

CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE BENCH

Commercial Complex(BDA)
Indiranagar
Bangalore - 560 038

Dated : 21-3-88

REVIEW APPLICATION NOS. 158 to 160 / 87
IN APPLICATION NOS. 561 to 563/87(F)
W.P. NO. _____

Applicant

Shri G. Krishnaswamy & 2 Ors
To

1. Shri G. Krishnaswamy
 2. Shri N. Anantha
 3. Shri B.H. Anantharaj
- (Sl Nos. 1 to 3 -

Field Investigators
National Tuberculosis Institute
No. 8, Bellary Road
Bangalore - 560 003)

4. Shri M. Narayanaswamy
Advocate
844 (Upstairs)
Vth Block, Rajajinagar
Bangalore - 560 010
5. The Secretary
Ministry of Health & Family
Welfare Services
Nirman Bhavan
New Delhi - 110 011
6. The Director General of
Health Services
Nirman Bhavan
New Delhi - 110 011

Respondent

V/s The Secy, M/o Health & Family Welfare
Services, New Delhi & 2 Ors

7. The Director
National Tuberculosis Institute
No. 8, Bellary Road
Bangalore - 560 003
8. Shri M.S. Padmarajaiah
Central Govt. Stng Counsel
High Court Building
Bangalore - 560 001

Subject : SENDING COPIES OF ORDER PASSED BY THE BENCH

Please find enclosed herewith the copy of ORDER/~~STAY/INTERIM ORDER~~
passed by this Tribunal in the above said ^{Review} Application on 11-3-88.

[Signature]
DEPUTY REGISTRAR
(JUDICIAL)

Encl : As above

[Signature]

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE BENCH, BANGALORE.

DATED THIS THE 11th DAY OF MARCH 1987

Present : Hon'ble Shri Ch. Ramakrishna Rao - Member (J)
Hon'ble Shri P. Srinivasan - Member (A)

Review Application Nos.158 to 160 of 1987.

1. G. Krishnaswamy (RA No.158/87 - A.No.561/87)
Field Investigator
No.27, N.T.I. Staff Quarters
No.8, Bellary Road, Bangalore 3
2. N. Anantha (R.A. No. 159/87 - A.No. 562/87)
Field Investigator
N.T.I., No. 8 Bellary Road
Bangalore 3
3. B.H. Anantharaj (R.A. No. 160/87 - A. No. 563/87)
Field Investigator
N.T.I., No.8, Bellary Road
Bangalore 3

- Applicants

(Sri M. Narayanaswamy, Advocate)

v

1. Union of India represented by its
Secretary, Ministry of Health & Family
Welfare, Nirman Bhawan,
New Delhi 11
2. The Director General of Health Services,
Nirman Bhavan, New Delhi
3. The Director
National Tuberculosis Institute,
No.8, Bellary Road, Bangalore 3

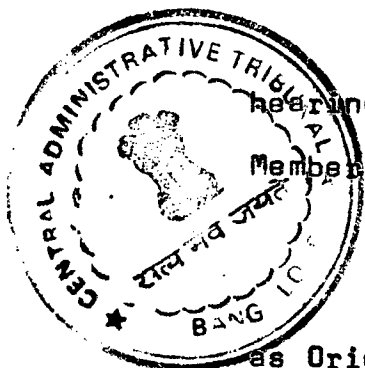
- Respondents

(Sri M.S. Padmarajaiah, Advocate)

These review applications came up for
hearing before this Tribunal and Hon'ble Shri Ch. Ramakrishna Rao,
Member (J) to-day made the following

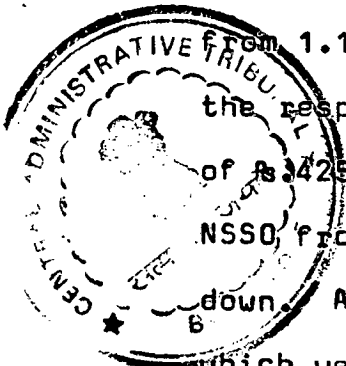
ORDER

The applicants in application Nos.(referred to
as Original Applications : OAs) 561, 562 and 563 of 1987
have filed these three applications (referred to as
review applications : RAs) for review of the judgement

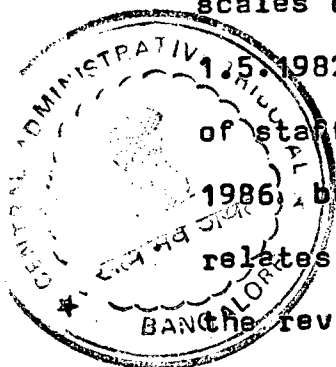


of this Tribunal delivered in the OAs on 17.11.1987.

