

REGISTERED

CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE BENCH

Commercial Complex(BDA),
Indiranagar,
Bangalore 560 038.

Dated: 1 DEC 1988

IA NO. IV in APPLICATION NO. 896/87(F)

Applicant(s)

A.Santhanam

-vs-

Respondents

Director, NAL, B'lore, & anr.

To

1. Sh.A.Santhanam,
249/3, Sampage Road,
17 th cross, Malleswaram,
Bangalore 560 003.
2. Sh.S.K.Srinivasan,
Advocate,
35(Above Hotel Swagath)
1st Main, Gandhinagar,
Bangalore 560009.
3. Director,
National Aeronautical Laboratory,
Bangalore 560 8822 017.
4. The Director General,
Council of Scientific & Industrial Research
(CSIR),
Rafi Marg,
New Delhi 110 011.
5. Sh.H.Sulaiman Sait,
Advocate,
No.52, Infantry Road,
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 22.11.88.

Encl: As above.

[Signature] 1/12/88
DEPUTY REGISTRAR
(JUDICIAL)

[Handwritten signature]

[Handwritten signature]
on 2/12/88

Applicant:
A. Santharam
Applicant's advocate:
S.K. Srinivasan

In the Central Administrative Tribunal
Additional Bench, Bangalore
O. No. 896/87 (F) Respondents
Director, N.A. 8, 1082 years
Respondents' advocate

Date

Office Notes

Orders of Tribunal H. Sulaiman Sait

22.11.88

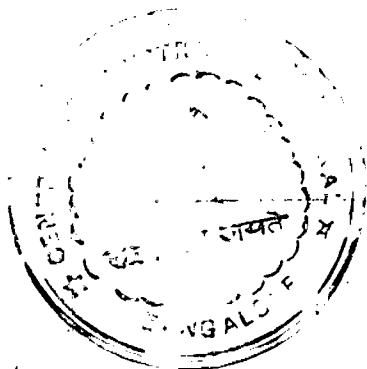
Orders on IA No.4 - application
for extension of time:

In this application, the respondents have sought for extension of time till 15.12.1988, on the facts and circumstances stated in IA No.4. Shri H.Sulaiman Sait, learned counsel for the respondents, urges for granting ^{the} extension of time for the very reasons stated in IA No.4.

Shri S.K.Srinivasan, learned counsel for the applicant, vehemently opposes ^{the} grant of any extension of time.

We have perused the application for extension of time. We are satisfied that every one of the facts and circumstances justify the grant of time till 15.12.1988. We, therefore, allow IA No.4 and extend time for compliance of orders made on 30.3.1988 in A No.896/87 till 15.12.1988.

IA No.4 is allowed. But in the circumstances of the case we direct the parties to bear their own costs.



Sd/-
VC

Sd/-
M(A) 22.11.88

TRUE COPY

[Signature] 1/12/88
CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE

CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE BENCH

Commercial Complex (BDA)
Indiranagar
Bangalore - 560 038

Dated : 28 DEC 1988

IA V IN APPLICATION NO.

896

/87(F)

W.P. NO.

Applicant(s)

Shri A. Santhanam
To

Respondent(s)

V/s The Director, National Aeronautical Laboratory,
Bangalore & another

1. Shri A. Santhanam
249/3, Sampige Road
17th Cross, Malleswaram
Bangalore - 560 003

2. Shri S.K. Srinivasan
Advocate
35 (Above Hotel Swagath)
1st Main, Gandhinagar
Bangalore - 560 009

3. The Director
National Aeronautical Laboratory
Kodihalli
Bangalore - 560 017

4. The Director General
Council of Scientific &
Industrial Research (CSIR)
Rafi Marg
New Delhi - 110 011

5. Shri H. Sulaiman Sait
Advocate
No. 52, Infantry Road
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 (x) on 16-12-88.

Encl : As above

[Signature]
SECTION OFFICER
~~DEPUTY REGISTRAR~~
(JUDICIAL)

**In the Central Administrative
Tribunal Bangalore Bench,
Bangalore**

A. Santhanam

V/a

The Director

Application No. 896/87(F)

National Aeronautical Laboratory, Bangalore and

Order Sheet (contd)

S.K. Srinivasan

M. Sulaiman Sait

Date

Office Notes

Orders of Tribunal

VC/LHAR(AM)

16-12-1988

ORDERS ON I.A. NO.V -
APPLICATION FOR EXTEN-
SION OF TIME.

In this application, the respondents have moved this Tribunal for extension of time till 31-1-1989 either for implementation of the final order made by Hon'ble Shri Ch.Ramakrishna Rao, Member(J), on 30-3-1988 or for obtaining an order of stay from the Supreme Court in their intended application for review to be made under Article 137 of the Constitution.

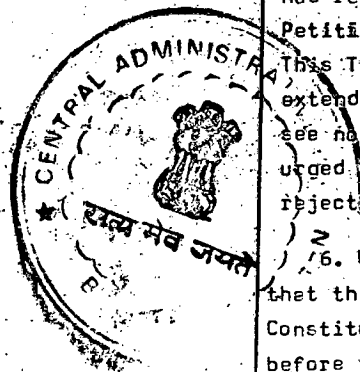
2. On 30-3-1988, Hon'ble Shri. Ch.Ramakrishna Rao allowed the application made by the applicant and directed the respondents to fix his pay at Rs.1020/- from 1-2-1981 and ^{to} ~~pay~~ him all consequential benefits including the arrears of pay fixation within two months thereafter, which ^{he} ~~has~~ been extended from time to time till 15-12-1988.

3. In I.A.No.V, the respondents do not dispute that their Special Leave Petition No.10398/88 filed under Article 136 of the Constitution, has been rejected by the Supreme Court on 5-12-1988. But, the respondents ^{have} ~~averred~~ that they propose to file a petition for review under Article 137 of the

(p.t.o)





Date	Office Notes	Orders of Tribunal
	<p>the A. Pr...</p>	<p>Constitution, with an applica- tion for stay and to enable them to do so, they require their time till 31-1-1989. On these facts, Shri H.S. Sulaiman, Sait, learned Counsel for the respondents, seeks for extension of time till 31-1-1989.</p> <p>4. Shri S.K. Srinivasan, learned Counsel for the applicant, contends that on the rejection of the Special Leave Petition by the Supreme Court on 5-12-1988, this Tribunal has no jurisdiction to entertain I.A.No.V and grant any extension of time and that in any event, the facts and circumstances do not justify us to grant of any further exten- sion of time.</p> <p>5. Section 148 of the G.P.C. has not been expressly made appli- cable to the proceedings before this Tribunal. But, the principle underlying ⁱⁿ Sec.148 CPC, in our view, enables us to extend time for compliance of the order, notwith- standing that the Supreme Court had rejected the Special Leave Petition filed by the respondents. This Tribunal's jurisdiction to extend time, ^{is} still available. We see no merit in this objection urged by Shri Srinivasan and we ^{therefore} reject the same.</p> <p>6. When the respondents state that they propose to avail the Constitutional remedy of a review before the Supreme Court, we should do everything to enable them to pursue that remedy, ^{and not after} this will also</p>



**IN THE CENTRAL ADMINISTRATIVE
TRIBUNAL ADDITIONAL BENCH,
BANGALORE**

- 13 -

Order Sheet (contd)

