N. Ramachandraiah,
No. 14, 5th Main Road,
Malleswaram,
Bangalore-3.
5. V. Vasudevan, major,
S/o Veluthakunju,
24-Ramaswamy Layout,
Indiranagar P.O.
Bangalore-38.
6. P. Rajappan, major,
S/o Ponnappan S.
No. 4, Hameer Menzil,
M.T. Street, Ist Main Road,
Vasanth Nagar,
Bangalore-51.
7. T.S. Seshadri, major,
S/o T.S. Sriraman,
No. 29, Obalappa's Street,
Chikka Mavalli,
Bangalore-4.
8. Fernandez Willian, major
S/o Frank Willian,
64/A, 12th Cross,
Lakshmipuram, Ulsoor,
Bangalore-8.

(Shri Ranganath Jois ... Advocate)

Vs.

....(Applicants)

1. The Union of India
represented by its
Secretary,
Ministry of Defence,
'Raksha Bhawan'
New Delhi-1.
2. The Engineer-in-chief,
Army Head Quarters,
Kashmir House,
New Delhi-11.

The application has come up before Court for hearing today, Vice-Chairman made the following:-

ORDER

In these transferred applications received from the High Court of Karnataka under Section 29 of the Administrative Tribunals Act, 1985 (the Act), the applicants have sought for a direction to the respondents to extend them the timescale of pay of Rs. 425-700 with effect from 1.1.1973.

2. Shri A.R.Anand, applicant in Application No. 788 of 1986 is a Graduate in Engineering. Applicants in Application Nos. 789 to 795 of 1986 hold a Diploma in Engineering. Applicant in Application No. 788 of 1986 joined service as a Civilian Instructor Foreman (CIF) on 27.2.67 in the timescale of pay of Rs. 150-380. Applicants in Application Nos. 789 to 795/1986 joined service as CIFs in 1967 and 1968 in the timescale of pay of Rs. 150-380.

3. When the applicants joined service as CIFs their recruitment to the said posts was regulated by executive

orders made by Government and not by rules made under the Proviso to Article 309 of the Constitution or law made by Parliament. At that time, the minimum educational qualification prescribed for recruitment to the posts of CIFs was a Diploma in Engineering. There was also a lower cadre then of Civilian Trade Instructors (CTIs) for which the qualification prescribed was a Diploma in Engineering or a certificate issued by an Industrial Training Institute carrying a timescale of pay of Rs. 110-130.

4. On 17.7.1971, the President of India under the proviso to Article 309 of the Constitution promulgated the Defence Service (Class III and IV) Recruitment Rules, 1971 (1971 Rules) inter alia providing for recruitment to the posts of Civilian Instructors Foremen prescribing the educational qualification as under:

"ESSENTIAL:

Matriculation or equivalent qualification.
Certificate in the Trade concerned under the Craftsman Training Scheme from ITI.

DESIRABLE:

Four years' experience in the Trade concerned."

The timescale of pay to the said posts was indicated as Rs. 150-380.

5. For reasons that cannot be gathered from the 1971 Rules or from the statement of objections filed by the respondents, they did not deal with the posts held by the applicants viz., Civilian Instructors Foremen possessing the qualification of a Diploma in Engineering or their timescale of pay. But the department merely extended the

timescale of pay of Rs. 150-380 to the applicants.