2. The applicants in the OAs are Field Investigators ('FIs') in the National Tuberculosis Institute, Bangalore ('NTI'). They joined service in NTI in the pay scale of Rs.130-300 as Upper Division Clerks ('UDCs'). They were designated as FIs on 11.9.1970 and were granted the pay scale of Rs.150-300 ^{Investigators} which the Z in the National Sample Survey Organisation ('NSSO') were drawing pursuant to the judgement of the High Court of Karnataka ('High Court') in W.P. Nos. 1771 to 1774 of 1973 delivered in 1974. Later, they were granted the pay scale of Rs.180-320 with effect from 1.12.1972 and Rs.380-640 with effect from 1.1.1973 pursuant to the judgement of the High Court in W.P.Nos. 11875 to 11882 of 1977 delivered on 29.1.1982. ~~As~~ The scale of pay Investigators in NSSO was further revised to Rs.425-700 with effect from 1.5.1982 and Rs.1400-2300 with effect from 1.1.1986 while the FIs in NTI continued to draw the scale of pay of Rs.380-640 upto 31.12.85 which was revised to Rs.1350-2200 with effect from 1.1.1986. Representations made by the applicants to the respondents claiming benefit of revised scales of pay of Rs.425-700 and Rs.1400-2300 which came into effect in NSSO from 1.5.1982 and 1.1.1986 respectively were turned down. Aggrieved by this the applicants filed the OAs which were dismissed by this Tribunal on 17.11.1987. The applicants in the RAs have sought a review of the aforesaid judgement of this Tribunal.



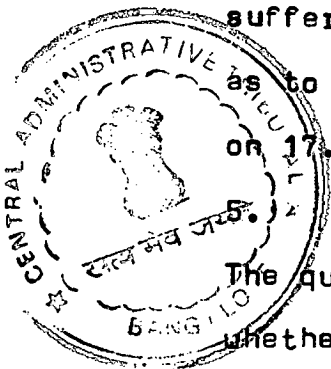
3. Sri M. Narayanaswamy, learned counsel for the applicants, strenuously contends that the judgement of this Tribunal delivered on 17.11.1987 suffers from an ^{apparent} error on the face of the record which is a cogent ground for review of the judgement. Sri Narayanaswamy has elaborated his argument thus: The applicants were entitled to the revised scales of pay which came into effect in NSSO from 1.5.1982 and 1.1.1986 respectively having regard to the decisions of the High Court pursuant to which the scales of pay which they were drawing at that time were revised and since there was no material change in the position of the applicants vis-a-vis the Investigators in NSSO, they should have been given the benefit of the revised scales of pay from 1.5.1982 and 1.1.1986. The Tribunal while declining the relief to the applicants was swayed by the circumstance that there was restructuring of the staffing pattern obtaining in NTI during 1979 and on account of this, the applicants were not entitled to claim parity with Investigators in NSSO regarding the scales of pay applicable to the latter with effect from 1.5.1982 and 1.1.1986. Actually, the restructuring of staffing pattern in NTI came into existence only during 1985-1986, but not during 1979 and as the claim of the applicants relates to ^{a date} prior to 1.1.1986 i.e. with effect from 1.5.1982, the revised scales of pay applicable to the Investigators in NSSO should have been made applicable to the applicants also. The view taken by the Tribunal is that the raison d'etre of the judgements of the High Court



was not applicable to the case of the applicants as a result of the restructuring of the staffing pattern is, therefore, erroneous and thus admits of review.