Date	Office Notes	Orders of Tribunal
		<p>Further the even course of justice. On all these facts, we consider it proper to extend the time sought by the respondents.</p> <p>7. In the light of our above discussion, we allow I.A. No.V and extend time for complying with the directions issued by this Tribunal in Application No.896/87(F) till 31-1-1989 or till the Supreme Court decides the review application to be filed by the respondents, whichever is earlier.</p>
		<p align="center">sd/- sd/-</p> <p align="center">(K.S. PUTTASWAMY) (L.H.A. REGO) VICE CHAIRMAN MEMBER(A)</p> <p align="center">TRUE COPY</p> <p align="center">  SECTION OFFICER CENTRAL ADMINISTRATIVE TRIBUNAL ADDITIONAL BENCH BANGALORE </p>

Annexure 'A'

Page No 7
~~1210.6~~

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE BENCH BANGALORE

DATED THIS THE 30th DAY OF MARCH 1988

Present : Hon'ble Sri Ch. Ramakrishna Rao - Member (J)
- Member (J)

APPLICATION No. 896/87

A. Santhanam
No. 249/3, Sempige Road
17th Cross, Malleswaram
Bangalore 560 003

- Applicant

(Sri S.K. Srinivasan, Advocate)

v

1. The Director
National Aeronautical Laboratory,
Bangalore 560 017
 2. The Director General (SIR)
Council of Scientific and Industrial Research
Rafi Marg,
New Delhi 110 001
- Respondents

(Sri Suleman Seit, Advocate)

This application came up for hearing before
this Tribunal and Hon'ble Sri Ch. Ramakrishna Rao,
Member (J) to-day made the following

ORDER

The applicant entered service in the National
Aeronautical Laboratory, Bangalore (NAL) as a Senior
Laboratory Assistant on 9.1.1970. He rose to the post of
Scientist A-1 on 22.10.1978. He responded to an
advertisement for the post of Scientist B-1 and after
being interviewed by a Selection Committee, he was
appointed to that post w.e.f. 3.9.1979. While he was
at Kuwait on deputation a new scheme by name Fast Track
scheme (FTS) was introduced applicable to Groups I, II
and III, the object of which ^{was} to give accelerated

.....2

promotions to meritorious candidates in the aforesaid three groups. The grievance of the applicant is that the pay of several officers junior to him who derived the benefit of FTS and were promoted to ~~the~~ Grade 8-1 held by him, was fixed at a stage higher than the pay ^{was} he actually drawing. He made several representations to step up his pay to the stage drawn by his juniors but in vain. Aggrieved, the applicant has filed this application.

2. At the threshold Sri Suleman Sait, learned counsel for the respondents, raised a preliminary objection that the application is barred by limitation and invites our attention to paragraph 16 of the reply filed on ~~major~~ behalf of the respondents which reads as follows :

"... it is submitted that as the decision of the first respondent and that of the second respondent were identical and did not differ in regard to the representations made by the applicant, further representation dated 11.3.86 was redundant, and hence the first respondent felt that it was unnecessary that it should be forwarded to the second respondent as there was absolutely no new material which would have altered the decision of ~~the~~ either of the respondents."

The cause of action, according to Sri Sait arose on 19.5.86 and the subsequent representation of the applicant to the Grievances Committee does not enlarge the period of limitation prescribed by the Administrative Tribunals Act, 1985.

3. Sri S.K. Srinivasan, learned counsel for the applicant, has endeavoured to meet this objection by stating that the Director, NAL (Respondent 1 : R1) erred in not forwarding the appeal preferred by his client to the Director General (Respondent 2 : R2) on the ground that no new case was made

....

out in the appeal; that this client was entitled to place his case before the Grievances Committee which was ultimately turned down as recently as on 13.7.87.

4. I have considered the rival contentions carefully. The comparative statement of the officers whose pay was fixed at a stage higher than the applicant was furnished to ~~the applicant~~ him after a considerable lapse of time. It is only thereafter that the applicant could move the Grievances Committee on 6.1.87 and the same was disposed of on 13.7.1987. Viewed in this light, the application is within time.

5. Turning to the merits, Sri Srinivasan clarified that he was not challenging the provisions of FTS since his client belonged to ^{the} ~~2~~ grade ^{of} Scientist B1/B, which did not fall within the purview of FTS, and he is only challenging the correctness of the action of the respondents under Rule 22 C of the Fundamental Rules and Instruction No. 10 thereunder. Both the counsel argued the matter on this basis.

6. Sri Srinivasan vehemently contends that the action of the respondents in refusing the step up the pay of the applicant to Rs. 1020/- w.e.f. 1.2.1981 and place him at par with his juniors, who were subsequently promoted to the posts of

Scientist B-1, ~~he~~, besides being arbitrary, is contrary to the provisions contained in Rule 22 C of the Fundamental Rules and Instruction No. 10 issued by the Government of India.

7. Sri Suleman Sait maintains that ~~the~~ officers ^{were} promoted to the grade of Scientist B1 under the provisions of FTS as Scientist B-1/B and their pay fixed by the Assessment Committee/Selection Committee. ~~and~~ Since merit is the dominant aim and purpose of FTS, there is nothing illegal in the pay of officers so promoted being fixed ~~at~~ higher than

af

~~xxxxxx~~ those already appointed to that grade. According to Sri Sait the principle embodied in FR 22 C regarding stepping up of pay is not applicable to the present case.

8. I have given careful thought to the contentions advanced by learned counsel on both sides. It is common ground that the provisions of FTS are applicable only to officers in grade I, II & III but not to those above group III i.e. B1/B. If so, the committee assessing the merits of the officers fit for promotion to group B1/B is within its rights in fixing the pay of the officers chosen according to the provisions of FTS but ~~not~~ in so doing the committee is incompetent to fix the pay of the officers promoted at a stage higher than the one drawn by the officers already functioning as Scientist B1/B. The raison d'etre underlying this view is that the committee has had no opportunity to examine the merit of the officers promoted to group B1/B vis-a-vis the officers already appointed to that grade. I am, therefore, clearly ^{in my mind} ~~of the view~~ that the pay of the officers already working in grade B1/B should be stepped up in a manner calculated to ^{bring it} ~~be~~ at par with the pay fixed by the assessment committee regarding the officers promoted to grade B1/B. To take a different view would result in thwarting the interest of the officers already working in group B1/B and conferring an unintended benefit on the new entrants to that grade.

9. Reliance is placed by Sri Srinivesan on Instruction No. 10 under FR 22 C (Swamy's Compilation of F.R. & S.R. Part I - General Rules, Eighth Edition) in which the

conditions for stepping up of pay of the government servant senior to the junior have been set out as follows :

“(10) Removal of anomaly by stepping up of pay of Senior on promotion drawing less pay than his junior-- (a) As a result of application of F.R. 22-C:- In order to remove the anomaly of a Government servant promoted or appointed to a higher post on or after 1-4-1961 drawing a lower rate of pay in that post than another Government servant junior to him in the lower grade and promoted or appointed subsequently to another identical post, it has been decided that in such cases the pay of the senior officer in the higher post should be stepped up to a figure equal to the pay as fixed for the junior officer in that higher post. The stepping up should be done with effect from the date of promotion or appointment of the junior officer and will be subject to the following conditions, namely:-

- (a) Both the junior and senior officers should belong to the same cadre and the posts in which they have been promoted or appointed should be identical and in the same cadre;
- (b) The scales of pay of the lower and higher posts in which they are entitled to draw pay should be identical;
- (c) The anomaly should be directly as a result of the application of F.R. 22-C. For example if even in the lower post the junior officer draws from time to time a higher rate of pay than the senior by virtue of grant of advance increments, the above provisions will not be invoked to step up the pay of the senior officer.”