6. The III Pay Commission appointed by Government under the chairmanship of Hon'ble Mr Justice Raghubir Dayal made detailed recommendations for revision of payscales of the various categories of employees working in all the departments of the Government and they were given effect to by Government from 1.1.1973. But unfortunately for the applicants, neither the III Pay Commission nor the Government ^{rivettted} ~~xxxxxx~~ their attention at all to the posts held by the applicants and others in the Defence department. But Government however revised the timescale of pay of Rs. 150-380 specified in the 1971 Rules, to Rs. 330-560 with effect from 1.1.73 though there was no specific recommendation by the III Pay Commission. We may at this stage notice that the posts held by those who had a Diploma in Engineering in comparable posts in some of the departments of Government as in the case of the Junior Engineers in the Central Public Works Department (CPWD) were given the benefit of the revised timescale of pay of Rs. 425-700 with effect from 1.1.1973. We are informed that the time-scale of pay of the applicants on this basis prior to this revision was more or less identical with that of the Junior Engineers in the CPWD. The applicants therefore started agitating before Government for extending that timescale of pay with effect from 1.1.73 which was not allowed by Government. Hence these applications.

7. The applicants have urged that the action of Government

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in not extending to them, the benefit of the timescale of pay of Rs. 425-700 only in the case of those holding a Diploma in Engineering in some of the other departments of Government like the Junior Engineers of the CPWD in comparable posts was discriminatory and violative of Article 14 of the Constitution.

8. In their statement of objections, the respondents have urged that the duties performed by the applicants were similar to the duties performed by the ITI certificate-holders recruited as Civilian Instructors Foremen under the 1971 Rules and therefore, they are only entitled to revision of the timescale of pay of Rs. 150-380 to Rs. 330-560 from 1-1-1973.

9. Shri S.Ranganath Jois, learned counsel for the applicants contends that the applicants who were Diploma-holders in Engineering, were performing similar duties as were performed by such Diploma-holders working in comparable posts in some of the other departments of Government and therefore, they were entitled to the benefit of the revised timescale of pay of Rs. 425-700 with effect from 1.1.73. In support of his contention, Shri Jois strongly relies on the ruling of the Supreme Court in 1982 SC Case L&S = AIR 1982 SC 879.

10. Shri M.S.Padmarajaiah, learned Senior Government Standing Counsel appearing for the respondents contends that the applicants who had been employed as Civilian Instructors (Foremen) prior to the 1971 Rules, were performing the very duties performed by the Civilian

Instructors Foremen recruited under the 1971 Rules with the qualification of ITI certificates and therefore, they were entitled only to the revised timescale of pay of Rs. 330-560 extended to the latter from 1-1-1973.

11. Evidently on an examination of the claims made by the applicants in their Writ Petitions before the High Court of Karnataka, Government of India in the Ministry of Finance offered them to extend the timescale of pay of Rs. 380-640 prospectively and sought their consent subject to their withdrawing their Writ Petitions before the High Court. The telegram issued by Government in that behalf to the Commandant MEG Bangalore reads thus:

"WRIT PETITIONS 18775 TO 18782/81 FILED BY INSTRUCTORS FOREMEN OF MEG AND CENTRE(.) OUR 398364/EIC JUN 16(.) MIN OF FIN AGREE TO ALLOW REVISED SCALE RUPEES 380-640 AS PERSONAL TO EIGHT PETITIONERS AS SUGGESTED YOUR C-1090/Ri/31/EIC FIVE DEC 81 PROVIDED WRIT PETITION IS WITHDRAWN(.) REVISED PAY SCALES Rs. 380-640 WILL TAKE EFFECT FROM PROSPECTIVE DATE ONLY(.) CONSULT PETITIONERS AND INTIMATE RESULT BY SIGNAL(.) IF PETITIONERS AGREE FORWARD COPY WITH DRAWAL WRIT PETITION TO PROGRESS CASE BY FASTEST MEANS.

CONFIDENTIAL

Rs. 380-12-440-EB-15-560-EB-20-640"

On the basis of this telegram, the Commandant wrote letters to applicants and sought their consent. The applicants however did not give their consent.

12. On the conclusion of arguments, learned counsel for the applicants has filed a memo before us expressing the agreement of the applicants to the timescale of pay of Rs. 380-640. That memo reads thus:-

"1. The applicants in the application have prayed for a Writ of Mandamus directing the respondents to extend to petitioners who are Civilian Instruction(Foremen) the Payscale of Rs. 425-700 under the CDE (RP) Rules 1973 with effect from the date of coming of the Third Pay Commission and grant all the consequential benefits following therefrom.

