

REGISTERED

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

Dated : 10-7-87

Application No. 215 /87(F)

W.P. No. \_\_\_\_\_

Applicant

Shri K.S. John

To

V/s The Secy, M/s Defence & 5 Ors

- |  |   |
|--|---|
| 1. Shri K.S. John<br>D'Man Grade - I<br>Gas Turbine Research Establishment<br>Bangalore - 560 075  | 5. The Director<br>Gas Turbine Research Establish-<br>ment (GTRE)<br>Bangalore - 560 075      |
| 2. The Secretary<br>Ministry of Defence<br>South Block<br>New Delhi - 110 011  | 6. Shri K.R. Raju<br>Junior Scientific Officer<br>G.T.R.E.<br>Bangalore - 560 075             |
| 3. The Scientific Adviser to Raksha Manthri<br>and Director General Research and<br>Development Organisation<br>Ministry of Defence<br>DHQ PO, New Delhi - 110 011 | 7. Shri T.R. Ganapathi Bhatt<br>Junior Scientific Officer<br>A.D.E.<br>Bangalore - 560 075    |
| 4. The Director<br>Aeronautical Development Establishment(ADE)<br>Bangalore - 560 075  | 8. Shri M. Vasudeva Rao<br>Addl Central Govt. Stng Counsel<br>High Court Buildings, B'lore -1 |

SUBJECT: SENDING COPIES OF ORDER PASSED BY THE BENCH IN

APPLICATION NO. 215/87(F)

Please find enclosed herewith the copy of the Order/~~Memorandum~~ Order  
passed by this Tribunal in the above said Application on 2-7-87.

Encl : as above.

*[Signature]*  
SECTION OFFICER  
(JUDICIAL)

Balu\*

o/c

*[Signature]*

CENTRAL ADMINISTRATIVE TRIBUNAL: BANGALORE

DATED THIS THE 2ND DAY OF JULY, 1987.

PRESENT:

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

.. Vice-Chairman.

And:

Hon'ble Mr. L.H.A. Rego.

.. Member(A).

APPLICATION NUMBER 215 OF 1987.

K.S. John,  
D'Man Grade-I,  
Gas Turbine Research Estt.  
Bangalore-560 075.

.. Applicant.

v.

1. The Union of India,  
represented by the Secretary to  
Govt. of India, Ministry of Defence,  
New Delhi-110 011.
2. The Scientific Advisor to Raksha Manthri  
and Director General Research  
and Development Organisation  
Ministry of Defence,  
New Delhi-110 011.
3. The Director,  
Aeronautical Development Estt.(ADE),  
Bangalore-560 075.
4. The Director,  
Gas Turbine Research Estt (GTRE)  
Bangalore-560 075.
5. Mr. K.R. Raju,  
Junior Scientific Officer,  
G.T.R.E., Bangalore-560 075.
6. Mr. T.R. Ganapathi Bhatt,  
Junior Scientific Officer,  
A.D.E., Bangalore-560 075.

.. Respondents.

(By Sri M. Vasudev Rao, Standing Counsel).

This application coming on for hearing this day, Vice-Chairman made the following:

ORDER

Sri K.S. John, Applicant has appeared in person and has argued his case.

2. This is an application made by the applicant under Section



19 of the Administrative Tribunals Act, 1985 ('the Act').

3. The applicant, with the qualification of a Diploma in Draftsmanship joined service as Draughtsman Grade-IV on 18-6-1952 in CAFVD, Kirkee on temporary basis. While working there, the applicant and respondent No.5 and several others applied for selection in 1960 to the posts of Draftsman-III in the Aeronautical Development Establishment, Bangalore ('ADE') in which both of them and several others were selected. But, in the selection, respondent No.5 was assigned rank No.1 and the applicant was naturally assigned a lower rank. But, notwithstanding this, respondent No.5 actually joined service 4 (four) days later than the applicant i.e., on 27-6-1960. On the basis of his higher seniority in the select list, respondent-5 has been promoted as Draftsman-II on 3-7-1964; as Draftsman-I on 28-6-1968, Chief Draftsman on 28-2-1976 and finally as a Junior Scientific Officer (JSO) on 11-4-1986. On the other hand, the applicant has been promoted as Draftsman-II on 3-7-1964 and as ~~Draftsman-I~~ Draftsman-I in April 1978 and has not so far been further promoted to other higher posts.

4. Some time in 1970, the applicant represented to the head of ADE and before Government to treat him as senior to respondent No.5 or treat the latter as his junior on the ground that he had joined service later than him, accord him the promotions with all consequential benefits accorded to respondent-5. On this claim, Government evidently in consultation with its subordinates rejected the same in its memorandum No.Admn/RD-21(c)/85860/ADE/11635/-D(R&D) dated 2-11-1970. That order reads thus:

"The undersigned is directed to refer to the representations dated 24-2-1970 from Sri K.S.John, Draftsman-II, regarding seniority and to say that his representation has been examined.