According to Sri Srinivasan, his client fulfills all the three conditions and is, therefore, entitled to the stepping up of pay.

10. Sri Sait on the other hand, maintains that since FTS is based on considerations of merit, determined by an assessment committee, the case of the applicant cannot be viewed alongside the promotees and as such Instruction 10 under F.R. 22-C is not applicable.

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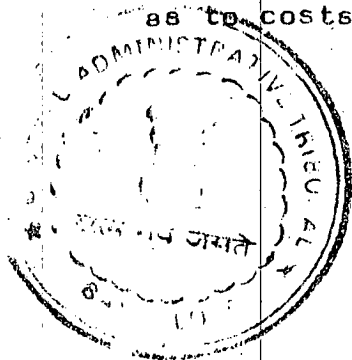
-6-

11. In my view the fact that the applicant was appointed to grade of Scientist B1 through advertisement does not militate against the applicability of the provision contained in Instruction 10. The language of the first condition covers both promotees and appointees through advertisement. The crux of the matter is whether the officers subsequently promoted, who steal a march over the officers already in the grade, should be allowed to draw a pay higher than the latter. As already noticed, grade B1/B is not covered by the FTS and it is neither legal nor a proper ^{result} that such a ~~result~~ should ~~follow~~ ^{result} follow.

It is precisely to remove this anomaly that Instruction 10 has been issued by the Government and the same, as such, is applicable to the case of the applicant. (Annexure A-9, A11 & A13)

11. I, therefore, quash the impugned orders and direct the respondents to fix the pay of the applicant at Rs. 1020/- with effect from 1.2.1981 and pay him all the consequential benefits including the arrears of pay fixation within two months.

12. In the result the application is allowed. No order as to costs.



TRUE COPY

sd/-

(Ch. Ramakrishna Rao) 36.3.85
Member (J)

B. V. Rao, 6-10-85
Jy. 10, 1985
B. V. Rao, 6-10-85
Jy. 10, 1985

CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE BENCH

ANNEXURE - 'B'

Commercial Complex (BDA)
Indiranagar
Bangalore - 560 038

Dated : 21 JUN 1988

REVIEW APPLICATION NO. 51 / 88
IN APPLICATION NO. 896/87(F)
W.P. NO. /

Applicant(s)

Shri A. Santhanam
To

Respondent(s)

V/s The Director, NAL, Bangalore & another

1. Shri A. Santhanam
No. 249/3, Sampige Road
17th Cross, Malleswaram
Bangalore - 560 003
2. Shri S.K. Srinivasan
Advocate
35 (Above Hotel Swagath)
1st Main, Gandhinagar
Bangalore - 560 009
3. The Director
National Aeronautical Laboratory
Kodihalli
Bangalore - 560 017
4. The Director General
Council of Scientific &
Industrial Research (CSIR)
Rafi Marg
New Delhi - 110 011
5. Shri H. Sulaiman Sait
Advocate
No. 99/2 (Old No. 52)
Infantry Road
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 16-6-88

Encl : As above

DEPUTY REGISTRAR
(JUDICIAL)

**IN THE CENTRAL ADMINISTRATIVE
TRIBUNAL ADDITIONAL BENCH,
BANGALORE**

A. Santhanam

V/S
A No.896/87

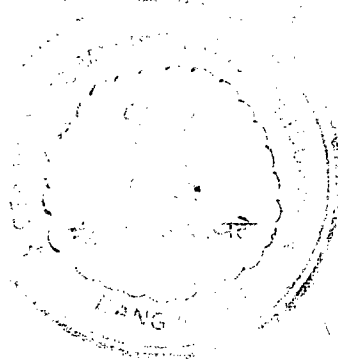
The Director, NAL, Bangalore & another

Dr M.S. Nagaraja

Order Sheet (contd)

M. Sulaiman Sait

Date	Office Notes	Orders of Tribunal
30.8.1988		<p>KSPVC/LHARM</p> <p><u>Orders on IA No.3 - application for extension of time:</u></p> <p>In this application, the respondents have sought for extension of time to comply with the directions issued by the Hon'ble Member (J) Shri Ch. R.K.Rao sitting singly on 30.3.88 in A No.896/87 and R.A. No.51/88. In A No.896/87 the applicant sought for a direction for fixation of pay and for payment of consequential benefits flowing from the same. On 30.3.1988 Hon'ble Shri Rao allowed the said application and directed the authorities to extend the benefit within two months from that date. In R.A. No.51/88 the same has been extended till 31.7.1988.</p> <p>This application was taken up before us at the request of Shri M. Sulaiman Sait, learned counsel for the Respondents. Dr. M.S.Nagaraja who had appeared for the applicant is present and heard. In the normal circumstances this application should have been heard and decided by Hon'ble Shri Rao, M(J), but since that learned Member is out of station and is not likely to sit in any composition till 9.9.1988 this application is taken up for hearing by us.</p> <p>In IA No.3 the respondents have stated that they have already filed a Special Leave Petition before the Supreme Court with an application for stay on 11.7.1988 and the same has not been listed for admission and stay. In</p>



Date

Office Notes

Orders of Tribunal

the circumstances the respondents have sought for extension of time by another three months. Shri Sait urges for granting time sought on the ground stated in IA No.3.

Dr. M.S. Nagaraja opposes the grant of time ^{but} ~~and~~ not our jurisdiction to deal with this application.

We have carefully examined the averments made in IA No.3 and the rival submissions made before us. We are satisfied that every one of the facts and circumstances stated by the respondents in IA No.3 justify us to grant a reasonable extension either for obtaining an order of stay from the Supreme Court or for complying with the orders of this Tribunal as the case may be. We are of the view that it would be reasonable to grant time till 31.10.1988.

In the light of our above discussion we allow IA No.3 in part and extend time till 31.10.1988.



