

CENTRAL ADMINISTRATIVE TRIBUNAL

BANGALORE BENCH

Commercial Complex (BDA)
Indiranagar
Bangalore - 560 038

Dated : 26-10-87

APPLICATION NO. 803/87(T)

W.P. NO. 6415/80

Applicants

Shri S. Lakshminarayana Rao & 34 Ors

To

1. Shri S. Lakshminarayana Rao
2. Shri N.R. Gopinath
3. Shri B.G. Krishnan
4. Shri K.G. Mahalingam
5. Shri M. Raman
6. Shri A.S. Srikantan
7. Shri N. Appuswamy
8. Shri A.H. Natarajan
9. Shri R. Sivasankaran
10. Shri R. Satyanarayana Rao
11. Shri A.P. Raman Kutty
12. Shri V.N. Parande
13. Shri M.T. Srinivasa Iyengar
14. Shri V. Lakshminarayanan
15. Shri V.N. Raghavan
16. Shri K.B. Baichwal
17. Shri N. Ramachandra
18. Shri B.V. Anantheramu
19. Shri K.R. Lakshminarasimhan
20. Shri S. Balasubramanian
21. Shri A. Chandra Rao
22. Shri M.P. Shankaranarayana Rao
23. Shri K.S. Narasimhamurthy
24. Shri K.N. Ramachandra
25. Shri P. Anantheraman
26. Shri S. Jayaraman
27. Shri P. Gurumalleiah
28. Shri K. Prasannanarasimha Rao
29. Smt S.M. Shantha
30. Shri R. Venkatanarayanan

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31. Shri K.S. Viraj
32. Shri R. Nagaraja Sharma
33. Shri B.N. Madhava Rao
34. Shri M.L. Rajagopalan
35. Shri K. Vadraj

(Sl Nos. 1 to 35 - Section Officers/SAS Accountants
Office of the Accountant General in Karnataka
Park House Road, Bangalore - 560 001)

36. Shri Ranganath S. Josi
Advocate
36, 'Vagdevi'
Shankarpuram
Bangalore - 560 004
37. The Secretary
Ministry of Finance
New Delhi - 110 001
38. The Comptroller & Auditor General
in India
New Delhi
39. The Accountant General in Karnataka
Park House Road
Bangalore - 560 001
40. Shri M.S. Padmarajaiah
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 application on 16-10-87.

Encl : As above

B.P. Venkatesh
DEPUTY REGISTRAR
(JUDICIAL)

8/e

RECEIVED H.O. copies 27/10/87

Diary No. 1341/CR/0

Date: 28/10/87 *8*

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE BENCH: BANGALORE

DATED THIS DAY THE 16TH OCTOBER, 1987.

Present: Hon'ble Shri Ch.Ramakrishna Rao ... Member (J)
Hon'ble Shri L.H.A. Rego ... Member (A)

APPLICATION NO.803/87(T)

1. S.Lakshminarayana Rao
2. N.R.Gopinath
3. B.G.Krishnan
4. K.G.Mahalingam
5. M.Raman
6. A.S.Srikantan
7. N.Appuswamy
8. A.H.Natarajan
9. R.Sivasankaran
10. R.Satyanarayana Rao
11. A.P. Raman Kutty
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16. K.B.Baichwal
17. N.Ramachandra
18. B.V.Anantharamu
19. K.R.Lakshminarasimhan
20. S.BalaSubramanian
21. A.Chandra Rao
22. M.P.Shankaranarayana Rao
23. K.S.Narasimhamurthy
24. K.N.Ramachandra
25. P.Anantharaman
26. S.Jayaraman
27. P.Gurumallaiah
28. K.Prasannanarasimha Rao
29. Smt. S.M.Shantha
30. R.Venkatanarayanan
31. K.S.Viraj
32. R.Nagaraja Sharma
33. B.N.Madhava Rao
34. M.L.Rajagopalan
35. K.Vadiraj

All Section Officers/SAS Accountants,
Office of the Accountant General,
Karnataka, Park House Road,
BANGALORE-560001.

... Applicants

vs. (Shri Ranganath Jois, Advocate)

1. Union of India represented by its
Secretary, Ministry of Finance, .
New Delhi.

2. The Comptroller and Auditor General
of India, New Delhi.

3. Accountant General in Karnataka,
Park House Road, Bangalore

... Respondents

(Shri M.S.Padmarajaiah, Advocate)



This application having come up for hearing before this Tribunal on 13-10-1987, Hon'ble Shri Ch. today Ramakrishna Rao, Member (J),/made the following:

ORDER

This application was initially filed as a writ petition in the High Court of Karnataka and subsequently transferred to this Tribunal under section 29 of the Administrative Tribunals Act, 1985.

2. The facts giving rise to this application are briefly as follows: The applicants are serving as Accountants in the Subordinate Accounts Service (SAS) of the Indian Audit and Accounts Service (IAAS) and are attached to the office of the Accountant General in Karnataka at Bangalore. The Anomalies Committee of the National Council (JCM) at its meetings held in 1975 and 1976, considered the recommendations of the Third Pay Commission to which sanction was accorded by the President of India for introduction of the Selection Grades (SG) in Groups C and D with effect from 1-8-1976 subject to the following condition:

"For becoming eligible to be considered for appointment to the selection grade, an employee should have rendered such a length of service which would have brought him to the stage represented by $\frac{1}{4}$ of the span of the revised scale of the ordinary grade excluding of the service rendered in the pre-revised scale of that grade subject to a minimum of 14 years of service. This will not, however, have the effect of de-liberalising the criteria which are applicable in respect of selection grades already in vogue."