2. It is seen from records that he was directly appointed as Draftsman-III in ADE on the basis of selection by a Selection Board. The proceedings of the Selection Board reveal that Shri K.R.Raju was placed senior to Sri K.S.John in order of



merit. The contention of Sri John that he was senior to the former is not correct.

3. Seniority of Shri K.R.Raju and K.S.John in the grade of Draftsman-III was fixed as per select list correctly and was carried forward in the same order in the grade of Draftsman-III.

4. Promotion to the grade of Draftsman-I which is a selection post, is made on the basis of the recommendation of DPC-II. The DPC II did not place the name of Shri John on the panel for promotion to the grade of Draftsman I as he was found to be of lesser merit.

5. No substance has been found in the other allegations made by Shri K.S.John in his representation Seniority of Sri John in the grade of Draftsman-III and Draftsman-II was correctly fixed and he has no cause to represent in this regard.

Sd/-

(N.R.BANERJI)

Under Secretary to the Government of India.

To

Shri K.S.John."

But, notwithstanding this order made by Government as the very highest authority, the applicant continued to make more than one representation now and then for reconsideration of the same and acceptance of his claim, which the Head of the ADE again rejected on 4-6-1983. Even after this order, the applicant has not reconciled with the same and appears to have repeated his earlier attempts, which had not met with any success. In this application made on 18-3-1987 the applicant is really challenging the decision of Government rendered against him on 2-11-1970 reiterated from time to time, on the very grounds he claimed reliefs.

5. In their reply, respondents 1 to 4 in justifying their orders have urged that the application challenging the decision rendered before 1-11-1982 was not maintainable.

6. Sri M.Vasudeva Rao, learned Additional Central Government Standing Counsel appearing for respondents 1 to 4 at the threshold, contends that this application challenging the decision rendered by Government on 2-11-1970 prior to 1-11-1972 as ruled by the Principal Bench of this Tribunal in V.K.MEHRA v. SECRETARY, MINISTRY OF INFORMATION AND BROADCASTING (A.T.R. 1986 CAT 203)



and by this Bench in Dr.(SMT.)KSHAMA KAPUR v. SECRETARY, MINISTRY OF HEALTH AND FAMILY WELFARE (Application No.46/87 decided on 12-6-1987) was not maintainable and was liable to be dismissed in limine.

7. Sri John, contends that the application made by him on 18-3-1987 was maintainable and he was entitled for all the reliefs sought in his application.

8. We have earlier reproduced the order made by Government on 2-11-1970. Without any doubt, this order of Government was a final adverse order made against the applicant well before 1-11-1982.

9. In Mehra's case the Principal Bench speaking through Justice K.Madhavareddy, Hon'ble Chairman had ruled that an application made under section 19 of the Act, challenging an order or decision made before 1-11-1982 cannot be entertained by the Tribunal constituted ~~under~~ the Act. In Kashma Kapur's case, this Bench has followed this principle and had also ruled that repeated representations made by a Government servant and the repeated orders made thereon from time to time out of sheer courtesy and grace, do not extend the period of limitation and cannot be taken into consideration in deciding on the date of final order made against a Government servant. On the ratio of the rulings in Mehra's case and Kashma Kapur's case, we have no alternative but to hold that this application challenging the decision of Government rendered well before 1-11-1982 is not maintainable and cannot be entertained under the Act. On this short ground, this application is liable to be dismissed without examining all other questions.

10. In the light of our above discussion, we hold that this appli-



cation is liable to be dismissed. We, therefore, dismiss this application. But, in the circumstances of the case, we direct the parties to bear their own costs.

Sd - - - -

VICE-CHAIRMAN

24/7/87

Sd - - - -

MEMBER(A)

2.7.987

np/-

- True Copy -



*[Signature]*  
SECTION OFFICER  
CENTRAL ADMINISTRATIVE TRIBUNAL  
ADDITIONAL BENCH  
BANGALORE



DD 2/7/87

B-104

Recd from CO I  
on 23/2/88  
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BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL, BANGALORE.

Application No. 215 / 87.

Between :

K.S. JOHN.

.. Applicant.

And :

UNION OF INDIA & OTHERS .. Respondents.

M E M O

The applicant above named humbly submits as follows:

The reply filed on behalf of the respondents 1 to 4 is misleading, confusing and based on false statements which the applicant submits as follows:-

1. a) On Page 1 (One) of reply, the reply concludes claiming that the "applicant challenged DPC Proceedings held during 1968 and 1970 and is to be dismissed on this account alone". The applicant ~~has~~ never challenged the DPC Proceedings rather submitted that due to mistake by placing the applicant below respondent 5 in Seniority list the promotion to D'man-I w.e.f. 28.6.68 was offered to respondent 5 though the grading of ACRs, placed before DPC II, of applicant and respondent 5 were equal i.e. very good. The claim of the Administration that for want of vacancy the applicant is held in waiting list for promotion is wrong and unjustified.