Sd/-
D.C. 20/10/88

Sd/-
M(A)

TRUE COPY

[Signature]
DEPUTY REGISTRAR (JDL)
CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE

CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE BENCH

Commercial Complex (BDA)
Indiranagar
Bangalore - 560 038

Dated : 2 SEP 1988

IA III IN APPLICATION NO. 896 /87(F)

W.P. NO. _____

Applicant(s)

Shri A. Santhanam
To

Respondent(s)

v/s The Director, NAL, Bangalore & another

1. Shri A. Santhanam
249/3, Sampige Road
17th Cross, Mallaswaram
Bangalore - 560 003

2. Dr M.S. Nagaraja
Advocate
35 (Above Hotel Swagath)
1st Main, Gandhinagar
Bangalore - 560 009

3. The Director
National Aeronautical Laboratory
Kodihalli
Bangalore - 560 017

4. The Director General
Council of Scientific &
Industrial Research (CSIR)
Rafi Marg
New Delhi - 110 011

5. Shri H. Suleiman Sait
Advocate
No. 52, Infantry Road
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 30-8-88.

Encl : As above

R.V. Venkatesh
DEPUTY REGISTRAR
(JUDICIAL)

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE BENCH BANGALORE

DATED THIS THE 16th DAY OF JUNE 1988

Coram : Hon'ble Sri Ch. Ramakrishna Rao - Member (J)

REVIEW APPLICATION No. 51/88
(APPLICATION No. 896/87(F))

A. Santhanam
No. 249/3, Sampige Road
17th Cross, Malleswaram
Bangalore 560 003

- Applicant
Respondent

(Sri S.K.Srinivasan, Advocate)

v

1. The Director
National Aeronautical Laboratory,
Kodihalli, Bangalore 560017

2. The Director General
Council of Scientific & Industrial Research
Rafi Marg, New Delhi 110 001

- Respondents
Review Applicants

(Sri Sulaiman Sait, Advocate)

This review application came up for
hearing before this Tribunal and Sri Ch. Ramakrishna Rao,
Honourable Member (J) to day made the following

O R D E R

Review application No. 51/88 ('RA') has been filed
by the respondents in original application No. 896/87 ('OA')
seeking review of the order of this Tribunal dated 30.3.88
allowing the prayer in the OA and directing the respondents
to fix the pay of the applicant at Rs.1020/- with effect
from 1.2.1981 and pay him all the consequential benefits
including the arrears of pay fixation. The first ground
on which Sri Sulaiman Sait, learned counsel for the
applicants in the RA, seeks review of the order of this
Tribunal in the OA is that it has been wrongly stated
in paragraph 8 of the order that the Fast Tract Scheme ('FTS')

is applicable only to officers in Grades/Groups I, II & III but not to those above grade/group III i.e. grade/group B1/B whereas the correct position is that the FTS was available to scientific and technical staff in grades/groups I, II and III within specified period. Sri Sait also submits that the correct nomenclature of the scheme is not FTS but New Recruitment and Assessment Promotion Scheme ('NRAPS') and a copy of the same was not made available at the time of the arguments with the result that the content of the scheme was not correctly appreciated by the Tribunal. According to Sri Sait the scheme made provision for assessment promotion without existence of any vacant post; that there was no concept of seniority in such assessment promotions and that a meritorious person belonging to this category could be granted advance increments at the time of assessment promotion.

2. Sri S.K. Srinivasan, learned counsel for the respondents in the RA, submits that excerpts from the scheme were produced when the OA was heard and the Tribunal was not in any way handicapped in the matter of appreciating the scope and content of the scheme. Sri Srinivasan maintains that the scheme was applicable only to the officers working in the first three grades/groups; ~~and~~ that there was provision for the officers working in grade/group III for being promoted and for being inducted at entry point in grade/group IV (i); that there was no provision for assessing the relative merit of the officers so inducted vis-a-vis those already working in the higher grade and in view of this the

-3-

officers working in grade/group IV (1) do not fall within the purview of the scheme.

3. I have considered the rival contentions carefully. The nomenclature of the scheme does not make any material difference. It is, however, to ascertain the stand taken by the ah

applicants in the RA in their statement of objections filed in the OA. Paragraph 24 of the statement reads as follows :

"Ground 2 for relief is also not available to the applicant since as stated herein earlier, the implementation of the Fast Track scheme having come into force only on 1.2.81 and that too in regard to case of the applicant, since the applicant had already ~~xxxx~~ secured a position in Group IV as against an advertised post as and with effect from 3.9.79, and the benefit of 'Fast Track' under Velluri Committee's recommendation could not be available to the applicant."

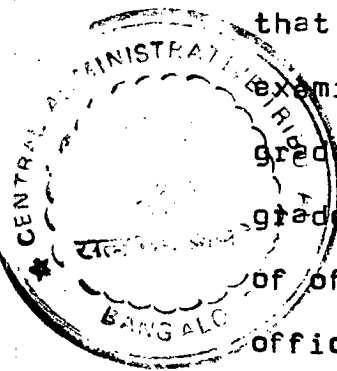
In paragraph 26 of the statement it has been stated :

"It is unfortunate that the applicant had obtained his promotion to the Group IV (1) even as early as 3.9.79 for had he come within the scheme initiated as on 1.2.81 he would certainly have benefited as many of his juniors did."

It is abundantly clear from the extracts above that the applicants in the RA had committed themselves to the position that the provisions of the scheme were not applicable to the case of the applicant. In this background the Tribunal held that the Assessment Committee having had no opportunity to examine the relative merits of the officers promoted to grade/group B1/B vis-a-vis officers already appointed to that grade, the fixation of pay in respect of the former category of officers should not prejudice the interests of the officers in the latter category. I am, therefore, satisfied that the view taken by me in the order dated 30.3.1988 does not call for any review.

4. Sri Sait next contends that stepping up of pay

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of the applicant/directed in the order dated 30.3.1988 is not covered by F.R. 22-C and instruction No. 10 thereunder. Reliance is placed by Sri Sait on the decision of the Principal Bench of this Tribunal in OA No. 95/87 dated 31.8.1987.

5. Sri S.K. Srinivasan submits that the decision of the Principal Bench has no application to the facts of the present case.

6. I have perused the judgement of the Principal Bench. The applicant in that case was promoted to Technical Grade VIII in the pay scale of Rs.425-700 on 11.3.1986 with effect from 1.2.1981. ~~xxx~~ His basic pay after promotion was fixed at Rs.545 with effect from 1.2.1981 and his basic pay increased to Rs.560 after one year i.e. 1.2.1982. Sri Shantiwal was promoted to the post of Technician Grade VIII in the scale of Rs.425-700 with effect from 1.2.1982 and his pay was fixed at Rs.600 with effect from 1.2.1982 at a stage higher than that of the applicant. In paragraph 5 of the judgement it was observed :

"The case of the applicant was also considered by the Core Committee on 10.3.86 and he was given promotion with effect from 1.2.81 but in this case, the Core Committee did not recommend any advance increments. The pay of both the applicant as well as Shri Shantiwal were fixed under F.R. 22-C which means that on promotion to the higher grade, the pay was fixed by giving 2 increments in the lower grade but in the case of Shri Shantiwal after fixing the pay under F.R. 22-C, he was also allowed 3 increments as recommended by the Core Committee which stepped up his salary to Rs.600 per month."

Thus it is clear that the case of the applicant was also



-5-

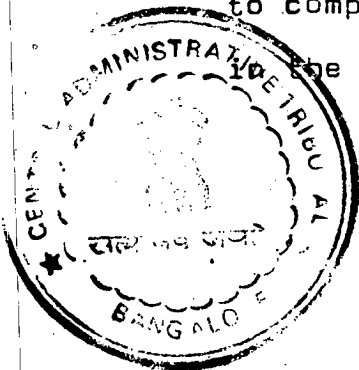
considered by the Core Committee but he was not allowed three advanced increments whereas Sri Shantiwal was given three advance increments on considerations of merit. Taking this into account the claim of the applicant in that case for stepping up of pay was disallowed. In the present case, however, the applicants in the RA have admitted in their reply filed by them in the OA that the scheme was not applicable to the applicant. In view of this it was observed in paragraph 11 of the order dated 30.3.1988 :

"The crux of the matter is whether the officers subsequently promoted, who steal a march over the officers already in the grade, should be allowed to draw a pay higher than the latter. As already noticed, grade B1/B is not covered by the FTS and it is neither legal nor proper that such a result should follow. It is precisely to remove this anomaly that Instruction 10 has been issued by the Government and the same, as such, is applicable to the case of the applicant."