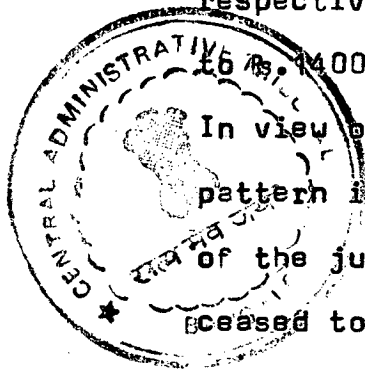
4. Sri M.S.Padmarajaiah, learned counsel for the respondents, submits that the change in the staffing pattern in NTI has come into effect in two phases. The first was in 1979 when the posts of FIs Selection Grade ('FISG') and ~~xxxx xxxxx~~ (XXXXX) were created with retrospective effect from 1976. The second was in 1985 when the posts of Investigators and Senior Investigators were created. The first phase in the change of the staffing pattern in NTI having taken place prior to 1982, the applicants are not justified in stating that the judgements of the High Court ipso facto ~~xxxx~~ applicable to them even after 1982. The view taken by the Tribunal that on account of the restructuring of the staffing pattern, the applicants were entitled to the benefit of the judgements rendered by the High Court does not suffer from error apparent on the face of the record so as to justify a review of the judgement earlier rendered on 17.11.1987.

We have considered the rival contentions carefully. The question which falls for consideration in these RAs is whether there was change in the staffing pattern of NTI before 1982 so as to render the revised scale of pay of Investigators in NSSO brought about by order dated 9.8.1985 with effect from 1.5.1982 and the further revision in the



CAJ

scale of pay of the aforesaid Investigators effected on 1.1.1986 in the context of the recommendations of the IVth Pay Commission/^{inapplicable.} Paragraph 5 of our order dated 17.11.1987 proceeded on the basis that the restructuring of the posts set out therein occurred in 1979 but in fact the restructuring took place in two phases. The first was in 1979 when the post of FISG was created in 1979 with retrospective effect from 1976. Before the creation of this post the promotion avenue for the incumbent of the FI was to the post of TL and the chances of promotion to FIs were brightened in 1979 by introducing the post of FISG. In view of this, we were inclined to take the view that the promotional opportunities for FIs in NTI had improved in 1979 and the respondents were justified in taking it into account for negating the applicability of the revised scale of pay granted to the Investigators in NSSO on 9.8.1985 with effect from 1.5.1982. The second phase was in 1985-86 when the posts of Investigator and Senior Investigator were created in 1985-86 carrying scales of pay of Rs.425-700 and Rs.550-900 respectively and these two scales of pay stood revised to Rs.1400-2300 and Rs.1640-2900 with effect from 1.1.1986. In view of these changes which took place in the staffing pattern in NTI, we took the view that the raison d'être of the judgement rendered by the High Court on 29.1.1982 ceased to apply to the case of the applicants. We do not find any infirmity in the view so taken by us.

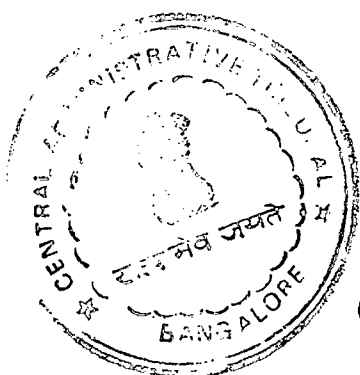


6. In Northern India Caterers India Ltd v. Lt. Governor of Delhi, AIR 1980 SC 674, the Supreme Court had occasion to observe :

"An error apparent on the face of the record exists if of two or more views canvassed on the point it is possible to hold that the controversy can be said to admit of only one of them. If the view adopted by the Court in the original judgement is a possible view, having regard to what the record states, it is difficult to hold that there is an error apparent on the face of the record."

We have no doubt in our mind that the view taken by us in our judgement dated 17.11.1987 is the only view possible on the points debated before us. But even taking it that two views are possible, it is not open to us to hold that the judgement rendered by us in the OAs suffers from any error apparent on the face of the record so as to call for a review.

7. In the result the RAs are dismissed. Parties to bear their own costs.



sd/-

(Ch. Ramakrishna Rao)
Member (J)

11/3/88

sd/-

(P. Srinivasan)
Member (A)

11/3/88

TRUE COPY

bsg/-

20/3/88
JOYDEPUTY REGISTRAR (JDL)
CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE