

REGISTERED

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

Dated : 22-12-87

APPLICATION NO 892 /86(F)

W.P. NO

Applicant

Shri G.K. Mohan

Respondents

V/s

The DG, R&D, M/o Defence & another

To

1. Shri G.K. Mohan  
Tradesman - A  
G.T.R.E.  
Suranjandas Road  
Bangalore - 560 075

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

3. The Director General  
Research & Development  
Directorate of Personnel/RD-10  
R&D Organisation  
Ministry of Defence  
DHQ P.O. New Delhi - 110 011

4. The Director  
G.T.R.E.  
Suranjandas Road  
Post Box No. 7577  
Bangalore - 560 0075

5. Shri M. Vasudeva Rao  
Central Govt. Stng Counsel, High Court

Subject: SENDING COPIES OF ORDER PASSED BY THE BENCH Blde,  
Bangalore - 1

Please find enclosed herewith the copy of ORDER/~~STAY~~/  
~~INTERIM ORDER~~ passed by this Tribunal in the above said  
application on 10-12-87.

Encl : as above

*[Signature]*  
SECTION OFFICER  
(JUDICIAL)

RECEIVED 4 Copies 23/12/87

Diary No. 1562/42/87

Date: 31.12.87 *[Signature]*

*Received one copy only*

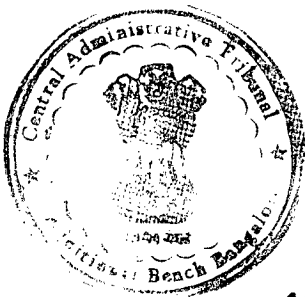
*[Signature]* 22/12/87  
(G.K. Mohan)

17. Without apportioning the blame on anybody, but with due regard to all facts and circumstances, I consider it proper to deny actual arrears due to the applicant till 31.12.1985, and not beyond that.

18. In the light of my above discussion, I make the following orders and directions:

(1) I quash the order of the D.G. (R1) in so far as it rejects the claim of the applicant for refixation of his pay to the level of his junior;

(2) I direct the respondents to notionally refix the pay of the applicant in the post of Tradesman 'A' as on 6.3.1980 and all other relevant dates, to the level of his junior Shri K. Ravindran, however, denying him actual arrears till 31.12.1985 only, and allow all such arrears as are due to him from 1.1.1986 and onwards.



19. Application is disposed of in the above terms. But in the circumstances of the case, I direct the parties to bear their own costs.

Sd/-  
Vice-Chairman

-True copy-

dms/Mrv.

*Joe*  
SECTION OFFICER  
CENTRAL ADMINISTRATIVE TRIBUNAL  
ADDITIONAL BENCH  
BANGALORE

10/12/1980

13. Earlier, I have noticed as to how and in what circumstances the anomalous situation had arisen in the case of the applicant.

14. Before the applicant who occupied rank No.3 in the select list was appointed, others who were placed below him in the select list, had been appointed and had even earned increments. In other words, they were drawing higher pay than that allowed to the applicant on 6.8.1980.

15. As to how such an anomalous situation should be resolved, has been answered by Government in its order dated 4.2.1966. In that order, Government had rightly directed that the pay of the senior should be stepped up to the level of his junior. This order made by Government, does justice to all persons, particularly to seniors, who are, for reasons over which they have no control, as in the present case, are compelled to draw a lower pay than that of their juniors. On the terms of this order, the pay of the applicant should have been stepped up to the level of his immediate junior Shri K. Ravindran, who was holding the post of Tradesman-A as on 6.8.1980. A direction to that effect must necessarily be issued.



16. At this stage, Shri Rao urges for denying all arrears to the applicant and in any event, till 31.12.1985. Shri Jois opposes the same.

7. Shri S. Ranganatha Jois, learned Counsel for the applicant, in refuting the contention of Shri Rao, contends to the contrary.

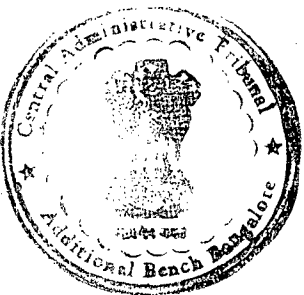
8. Earlier, I have noticed that the Director recommended the case of the applicant and the same was rejected by the DGRD only in June, 1987, which is now challenged. If that is so, then computing the period of limitation from that date and that date only, this application is well in time.

9. There was no order made against the applicant before 1.11.1982 to hold that this case is governed by the principles enunciated in MEHRA's case. The ratio in that case does not bear on the point.