I am not persuaded that the view expressed in the order dated 30.3.1988 extracted above suffers from any infirmity, which calls for review.

7. In the result the RA is rejected.

8. Applicants in the RA are granted time upto 31.7.1988 to comply with the directions given in the order dated 30.3.1988 in the OA.



bsg/-

TRUE COPY

sd/-

(Ch. Ramakrishna Rao)
Member (J)

[Signature]
CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE
21/6/88

REGISTERED

CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE BENCH

Commercial Complex (BDA)
Indiranagar
Bangalore - 560 038

Dated : 2 SEP 1988

CONTEMPT
PETITION
(CIVIL)

APPLICATION NO. 63 /88
IN APPLICATION NO. 896/87(F)
W.P. NO. _____

Applicant(s)

Shri A. Santhanam
To

Respondent(s)

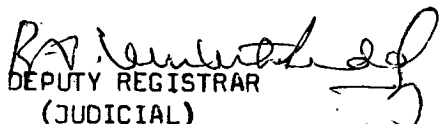
V/s The Director, NAL, Bangalore & another

1. Shri A. Santhanam
249/3, Sampige Road
17th Cross, Malleswaram
Bangalore - 560 003
2. Dr M.S. Nagaraja
Advocate
35 (Above Hotel Swagath)
1st Main, Gandhinagar
Bangalore - 560 009
3. The Director
National Aeronautical Laboratory (NAL)
Kodihalli
Bangalore - 560 017
4. The Director General
Council of Scientific &
Industrial Research (CSIR)
Rafi Marg
New Delhi - 110 011
5. Shri H. Sulaiman Sait
Advocate
No. 52, Infantry Road
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 30-8-88.

Encl : As above


DEPUTY REGISTRAR
(JUDICIAL)

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE BENCH, BANGALORE

DATED THIS THE THIRTEENTH DAY OF AUGUST 1988

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

Hon'ble Shri L.H.A. Rego .. Member (A)

CONTEMPT PETITION (CIVIL) No. 63/88

A. Santhanam
No. 249/3, Sampige Road,
17th Cross, Malleswaram,
Bangalore - 560 003.

Petitioner

(Dr. M.S. Nagaraja .. Advocate)

v.

Dr. R. Narasimha, Director,
National Aeronautical Laboratory,
Bangalore-560 017.

Dr. A.P. Mitra, Director General,
Council of Scientific & Industrial Research,
Rafi Marg, New Delhi - 110 011.

Respondents

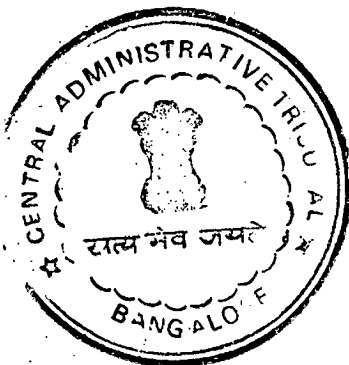
(Shri H. Sulaiman Sait .. Advocate)

This petition has come up for admission today, before this
Tribunal. Hon'ble Vice-Chairman made the following:

O R D E R

In this petition filed under Section 17 of the Administrative Tribunals Act, 1985, and the Contempt of Courts Act, 1971, the petitioner has moved this Tribunal to punish the respondents for non-implementation of the order made in his favour in A No. 896/87 decided on 30.3.1988 and reiterated in R.A. No. 51/88.

2. This application was listed for admission today. This application is connected with A No. 896/87 in which we have this made a separate order extending time till 31.10.1988. On this view Shri H. Sulaiman Sait, has entered appearance for respondents at our direction and he is allowed 15 days time to file his memo of appearance for them. Shri Sait urges for dropping the contempt proceedings.



3. When we have extended the time for compliance of directions in A No. 896/87 till 31.10.1988 after hearing the petitioner, we cannot proceed with this contempt petition at all. We, therefore, drop these contempt proceedings, but in the circumstances of the case, we direct the parties to bear their own costs.

Sd/-
VICE CHAIRMAN 30/10

Sd/-
MEMBER (A) 30.10.88

TRUE COPY



[Signature]
DEPUTY REGISTRAR (JDL)
CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE

CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE BENCH

Dated : 2 SEP 1988

DEPUTY REGISTRAR
(JUDICIAL)

**IN THE CENTRAL ADMINISTRATIVE
TRIBUNAL ADDITIONAL BENCH,
BANGALORE**

A. Santhanam

V/s
A No.896/87

The Director, NAL, Bangalore & another

Dr M.S. Nagaraja

Order Sheet (contd)

H. Sulaiman Sait

Date	Office Notes	Orders of Tribunal
30.8.1988		<p><u>KSPVC/LHARM</u></p> <p><u>Orders on IA No.3 - application for extension of time:</u></p> <p>In this application, the respondents have sought for extension of time to comply with the directions issued by the Hon'ble Member (J) Shri Ch. R.K.Rao sitting singly on 30.3.88 in A No.896/87 and R.A. No.51/88. In A No.896/87 the applicant sought for a direction for fixation of pay and for payment of consequential benefits flowing from the same. On 30.3.1988 Hon'ble Shri Rao allowed the said application and directed the authorities to extend the benefit within two months from that date. In R.A. No.51/88 the same has been extended till 31.7.1988.</p> <p>This application was taken up before us at the request of Shri H. Sulaiman Sait, learned counsel for the Respondents. Dr. M.S.Nagaraja who had appeared for the applicant is present and heard. In the normal circumstances this application should have been heard and decided by Hon'ble Shri Rao, M(J), but since that learned Member is out of station and is not likely to sit in any composition till 9.9.1988 this application is taken up for hearing by us.</p> <p>In IA No.3 the respondents have stated that they have already filed a Special Leave Petition before the Supreme Court with an application for stay on 11.7.1988 and the same has not been listed for admission and stay. In</p>



Date

Office Notes

Orders of Tribunal

the circumstances the respondents have sought for extension of time by another three months. Shri Sait urges for granting time sought on the ground stated in IA No.3. Dr. M.S.Nagaraja opposes the grant of time ^{but} ~~and~~ not our jurisdiction to deal with this application.

We have carefully examined the averments made in IA No.3 and the rival submissions made before us. We are satisfied that every one of the facts and circumstances stated by the respondents in IA No.3 justify us to grant a reasonable extension either for obtaining an order of stay from the Supreme Court or for complying with the orders of this Tribunal as the case may be. We are of the view that it would be reasonable to grant time till 31.10.1988.

In the light of our above discussion we allow IA No.3 in part and extend time till 31.10.1988.



Sd/-

D.C. 20/8/88

Sd/-

M(A)

TRUE COPY

[Signature]
DEPUTY REGISTRAR (JDL)
CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE

REGISTERED

CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE BENCH

Commercial Complex (BDA)
Indiranagar
Bangalore - 560 038

Dated : 13 JUN 1988

IA I IN

APPLICATION NO.