2. This Hon'ble Tribunal having heard the matter for sufficient length of time had expressed the view that the applicants are eligible to be given a via media pay scale of Rs. 380-640, with effect from the date of the Third pay commission i.e. from 1.1.73, with the necessary fitment and the consequential further fitment with the result of the implementation of the 4th Pay Commission.

3. However, the Hon'ble Tribunal have expressed their view that benefit will not be equitable to be granted for more than three years before the filing of the writ petitions. The Applicants are also agreeable to the above view of the Tribunal and they are further having no grievances in the passing of the order accordingly."

13. Whatever may be their earlier claims, the applicants have agreed to accept the timescale of pay of Rs. 380-640, and thus give up their claim for the timescale of pay of Rs. 425-700. In this view the claim of the applicants calls for the examination of the timescale of pay of Rs. 380-640, and not of the timescale of Rs. 425-700. We, therefore confine and examine their claim for the timescale of Rs. 380-640.

14. From the telegram reproduced it is clear that Government on an in-depth examination of the claims made by the applicants before the High Court was convinced that injustice had been done to them and the same required to be remedied by offering them the revised scale of pay of Rs. 380-640. We are also of the view that the offer made by Government was a reasonable and just offer and should be enforced.

15. We had earlier noticed that the recommendations of III Pay Commission had been extended from 1.1.73. Even assuming that the III Pay Commission did not make specific recommendations and Government did not then issue orders for extending the timescale of pay of Rs. 380-640 from 1.1.73, on

principle of justice and equity, Government cannot deny that benefit to the applicants from 1.1.73. We are of the view that the decision of Government to allow the revised timescale of pay of Rs. 380-640 from a prospective date and not from 1.1.73 is unreasonable, irrational and discriminatory and is violative of Article 14 of the Constitution. We, therefore hold that the applicants are entitled to the revised timescale of pay of Rs. 380-640 from 1.1.73 and the fitment in that scale should be made in accordance with the Rules regulating the same.

16. But so far as arrears are concerned the applicants have agreed for three years prior to the presentation of their Writ Petitions before the High Court. We need hardly say that this is in conformity with the law.


declared by the Supreme Court in AIR 1964 SC 1006 (STATE OF MADH.PRA V. BHAILAL BHAI). Shri Padmarajaiah has opposed this also.

17. We are of the view that the objection of Shri Padmarajaiah is clearly untenable and is even opposed to the principles enunciated by the Supreme Court in Bhailal Bhai's case. We therefore overrule the same and hold that the applicants are entitled to arrears from 22-7-1978 and onwards.

18. Before us, there are only 8 applicants. We cannot grant relief to those who have not approached us.

19. We are informed that there are others working in Bangalore and other places who have not approached us. We fervently hope and trust that Government will not

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compel others to approach courts and tribunals for the reliefs granted to the applicants and suo motu extend them to others similarly circumstanced in the Department.

20. While these cases were pending before the High Court and this Tribunal, the IV Pay Commission made its recommendation to Government on which Government had made orders giving effect to them from 1-1-86 with certain modifications. According to the applicants what happened to them in the III Pay Commission and the orders issued by Government thereon, had repeated themselves from 1-1-86. In these cases we cannot examine those claims that are not specifically made which are also separate and distinct. We do hope and trust that Government will examine them and do justice to the applicants and others and will not compel them to approach the Tribunals for adjudication of those claims.