(b) Before Dec. 1969, i.e. during October 1969 the applicant was however posted out of ADE on arranged transfer after three movement orders, adjusted ACR's and ultimately removed the applicant from seniority rolls. Thereafter, after more than one and half years, on 2-1-1970 Respondent No.6 was promoted to D'man-I. It is reasonably believed that if the applicant was not 'Posted out' of ADE it would have been impossible to avoid or reject promotion to applicant as D'man-I

D'man-I w.e.f. 2-1-1970 the day next vacancy was filled up with respondent No.6. It is surprising that the respondents 1 to 4 prayed the Hon. Tribunal that "the applicant should be put to strict proof".

2. In para 3 of the reply, the respondents 1 to 4 claim that the seniority of applicant in D'man III w.e.f. 23-6-60 was fixed on the basis of "Merit list" drawn by the interview board. The applicant is put to heavy loss by the way the respondents are even now maintaining this "adopted practice" unknown to rules on fixation of seniority for Class III and Class IV employees in Defence Civilian Services instead of the only rule to fix seniority was based on length of service till 30-6-1973. To this effect Hon. Supreme Court on 4-1-1972 was pleased to pass judgement to fix seniority on length of service. By their own admission the respondents published that the applicant joined service five days earlier to respondent No.5 Whatever stated in appointment order was incorrect and should have been corrected. Even the under secretary to Govt. of India vide annex 4 to the application sought "favour of advice" of the Cabinet Secretary since it was only "Practice adopted" but not done according to rule/Law of our Government.

3. In para 4 of reply submitted, by respondents 1 to 4 admit that the promotions under DPC II were based on "Merit-cum-Seniority". It is also stated that respondents 5 and 6 were promoted as D'man I based on merit assessed by DPC II. It is unfortunate that the respondents choose to remain silent on the merit of the applicant. The fact that the applicant and the respondent No.5 were together assessed by DPC II in April-June 1968 and both were



both were cleared for Promotion to D8man-I. Respondent No.6 was promoted on 2-1-70 in the next DPC II meeting after one and half years as submitted in para 1 above. The intention of respondents to confuse and not to clear this situation is understandable.

4. a) In para 5 of reply the respondents claim that "the applicant was promoted to D'man-I in ADE during the year 1980 when a vacancy was available". Is it their contention to make the Hon. Tribunal to believe that during 3-1-70 and 21-1-80, there was no vacancy of D'man-I for filling up. If so the applicant humbly prays that the entire DPC II Proceedings beginning with April 1969 to January 1980 be examined to find the correctness of statements made and submitted to Hon. Tribunal by the applicant and the respondents represented by Mr. Arun Prasad, Director, GTRE.

(b) The applicant prayerfully submits that the applicant was removed from seniority rolls of Aeronautics group immediately after 'Posted out' from ADE in October 69 and was never brought in seniority rolls of even 1982 (either in D'man Gde II or D'man Gde I). This is the biggest and unpardonable damage done to the applicant.

5. In para 6 the respondents claim that transfer (S) of the applicant is "a condition of public service". The applicant earnestly prays that the Hon. Tribunal be pleased to examine to "ascertain its true nature" and "Its real object". The applicant strongly believes that the transfers made otherwise than in public interest amounting to punishment with malafied intentions and is more dangerous than other punishments. With reference to annex 15 of the application published in October 1986 the applicant is

applicant is still on the strength and rolls of SASE C/o. 56 APO, field area in Himalayas ever since Aug. 84.

6. In para 7 of the reply it is claimed that the decision conveyed by the highest authority clarifying his (the applicant's) seniority position is enclosed at annex 'C'. There is no annex 'C' and if it is to be read as annex 3 this stand is again wrong as the same authority and the same person within the same month and year on 27-11-70 sought the advice of Cabinet Secretary and annex 3 is/was not the final order. It is very unfortunate that Mr. Arun Prasad, Director, GTRE was not in the know of correct and complete picture of this case.

7. a) It is further claimed that the applicant is placed at Sl. No. 10. of seniority roll Dt. 9.8.82. This is only news even at this stage and the applicant was never informed and has no knowledge. However what happened to the applicant in the seniority rolls of 1969 to 1982 is not stated by the respondents.

(b) It is also claimed that the applicant was considered for promotion to Chief D'man on (1) 17-3-86 and (2) 16-9-86. It is impossible to believe that the applicant was ever considered as long as the Procedure to circulate seniority roll of eligible candidates was not followed and at this stage might have been a cover up. Over and above

(c) the applicant was serving and working with Civilian Labour Officer w.e.f. Oct. 84 to July 85 and the ACR of 1985 was raised by Mr. S.V. Narasimhan Sc 'D' for the year 1985. As per records and in truth the applicant did not work with Mr. S.V. Narasimhan Sc. 'D' for the period 1-1-85 to July 1985. The applicant humbly prays the Hon.