896

/ 87(F)

W.P. NO.

Applicant(s)

Shri A. Santhanam

Respondent(s)

V/s The Director, NAL, Bangalore & another

To

1. Shri A. Santhanam
249/3, Sampige Road
17th Cross, Malleswaram
Bangalore - 560 003
2. Shri S.K. Srinivasan
Advocate
35 (Above Hotel Swagath)
1st Main, Gandhinagar
Bangalore - 560 009
3. The Director
National Aeronautical Laboratory
Kodihalli
Bangalore - 560 017
4. The Director General
Council of Scientific & Industrial Research
(CSIR)

Rafi Marg
New Delhi - 110 011
5. Shri H. Sulaiman Sait
Advocate
No. 52, Infantry Road
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 8-6-88.

Encl : As above

DEPUTY REGISTRAR
(JUDICIAL)

**In the Central Administrative
Tribunal Bangalore Bench,
Bangalore**

ORDER SHEET

Application No. 896 of 19 87(F)

Applicant

A. Santhanam

Respondent

V/s The Director, NAL, Bangalore & another

Advocate for Applicant

S.K. Srinivasan

Advocate for Respondent

H. Sulaiman Sait

Date	Office Notes	Orders of Tribunal
8.6.1988	<div data-bbox="379 1240 746 1608"></div> <p style="text-align: center;">TRUE COPY</p> <div data-bbox="349 1868 762 2002"><p><i>[Signature]</i> SECTION OFFICER CENTRAL ADMINISTRATIVE TRIBUNAL ADDITIONAL BENCH BANGALORE</p></div>	<p><u>PSM</u></p> <p><u>ORDERS ON IA NO.1</u></p> <p>Shri Sulaiman Sait for the Respondents in A No.896/87(F) present. Shri S.K.Srinivasan for the applicant in that application is also present. Respondents in the original application pray in this IA that the time limit set for implementation of the judgment in that application be extended by one month in view of the review application they have filed against the judgment. The said Review Application has been posted for admission on 15.6.1988 and it has to be heard by the same bench i.e., by Hon'ble Shri Ch. Ramakrishna Rao. Shri Srinivasan opposes IA No.1. It is preferable that any application for extension of time should again go before the same Bench. However, since the same bench is not today available, time for implementing the judgment of this Tribunal dated 30.3.1988 in A No.896/87 is extended upto 18.6.1988.</p>

Sd/-
MEMBER (A)
8.6.1988

Encl : As above

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE BENCH BANGALORE

DATED THIS THE 16th DAY OF JUNE 1988

Coram : Hon'ble Sri Ch. Ramakrishna Rao - Member (J)

REVIEW APPLICATION No. 51/88
(APPLICATION No. 896/87(F))

A. Santhanam
No. 249/3, Sampige Road
17th Cross, Malleswaram
Bangalore 560 003

- Applicant
Respondent

(Sri S.K.Srinivasan, Advocate)

v

1. The Director
National Aeronautical Laboratory,
Kodihalli, Bangalore 560017
2. The Director General
Council of Scientific & Industrial Research
Rafi Marg, New Delhi 110 001

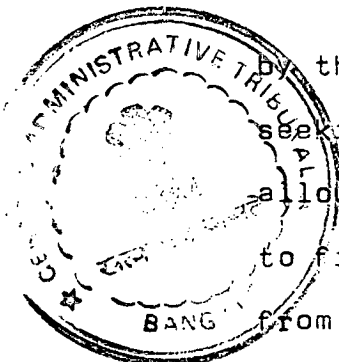
- Respondents
Review Applicants

(Sri Sulaiman Sait, Advocate)

This review application came up for
hearing before this Tribunal and Sri Ch. Ramakrishna Rao,
Honourable Member (J) to day made the following

O R D E R

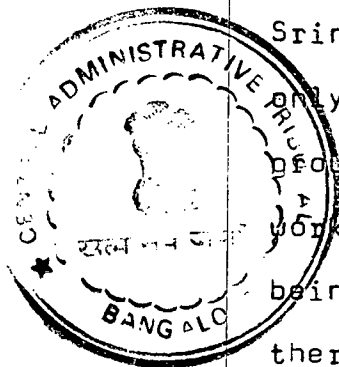
Review application No. 51/88 ('RA') has been filed
by the respondents in original application No. 896/87 ('OA')
seeking review of the order of this Tribunal dated 30.3.88
allowing the prayer in the OA and directing the respondents
to fix the pay of the applicant at Rs.1020/- with effect
from 1.2.1981 and pay him all the consequential benefits
including the arrears of pay fixation. The first ground
on which Sri Sulaiman Sait, learned counsel for the
applicants in the RA, seeks review of the order of this
Tribunal in the OA is that it has been wrongly stated
in paragraph 8 of the order that the Fast Tract Scheme ('FTS')



uf

is applicable only to officers in Grades/Groups I, II & III but not to those above grade/group III i.e. grade/group B1/B whereas the correct position is that the FTS was available to scientific and technical staff in grades/groups I, II and III within specified period. Sri Sait also submits that the correct nomenclature of the scheme is not FTS but New Recruitment and Assessment Promotion Scheme ('NRAPS') and a copy of the same was not made available at the time of the arguments with the result that the content of the scheme was not correctly appreciated by the Tribunal. According to Sri Sait the scheme made provision for assessment promotion without existence of any vacant post; that there was no concept of seniority in such assessment promotions and that a meritorious person belonging to this category could be granted advance increments at the time of assessment promotion.

2. Sri S.K. Srinivasan, learned counsel for the respondents in the RA, submits that excerpts from the scheme were produced when the OA was heard and the Tribunal was not in any way handicapped in the matter of appreciating the scope and content of the scheme. Sri Srinivasan maintains that the scheme was applicable only to the officers working in the first three grades/groups; ~~xxx~~ that there was provision for the officers working in grade/group III ~~8~~ for being promoted and for being inducted at entry point in grade/group IV (i); that there was no provision for assessing the relative merit~~x~~ of the officers so inducted vis-a-vis those already working in the higher grade and in view of this the



CSA

officers working in grade/group IV (1) do not fall within the purview of the scheme.

3. I have considered the rival contentions carefully. The nomenclature of the scheme does not make any material difference. It is, however, not to ascertain the stand taken by the *ah*

applicants in the RA in their statement of objections filed in the OA. Paragraph 24 of the statement reads as follows :

"Ground 2 for relief is also not available to the applicant since as stated herein earlier, the implementation of the Fast Track scheme having come into force only on 1.2.81 and that too in regard to case of the applicant, since the applicant had already ~~xxxxxx~~ secured a position in Group IV as against an advertised post as and with effect from 3.9.79, and the benefit of 'Fast Track' under Velluri Committee's recommendation could not be available to the applicant."

In paragraph 26 of the statement it has been stated :

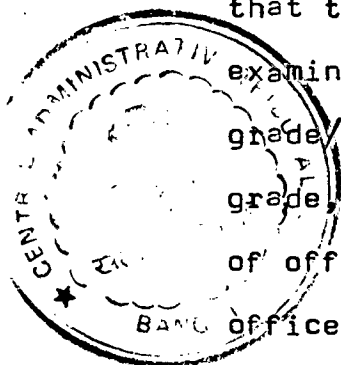
"It is unfortunate that the applicant had obtained his promotion to the Group IV (1) even as early as 3.9.79 for had he come within the scheme initiated as on 1.2.81 he would certainly have benefited as many of his juniors did."

It is abundantly clear from the extracts above that the applicants in the RA had committed themselves to the position that the provisions of the scheme were not applicable to the case of the applicant. In this background the Tribunal held that the Assessment Committee having had no opportunity to examine the relative merits of the officers promoted to grade/group B1/B vis-a-vis officers already appointed to that grade, the fixation of pay in respect of the former category of officers should not prejudice the interests of the officers in the latter category. I am, therefore, satisfied that the view taken by me in the order dated 30.3.1988 does not call for any review.

4. Sri Sait next contends that stepping up of pay

/necessary

/Groups I and III could not be granted in the



as

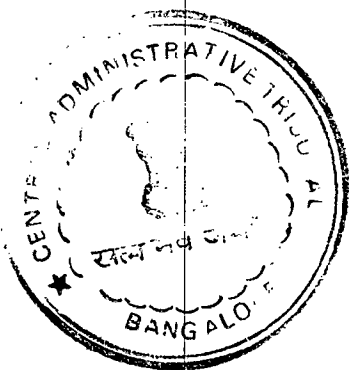
of the applicant/directed in the order dated 30.3.1988 is not covered by F.R. 22-C and instruction No. 10 thereunder. Reliance is placed by Sri Sait on the decision of the Principal Bench of this Tribunal in OA No. 95/87 dated 31.8.1987.

5. Sri S.K. Srinivasan submits that the decision of the Principal Bench has no application to the facts of the present case.

6. I have perused the judgement of the Principal Bench. The applicant in that case was promoted to Technical Grade VIII in the pay scale of Rs.425-700 on 11.3.1986 with effect from 1.2.1981. ~~xxx~~ His basic pay after promotion was fixed at Rs.545 with effect from 1.2.1981 and his basic pay increased to Rs.560 after one year i.e. 1.2.1982. Sri Shantiwal was promoted to the post of Technician Grade VIII in the scale of Rs.425-700 with effect from 1.2.1982 and his pay was fixed at Rs.600 with effect from 1.2.1982 at a stage higher than that of the applicant. In paragraph 5 of the judgement it was observed :

"The case of the applicant was also considered by the Core Committee on 10.3.86 and he was given promotion with effect from 1.2.81 but in this case, the Core Committee did not recommend any advance increments. The pay of both the applicant as well as Shri Shantiwal were fixed under F.R. 22-C which means that on promotion to the higher grade, the pay was fixed by giving 2 increments in the lower grade but in the case of Shri Shantiwal after fixing the pay under F.R. 22-C, he was also allowed 3 increments as recommended by the Core Committee which stepped up his salary to Rs.600 per month."

Thus it is clear that the case of the applicant was also



Ch

considered by the Core Committee but he was not allowed three advanced increments whereas Sri Shantiwal was given three advance increments on considerations of merit. Taking this into account the claim of the applicant in that case for stepping up of pay was disallowed. In the present case, however, the applicants in the RA have admitted in their reply filed by them in the OA that the scheme was not applicable to the applicant. In view of this it was observed in paragraph 11 of the order dated 30.3.1988 :

"The crux of the matter is whether the officers subsequently promoted, who steal a march over the officers already in the grade, should be allowed to draw a pay higher than the latter. As already noticed, grade B1/B is not covered by the FTS and it is neither legal nor proper that such a result should follow. It is precisely to remove this anomaly that Instruction 10 has been issued by the Government and the same, as such, is applicable to the case of the applicant."

I am not persuaded that the view expressed in the order dated 30.3.1988 extracted above suffers from any infirmity, which calls for review.

7. In the result the RA is rejected.

8. Applicants in the RA are granted time upto 31.7.1988

to comply with the directions given in the order dated 30.3.1988 in the OA.



TRUE COPY

sd/-

(Ch. Ramakrishna Rao)
Member (J)

bsg/-

[Signature]
DEPUTY REGISTRAR (JDL) 27/6/89
CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE

REGISTERED

CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE BENCH

Commercial Complex(BDA)
Indiranagar
Bangalore - 560 038

Dated **6 APR 1988**

APPLICATION NO 896 /87(F)

W.P. NO. _____

Applicant

Shri A. Santhanam

Respondent

V/s The Director, NAL, Bangalore & another

To

1. Shri A. Santhanam
249/3, Sampige Road
17th Cross, Malleswaram
Bangalore - 560 003
2. Shri S.K. Srinivasan
Advocate
35 (Above Hotel Swagath)
1st Main, Gandhinagar
Bangalore - 560 009
3. The Director
National Aeronautical Laboratory
Bangalore - 560 017
4. The Director General
Council of Scientific & Industrial Research
(CSIR)
Rafi Marg
New Delhi - 110 011
5. Shri H. Sulaiman Sait
Advocate
No. 52, Infantry Road
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 on 30-3-88.

Encl : As above

B. V. Venkatesh
DEPUTY REGISTRAR
(JUDICIAL)

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE BENCH BANGALORE

DATED THIS THE 30th DAY OF MARCH 1988

Present : Hon'ble Sri Ch. Ramakrishna Rao - Member (J)

Hon'ble Sri S.K. Srinivasan, Advocate - Member (A)

APPLICATION No. 896/87

A. Santhanam
No. 249/3, Sampige Road
17th Cross, Malleswaram
Bangalore 560 003

- Applicant

(Sri ~~Santham~~ S.K. Srinivasan, Advocate)

v

1. The Director
National Aeronautical Laboratory,
Bangalore 560 017
2. The Director General (SIR)
Council of Scientific and Industrial Research
Rafi Marg,
New Delhi 110 001

- Respondents

(Sri Suleman Sait, Advocate)

This application came up for hearing before
this Tribunal and Hon'ble Sri Ch. Ramakrishna Rao,
Member (J) to-day made the following

ORDER

The applicant entered service in the National
Aeronautical Laboratory, Bangalore (NAL) as a Senior
Laboratory Assistant on 9.1.1970. He rose to the post of
Scientist A-1 on 22.10.1978. He responded to an
advertisement for the post of Scientist B-1 and after
being interviewed by a Selection Committee, he was
appointed to that post w.e.f. 3.9.1979. While he was
at Kuwait on deputation a new scheme by name Fast Track
Scheme (FTS) was introduced applicable to Groups I, II
and III, the object of which ~~was~~^{was} to give accelerated

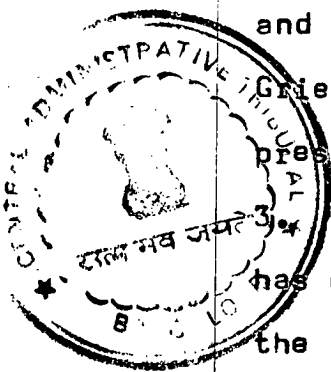
promotions to meritorious candidates in the aforesaid three groups. The grievance of the applicant is that the pay of several officers junior to him who derived the benefit of FTS and were promoted to ~~the~~ Grade B-1 held by him, was fixed at a stage higher than the pay ^{was} he actually drawing. He made several representations to step up his pay to the stage drawn by his juniors but in vain. Aggrieved, the applicant has filed this application.