10. On the foregoing discussion, I see no merit in the preliminary objection of Shri Rao and I reject the same.

11. Shri Jois contends that the initial pay of the applicant, who occupied rank No.3 in the select list and who was appointed on 6.8.1980, should, in any event, be stepped up to the level of his junior as directed by Government in its Order G.I., M.F., O.M.No.F.2(78)-E-III(A)/66 dated 4.2.1966 printed on page 75 of Swamy's Compilation of F.R.S.R. Part-I General Rules (8th Edition).

12. Shri Rao sought to support the order of the DGRD on the very grounds stated by him and other grounds also.



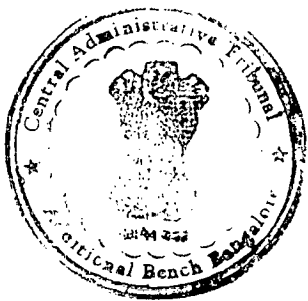
the select list had been appointed from 1978 and onwards, and quite naturally, they were all drawing higher pay by reason of their earlier joining service and earning increments thereto, than the one allowed to the applicant. On this situation, over which he had no control at all, the applicant represented to the Director, who was the Head of his office, to step up his pay atleast to the level of his juniors as on 6.8.1980. On more than one occasion, the Director rightly appreciating the incongruity, recommended to the Director-General, Research & Development, New Delhi ('DGRD') who rejected the same on 5/9.6.1987 which has been communicated to the applicant on 25.6.1987 (Annexure-D) through the Director.

5. In justification of the order made by the DGRD the respondents have filed their reply and have produced the records. The respondents while supporting the order of the DGRD on merits, have urged that this application was barred by time.

6. Shri M. Vasudeva Rao, learned Additional Central Government Standing Counsel, appearing for the respondents, at the threshold, contends that the application which really seeks to enforce a claim arising prior to 1.11.1982, was not maintainable under the Act, as ruled by this Tribunal (Principal Bench) in V.K. MEHRA v. SECRETARY, MINISTRY OF INFORMATION AND BROADCASTING, NEW DELHI (ATR 1986 (AT) p.203).

the Selection Authority ('SA') in 1978, and in the select list prepared by the SA, which consisted of 33 candidates, the applicant, with due regard to his merit and the merit of others, was assigned rank No.3.

3. On the basis of the said select list, the appointing authority ('AA') made appointments from 19.4.1978 and onwards, with due regard to the vacancy position in his office. In the normal course, the applicant should have been appointed on 19.4.1978 itself. But as there was a doubt on his basic educational qualification of whether he had passed the SSLC examination or not, the AA deferred his appointment only and not of others and called upon him to prove that fact before appointing him to that post. For various reasons, that are not material to decide the questions that arise in the case, that process occupied more than two years and as late as on 6.8.1980, the AA, being satisfied with the basic educational qualification, appointed him to the post of Tradesman 'A', from which date, he has been working in that capacity. On his joining service as Tradesman 'A', his pay in that post was fixed at the minimum of the time-scale of pay of that post, which in the normal circumstances would have been unexceptionable. But that was not to be.



4. Before the applicant was appointed to the post on 6.8.1980, many others who were placed below him in

CENTRAL ADMINISTRATIVE TRIBUNAL

BANGALORE

DATED THIS THE 10TH DAY OF DECEMBER, 1987

Present : Hon'ble Shri Justice K.S. Puttaswamy, Vice-Chairman

APPLICATION NO. 892/1987

G.K. Mohan,  
s/o Keshavanarayanan,  
aged 39 years,  
Tradesman-A,  
G.T.R.E., Suranjandas Road,  
Bangalore.

.... Applicant.

(Shri S. Ranganatha Jois, Advocate)

v.

1. The Director General,  
Research & Development,  
Directorate of Personnel/  
RD-10, R&D Organisation,  
Ministry of Defence,  
New Delhi.

2. The Director,  
G.T.R.E. Bangalore.

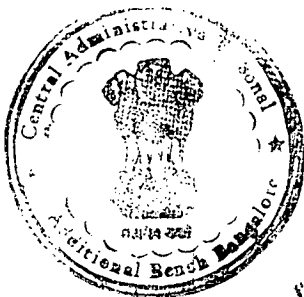
.... Respondents.

(Shri M. Vasudeva Rao, CGASC)

This application having come up for hearing to-day,  
Vice-Chairman made the following:

O R D E R

This is an application made by the applicant under  
Section 19 of the Administrative Tribunals Act, 1985  
( 'the Act' ).



2. G.K. Mohan, the applicant before me, initially joined service in 1976 as Tradesman 'C' in the Office of the Gas Turbine Research Establishment, Bangalore ('GTRE'). While working in that capacity, he applied to the post of a Tool Maker, Grade 'A', now designated as 'Tradesman "A"', to which post he was selected by