It was subsequently clarified in GIM Memo No.7(21)E-3(a)-74 Vol II dated 24-10-1978 that an employee who had crossed $\frac{3}{4}$ span of the revised scale of pay of the ordinary grade would be eligible for appointment to the SG even if he did not fulfil the length of service

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criteria mentioned above. However, an order dated 19-9-1979 was issued by the office of the Comptroller and Auditor General of India, New Delhi, Respondent 2 (R2) addressed to Heads of Offices retaining the eligibility criterion for appointment to the SG namely completing 14 years of service in Section Officer's grade (Annexure A). On 13-2-1980, the Department of Personnel and Administrative Reforms issued an Office Memorandum (Annexure B) stating, inter alia,

"2. In the Ministry of Finance O.M. dated 24-10-1978, it has been clarified that in respect of SGs to Group C and D posts, any officer who has crossed ^{the} 3/4th span of the revised scale of pay of the ordinary grade will be eligible for the grant of SG, even if he does not fulfil the length of service condition i.e. 14 years. Thus, any officer whose pay in the ordinary grade, has under any circumstances, crossed the stage in the time scale of the ordinary grade, appropriate to 3/4th span will become eligible.

3. This may, in certain circumstances, render officers junior in the seniority list of the ordinary grade, eligible for grant of SG prior to some seniors. It is clarified that the eligibility for grant of SG in group C and D will be determined with reference to the criteria mentioned above, irrespective of the position in the seniority list.....

4. Even in the cases of officers who were not found fit for appointment to the SG their seniority in the ordinary grade and eligibility for promotion to the next higher grade (other than this selection grade) will not be affected thereby and their suitability for such promotion has to be determined afresh by the DPC that would consider such promotions...."

The applicants challenge the validity of the Office Memorandum dated 13-2-1980 (Annexure B) in this application.



3. Shri Ranganath Jois, learned counsel for the applicants, contends that the order dated 19-9-1979 of R2 reiterated the policy of the Union of India and also prescribed 14 years of minimum service in Section Officer's grade as a minimum qualification for being considered for selection grade, but the Government of India issued the impugned order dated 13-2-1980 arbitrarily, aware of the fact that the selection of officers for SG in the manner contained in paragraph 2 of the said order would result in disparities and anomalies. The effect of the impugned order, according to Shri Jois, is that persons who have not completed 14 years of service, but have, on account of earning advance increments or otherwise reached 3/4 span of the time scale will become eligible for being considered for SG superseding several of their seniors, who, for various reasons, might not have reached the 3/4 span of the time-scale. Shri Jois, therefore, submits that the order dated 13-2-1980 (Annexure B) is legally unsustainable.

4. Shri M.S.Padmarajaiah, learned counsel for the respondents, strongly refutes the contention of Shri Jois and submits that appointment to the SG is not a promotion as is clear from the OM dated 13-2-1980 (Annexure B). Shri Padmarajaiah maintains that the object of creating SG is to relieve stagnation and offer an incentive. Therefore, it is reasonable to hold that a person who has reached the point of stagnation i.e. of 3/4th of the time-scale, should be considered for appointment to the SG.

5. We have considered the rival contentions carefully. The identical question raised in this application was debated earlier before a Bench of this Tribunal to which



CJ

one of us was a party (Hon'ble Shri Ch.Ramakrishna Rao) in application No.734 of 1986 decided on 7-11-1986. In the judgement rendered in that case, it was observed

"The rationale underlying the change in the conditions
(dated 10.1.77)
has been brought out in paragraph 2 of the OM/~~as~~
follows:

'When the recommendation of the Third Pay Commission in paras 51-53 of Chapter 8 of their Report was discussed in the Anomalies Committee of the National Council, the Staff Side pointed out that the recommendation that the Selection Grade should not be granted to an employee until he has covered three fourths' span of the revised scale would be disadvantageous to the employees in Groups 'C' and 'D' because in the matter of fixation of pay revised scales, on the recommendation of the Third Pay, point to point fixation was not resorted to. It is in this context that the provision in para 1(v) of decision No.(65) above was made and the stipulation regarding 14 years' service was incorporated because service in the pre-revised scale was also taken into account. It is, therefore, clarified that an employee who has crossed 3/4th span of the revised scale of pay of the Ordinary Grade will be eligible for the grant of SG, even if he does not fulfil the length of service criterion mentioned in para 1(v) *ibid.*'

The reasons given for deleting the stipulation regarding 14 years' service has been explained convincingly in the extracted paragraph above."

The same reasoning holds good in the present case also. In our view, the twin conditions regarding the length of service and crossing of the 3/4th span of the ordinary scale need not co-exist, the emphasis being on the necessity to provide incentive for officers who have completed 3/4th span of the time-scale. From the O.M. dated 13-2-1980 (Annexure B) extracted above, it is amply clear that the interests of officers senior to those appointed to the SG in the matter of regular promotion will, in no way, be jeopardised. We, therefore, hold that the Office Memorandum dated



13-2-1980 (Annexure B) does not suffer from any legal infirmity.

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



Sd/-
MEMBER(J) 16.10.87

Sd/-
MEMBER(A) 16.10.87

-True Copy-

B.V. Venkatesh
DEPUTY REGISTRAR
CENTRAL ADMINISTRATIVE TRIBUNAL
ADDITIONAL BENCH
BANGALORE