2. At the threshold Sri Suleman Sait, learned counsel for the respondents, raised a preliminary objection that the application is barred by limitation and invites our attention to paragraph 16 of the reply filed on ~~xxx~~ behalf of the respondents which reads as follows :

"... it is submitted that as the decision of the first respondent and that of the second respondent were identical and did not differ in regard to the representations made by the applicant, further representation dated 11.3.86 was redundant, and hence the first respondent felt that it was unnecessary that it should be forwarded to the second respondent as there was absolutely no new material which would have altered the decision of ~~x~~ either of the respondents."

The cause of action, according to Sri Sait arose on 19.5.86 and the subsequent representation of the applicant to the Grievances Committee does not enlarge the period of limitation prescribed by the Administrative Tribunals Act, 1985.

Sri S.K. Srinivasan, learned counsel for the applicant, has endeavoured to meet this objection by stating that the Director, NAL (Respondent 1 : R1) erred in not forwarding the appeal preferred by his client to the Director General (SIR) (Respondent 2 : R2) on the ground that no new case was made



out in the appeal; that this client was entitled to place his case before the Grievances Committee which was ultimately turned down as recently as on 13.7.87.

4. I have considered the rival contentions carefully. The comparative statement of the officers whose pay was fixed at a stage higher than the applicant was furnished to ~~the applicant~~ him after a considerable lapse of time. It is only thereafter that the applicant could move the Grievances Committee on 6.1.87 and the same was disposed of on 13.7.1987. Viewed in this light, the application is within time.

5. Turning to the merits, Sri Srinivasan clarified that he was not challenging the provisions of FTS since his client belonged to ^{the} ~~2~~ grade ^{of} Scientist B1/B, which did not fall within the purview of FTS, and he is only challenging the correctness of the action of the respondents under Rule 22 C of the Fundamental Rules and Instruction No. 10 thereunder. Both the counsel argued the matter on this basis.

6. Sri Srinivasan vehemently contends that the action of the respondents in refusing the step up the pay of the applicant to Rs. 1020/- w.e.f. 1.2.1981 and place him at par with his juniors, who were subsequently promoted to the posts of

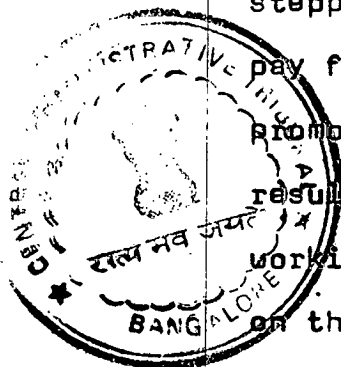
Scientist B-1, ~~xx~~, besides being arbitrary, is contrary to the provisions contained in Rule 22 C of the Fundamental Rules and Instruction No. 10 issued by the Government of India. ^{were}

7. Sri Suleman Sait maintains that ~~the~~ officers promoted to the grade of Scientist B1 under the provisions of FTS as Scientist B-1/B and their pay fixed by the Assessment Committee/Selection Committee. ~~and~~ Since merit is the dominant aim and purpose of FTS, there is nothing illegal in the pay of officers so promoted being fixed ~~x~~ higher than

~~xxxxxx~~ those already appointed to that grade.' According to Sri Sait the principle embodied in FR 22 C regarding stepping up of pay is not applicable to the present case.

8. I have given careful thought to the contentions advanced by learned counsel on both sides. It is common ground that the provisions of FTS are applicable only to officers in grade I, II & III but not to those above group III i.e. B1/B. If so, the committee assessing the merits of the officers fit for promotion to group B1/B is within its rights in fixing the pay of the officers chosen according to the provisions of FTS but ~~xxx~~ in so doing the committee is incompetent to fix the pay of the officers promoted at a stage higher than the one drawn by the officers already functioning as Scientist B1/B. The raison d'être underlying this view is that the committee has had no opportunity to examine the merit of the officers promoted to group B1/B vis-a-vis the officers already appointed to that grade. I am, therefore, clearly ^{in my mind} ~~of the xxx~~ that the pay of the officers already working in grade B1/B should be stepped up in a manner calculated to ^{bring it} ~~be~~ at par with the pay fixed by the assessment committee regarding the officers promoted to grade B1/B. To take a different view would result in thwarting the interest of the officers already working in group B1/B and conferring an unintended benefit on the new entrants to that grade.

9. Reliance is placed by Sri Srinivasan on Instruction No. 10 under FR 22 C (Swamy's Compilation of F.R. & S.R. Part I - General Rules, Eighth Edition) in which the



conditions for stepping up of pay of the government servant senior to the junior have been set out as follows :

"(10) Removal of anomaly by stepping up of pay of Senior on promotion drawing less pay than his junior-- (a) As a result of application of F.R. 22-C:- In order to remove the anomaly of a Government servant promoted or appointed to a higher post on or after 1-4-1961 drawing a lower rate of pay in that post than another Government servant junior to him in the lower grade and promoted or appointed subsequently to another identical post, it has been decided that in such cases the pay of the senior officer in the higher post should be stepped up to a figure equal to the pay as fixed for the junior officer in that higher post. The stepping up should be done with effect from the date of promotion or appointment of the junior officer and will be subject to the following conditions, namely:-

- (a) Both the junior and senior officers should belong to the same cadre and the posts in which they have been promoted or appointed should be identical and in the same cadre;
- (b) The scales of pay of the lower and higher posts in which they are entitled to draw pay should be identical;
- (c) The anomaly should be directly as a result of the application of F.R. 22-C. For example if even in the lower post the junior officer draws from time to time a higher rate of pay than the senior by virtue of grant of advance increments, the above provisions will not be invoked to step up the pay of the senior officer."



According to Sri Srinivasan, his client fulfills all the three conditions and is, therefore, entitled to the stepping up of pay.

10. Sri Sait on the other hand, maintains that since FTS is based on considerations of merit, determined by an assessment committee, the case of the applicant cannot be viewed alongside the promotees and as such Instruction 10 under F.R. 22-C is not applicable.

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11. In my view the fact that the applicant was appointed to grade of Scientist B1 through advertisement does not militate against the applicability of the provision contained in Instruction 10. The language of the first condition covers both promotees and appointees through advertisement. The crux of the matter is whether the officers subsequently promoted, who steal a march over the officers already in the grade, should be allowed to draw a pay higher than the latter. As already noticed, grade B1/B is not covered by the FTS and it is neither legal nor a proper that such a ^{result} ~~xxxxxx~~ should ~~xxxxxx~~ follow. It is precisely to remove this anomaly that Instruction 10 has been issued by the Government and the same, as such, is applicable to the case of the applicant. (Annexure A-9, A11 & A13)

11. I, therefore, quash the impugned orders and direct the respondents to fix the pay of the applicant at Rs. 1020/- with effect from 1.2.1981 and pay him all the consequential benefits including the arrears of pay fixation within two months.


12. In the result the application is allowed. No order as to costs.

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Sd/-

(Ch. Ramakrishna Rao)
Member (J)

36.3.88


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