21. In the light of our above discussion, we make the following orders and directions:

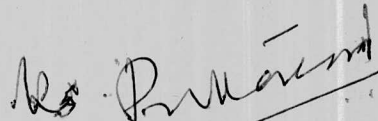
- (i) We declare that the applicants are entitled to the revised timescale of pay of Rs. 380-640 from 1.1.73 as against the timescale of pay of Rs. 330-560 allowed to them from that day.
- (ii) We direct the respondents to refix the pay of the applicants from 1-1-1973 in the timescale of pay of Rs. 380-640 and grant all the increments that accrue thereafter in accordance with the Rules that regulate them.
- (iii) We direct the respondents to pay all arrears of salary on such refixation to the applicants with effect from only 22-7-1978 and onwards denying all

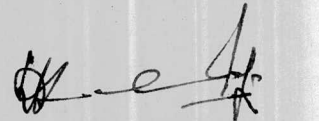
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arrears that had accrued prior to that date.

(iv) We direct respondent no. 1 to examine the cases of the applicants for the revision of their scales of pay from 1-1-1986 and pass such orders as the facts and circumstances justify.

22. Applications are disposed of in the above terms. But in the circumstances of the cases, we direct the parties to bear their own costs.


VICE CHAIRMAN


MEMBER (A) (R) 15/10/86

/SR/

CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE BENCH

Commercial Complex (BDA)
Indiranagar
Bangalore - 560 038

Dated : 10 JUN 1988

CONTEMPT OF COURT APPLICATION NOS 50 to 55 /88
IN APPLICATION NOS. 788 to 795/86(T)
W.P. NO. _____

Applicant(s)

Shri PP. Bhaskaran & 5 Ors
To

1. Shri P.P. Bhaskaran
 2. Shri R. Sitharamu
 3. Shri V. Vasudevan
 4. Shri P. Rajappan
 5. Shri J.S. Seshadri
 6. Shri Fernandez William
- (Sl Nos. 1 to 6 -
Trade Instructors Foreman
Office of the Commandant
M.E.G & Centre
Bangalore - 560 042)
7. Shri H. Subramhanya Jois
Advocate
36, 'Vagdevi'
Shankarapuram
Bangalore - 560 004

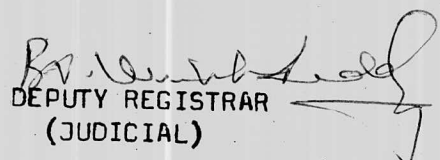
Respondent(s)

V/s The Secretary, M/o Defence, New Delhi & 2 Ors

8. The Secretary
Ministry of Defence
South Block
New Delhi - 110 011
9. The Engineer-in-Chief
Army Headquarters
Kashmir House
DHQ P.O.
New Delhi - 110 011
10. The Deputy Controller of Defence Accounts
Cubbon Road
Bangalore - 560 001
11. Shri M.S. Padmarajiah
Central Govt. Stng Counsel
High Court Building
Bangalore - 560 001

Subject : SENDING COPIES OF ORDER PASSED BY THE BENCH

Please find enclosed herewith the copy of ORDER/~~STAY~~/~~INTERIM ORDER~~
passed by this Tribunal in the above said application(s) on 7-6-88.


DEPUTY REGISTRAR
(JUDICIAL)

Encl : As above

CENTRAL ADMINISTRATIVE TRIBUNAL: BANGALORE

DATED THIS THE 7TH DAY OF JUNE, 1988

PRESENT:

The Hon'ble Mr. Justice K.S. Puttaswamy,

.. Vice-Chairman.

And:

The Hon'ble Mr. P. Srinivasan.

.. Member(A).

CONTEMPT OF COURT APPLCIATIONS 50 TO 55 OF 1988

1. P.P. Bhaskaran,
S/o A.B. Kunhambu.
2. R. Sitharamu,
S/o Ramachandraiah,
3. V. Vasudevan,
S/o Velluthakunju,
4. P. Rajappan,
S/o Ponnappan,
5. J.S. Seshadri,
S/o J.S. Shriraman,
6. Fernandez William
S/o Frank William

All are majors and are working
as Trade Instructors, Foreman
in the office of the Commandant,
M.E.G. Centre, Bangalore-42.

.. Petitioners.

(By Sri H. Subramhanya Jois, Advocate)

v.

1. Shri S.K. Bhatnagar,
Secretary, Ministry of Defence,
Government of India,
Raksha Bhavan, New Delhi-11.
2. Shri P.S. Ray
Engineer-in-Chief,
Army Headquarters,
Kashmir House,
New Delhi.
3. Sri N. Natarajan,
Deputy Controller of Defence Accounts,
Cubbon Road, Bangalore-1

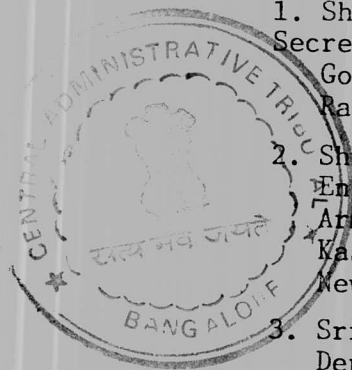
.. Respondents.

(By Sri M.S. Padmarajaiah, CGSSC)

These applications have come up for hearing to-day, Vice-Chairman
made the following:

ORDER

In these applications made under Section 17 of the Administrative



Tribunals Act, 1985 and the Contempt of Courts Act, 1971, the petitioners have moved this Tribunal to punish the respondents for non-implementation of an order made by a Division Bench of this Tribunal consisting of one of us (Justice Sri K.S. Puttaswamy) on 15-10-1986 in Applications Nos. 788 to 795 of 1986.

2. In Applications Nos. 788 to 795 of 1986 which were transferred applications, the applicants had claimed for revision of their pay scales to Rs.425-700 with effect from 1-1-1973 with all consequential benefits flowing from the same, which was contested by the respondents.

3. On an examination of the contentions urged by both sides, this Tribunal disposed of the said applications with the following directions:

- i) We declare that the applicants are entitled to the revised time scale of pay of Rs.380-640 from 1-1-1973 as against the time scale of pay of Rs.330-560 allowed to them from that day.
- ii) We direct the respondents to refix the pay of the applicants from 1-1-1973 in the time scale of pay of Rs.380-640 and grant all the increments that accrue thereafter in accordance with the Rules that regulate them.
- iii) We direct the respondents to pay all arrears of salary on such re-fixation to the applicants with effect from 22-7-1978 only and onwards denying all arrears that had accrued prior to that date.
- iv) We direct respondent-1 to examine the cases of the applicants for the revision of their scales of pay from 1-1-1986 and pass such other orders as the facts and circumstances justify.

In compliance with these directions, the Commandant, Madras Engineer Group, Bangalore ('Commandant') has fixed the pay of the applicants in the revised pay scales with effect from 1-1-1973 and onwards.

4. Sri M.S. Padmarajaiah, learned Senior Central Government Standing Counsel appearing for the respondents, contends that this order fully complies with the directions issued by this Tribunal and these Contempt of Court proceedings are liable to be dropped.



5. Sri H.Subramhanya Jois, learned counsel for the petitioners contends that in fixing the revised pay of the applicants the Commandant had ignored the options exercised and exercisable by the petitioners under the Central Civil Services (Revised Pay Scales) Rules, 1973 and the benefits to which they were entitled to under the said Rules. Sri Jois, in our opinion, very rightly prays that these contempt of court proceedings be dropped with liberty reserved to the petitioners to challenge the order made by the Commandant in a fresh legal proceedings.

6. We are of the view that the submission made by Sri Jois is well founded. We, therefore, drop these contempt of court proceedings. But, this does not prevent the petitioners from challenging the order made by the Commandant before this Tribunal on all such grounds as are available to them. No costs.

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VICE-CHAIRMAN. 7/6/77

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MEMBER(A) 1/6/77

TRUE COPY



B.V. Venkatesh
DEPUTY REGISTRAR (JULY 1977)
CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE