

REGISTERED

CENTRAL ADMINISTRATIVE TRIBUNAL

BANGALORE BENCH

* * * * *

Commercial Complex(BDA)
Indiranagar
Bangalore - 560 038

Dated : 9 MAY 1988

IA I IN

APPLICATION NOS.

263 to 281, 4 to 6, 21 to 26, 28 to 33,
39 to 44, 59 to 63, 120, 121 to 132,
135 to 139, 188 to 215, 218 to 239,
240 to 251, 253 to 262, 283 to 303,
415 to 435/88(F) & 1078 to 1083/87(F)

Applicants

Smt A. Manjula & Ors

v/s

The Accountant General (A&E), Karnataka,
Bangalore & 2 Ors

To

1. Dr M.S. Nagaraja
Advocate
35 (Above Hotel Swagath)
1st Main, Gandhinagar
Bangalore - 560 009
2. The Accountant General
(Accounts & Entitlements)
Karnataka
Bangalore - 560 001
3. The Comptroller & Auditor General
of India
No. 10, Bahadur Shah Zafar Marg
New Delhi - 110 002

4. The Secretary
Ministry of Finance
Department of Expenditure
New Delhi - 110 001
5. Shri M.S. Padmarajaiah
Central Govt. Stng Counsel
High Court Building
Bangalore - 560 001
6. Shri M. Vasudeva Rao
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 passed by this Tribunal
in the above said applications on 4-5-88.

Joe
SECTION OFFICER
(JUDICIAL)

Encl : As above

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

ORDER SHEET

Application Nos. 263 to 281, 4 to 198, 21 to 26, 28 to 33, 39 to 44,
59 to 63, 120, 121 to 132, 135 to 139, 188 to 215, Respondent
218 to 239, 240 to 251, 253 to 262, 283 to 303,
415 to 435/88(F) & 1078 to 1083/87(F)

Applicant

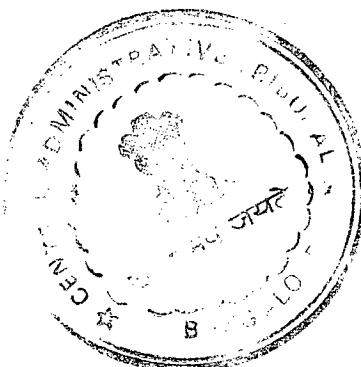
Smt A. Manjula & Ors
Advocate for Applicant

V/s The AG (A&E), Karnataka, B'lors & 2 Ors
Advocate for Respondent

Dr M.S. Nagaraja

M.S. Padmarajaiah

Date	Office Notes	Orders of Tribunal



TRUE COPY

H. S. S.
SECTION OFFICER
CENTRAL ADMINISTRATIVE TRIBUNAL
ADDITIONAL BENCH
BANGALORE

LHAR/RKR

Applicants by Dr. M. S. Nagaraj
and respondents by Shri M. S. Padmarajaiah.

Shri Padmarajaiah requests
for extension of time by three months to
comply with our orders. Dr. Nagaraj has
no objection. Request granted.

4.5.88
Sd/-

MEMBER(A) *4.5.88*
4.5.88

4.5.88
Sd/-
MEMBER(J)
4.5.88

CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE BENCH

Commercial Complex (BDA)
Indiranagar
Bangalore - 560 038

Dated : 9 JAN 1989

lentempL

APPLICATION NO.

IN

~~1000~~ ANOS.

203 to 211/88 C/w CPS, 277 to 296/88

4/6/88, 21 to 25/88, 28/88, 242/88 to 251/88
and 253 to 262/88]

Applicant(s)

Sh. Ganesh H. Patwardhan
To and ors.

Respondent(s)

Sh. R. S. A. Rao, AG. & (A. E)
Bangalore 2 038.

(1) Dr. M.S. Nagaraja,
Advocate,
No. 35, Above Hotel Swagath,
1st Main Road, Gandhi Nagar,
Bangalore - 560 009. (300/88)

(3) Sh. T.N. Chaturvedi,
Comptroller & Auditor General of
India,
No. 10, Bhadur Shah Jafar Marg,
New Delhi - 110 002.

(2) Sh. R.S.A. Rao,
Accountant General (A & E),
Karnataka,
Bangalore.

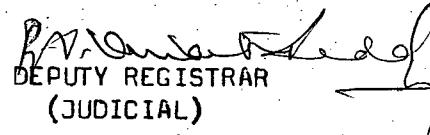
(4) Sri. S. Venkataraman,
Secretary,
Ministry of Finance, Govt. of India,
Dept. of Expenditure,
New Delhi - 110 001.

(5) Sh. M.S. Padmeswaraiah,
C.G.S.C.,
Bangalore.

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 16-12-88.

Encl : As above


DEPUTY REGISTRAR
(JUDICIAL)

Ganesh H. Patwardhan & Ors

v/s The AG (A&E), Karnataka, Bangalore & Ors

Dr M.S. Nagaraja

M.S. Padmarajiah

Date

Office Notes -

Orders of Tribunal

VC/LHAR(AM)
16-12-1988.ORDERS IN CONTEMPT PETITIONS

Nos. 203 TO 211/88 C/w C.Ps. 277

TO 296/88.

Petitioners by Dr.M.S.

Nagaraja.

13-12-88

2. Respondents by Smt:K. Ganga, Deputy Accountant General (Admn.), Bangalore.

3. In these petitions filed under Sec.17 of the Administrative Tribunals Act, 1985 and the Contempt of Courts Act, 1971, the petitioners have moved this Tribunal to initiate contempt of Courts proceedings against the respondents for non-implementation of the orders made in their favour, by this Tribunal.

4. Smt. K.Ganga, Deputy Accountant General, appearing for the respondents, has brought to our notice that the Hon'ble Supreme Court has stayed the operation of the orders made in favour of the petitioners and therefore, these Contempt of Courts Proceedings are liable to be dropped. We find this submission of Smt. Ganga is correct. On this view, these Contempt of Courts Proceedings are liable to be dropped. We, therefore, drop these Contempt of Courts Proceedings. But, in the circumstances of the cases, we direct the parties to bear their own costs.



TRUE COPY

Sd/-
VICE CHAIRMANSd/-
MEMBER(A) 6/12/88

contd...3

R.V. Venkatesh
DEPUTY REGISTRAR (JUNIOR)
CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE

CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE BENCH
* * * * *

Commercial Complex (BDA)
Indiranagar
Bangalore - 560 038

Dated : 9 JAN 1989

Contempt

APPLICATION NO.

197 to 202/88 Cw CP. 212 to 276/88 and
297 to 326/88

IN AND
H.P. NO.

1078/87 to 1083/87, 29/88,

26/88, 30 to 33/88, 39 to 44/88, 59 to 63/88, 120/88 to 132/88

Applicant(s)

135/88 ~~to~~ 136/88, 138/88, 137/88, 139/88,

To

188 to 215/88, 240/88 ~~to~~ 241/88, 315/88 to 344/88

VS. Sh. R.S.A. Rao, AG (A.E.)

Smk. S. G. Bharathi & Ors

Bangalore & 2 Ors.

(1) Dr. M. S. Nagaraja

Advocate,
No: 35 Above Hotel Sivagathi,
1st Main Road, Gandhi Nagar,
Bangalore - 560 009. (1988)

(3) Sri. T.N. Chaturvedi,
Comptroller & Auditor General
of India,
No. 10, Bhadhar Shah Jagat Marg
New Delhi - 110 002.

(2) Sh. R.S.A. Rao,
Accountant General (A&E),
Karnataka, Bangalore.

(4) Sri. S. Venkataraman,
Secretary,
Ministry of Finance, Govt.,
Department of Expenditure,
New Delhi - 110 001.

(5) Sh. M.S. Padmarayulu,
CGSC, Bangalore.

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 16-12-88.

Encl : As above

B.A. Venkatesh
DEPUTY REGISTRAR
(JUDICIAL)

In the Central Administrative
Tribunal Bangalore Bench,
Bangalore

Smt S.G. Bharathi & Ors

v/s 3

Order Sheet (contd)

CPNOS. 197 to 326/88

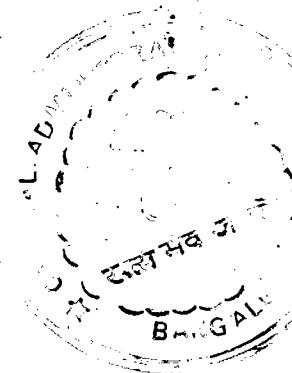
The AG (AAE), Karnataka,
Bangalore & Ors

Dr R.S. Nagaraja

R.S. Padmarajaiah

Date	Office Notes	Orders of Tribunal
		<p>VC/LHAR(AM) 16-12-1988</p> <p>ORDERS IN CONTEMPT PETITIONS NOS. 197 to 202/88 C/w C.Ps. 212 to 276 & 297 to 326/88:</p> <p>1. In these petitions under Sec.17 of the Administrative Tribunals Act, 1985 and Contempt of Courts Act, 1971, the petitioners have moved this Tribunal to initiate Contempt of Court Proceedings against the respondents for non-implementation of the orders in their favour by this Tribunal.</p> <p>2. Smt.K.Ganga, Deputy Accountant General(Admn.), Bangalore, appearing for the respondents, has placed before us copies of two orders, both dated 14-12-1988 passed by respondent(R) 1, in favour of the petitioners, pursuant to the orders of this Tribunal in the matter, subject to certain terms and conditions specified by R-1. It is apparent that the aforesaid orders of R-1 would eventually result in payment to the petitioners as directed by this Tribunal. In these circumstances, we consider it proper to drop the Contempt of Court Proceedings in question. The said proceedings therefore are hereby dropped. But, in the circumstances of the case, we direct the parties to bear their own costs.</p>

TRUE COPY



Sd/-

Sd/-

(K.S.PUTTASWAMY) (L.S.H.A.REDDY)
VICE CHAIRMAN MEMBER(A)

B. Venkatesh
P.T.T. REC'D. 1971-9/1
CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE

D.No.5288-93/88/Sec-IV-A

SUPREME COURT OF INDIA
NEW DELHI

Dated 28th January, 1989

199 - 2-89

From:

Darshan Singh,
Assistant Registrar.

To

The Registrar,
Central Administrative Tribunal
Bench at Bangalore.

PETITIONS FOR SPECIAL LEAVE TO APPEALS (CIVIL) NOS.14613-18
OF 1988

WITH
CIVIL MISCELLANEOUS PETITIONS NOS. 30680-94 OF 1988
(Applications for condonation of delay in filing the
Special Leave Petition.)

AND

CIVIL MISCELLANEOUS PETITIONS NOS. 30683-88 OF 1988
(Applications for ex-parte stay)

The Accountant General, Karnataka
& Others.

.. Petitioners.

Versus.

Smt. S. G. Bharathi & Others.

• Respondents.

Sir,

I am dire
and necessary ac
Court dated 25th
above-mentioned.

Yours faithfully,

ASSISTANT REGISTRAR.

IN THE SUPREME COURT OF INDIA

CIVIL ORIGINAL/APPELLATE JURISDICTION

PETITIONS FOR SPECIAL LEAVE TO APPEAL (CIVIL) NOS.14613-18 OF 1988
 (Under Article 136 of the Constitution of India, from the Order dated 25th January, 1988 of the Central Administrative Tribunal, Bangalore in Original Applications Nos. 1078 to 1083 of 1987(F))

WITH

CIVIL MISCELLANEOUS PETITIONS NOS.30689-94 OF 1988

(Application for condonation of delay in filing the special Leave Petition.)

AND

CIVIL MISCELLANEOUS PETITIONS NOS.30683-88 OF 1988(Application for stay by notice of motion with a prayer for an ex parte Order)

1. The Accountant-General, Accounts & Entitlements, Karnataka, Bangalore.
2. The Comptroller & Auditor, General of India, no.10, Bahadur Shah Zafar Marg, New Delhi.
3. The Government of India, by its Secretary, Ministry of Finance, Department of Expenditure, New Delhi. .. Petitioners.

Certified to be true copy
 Dashed R
 Assistant Registrar (Jud.)
 28.1.1989
 Supreme Court of India

Versus

1. Smt.S.G.Bharathi
2. Sri T.Gokulnanda,
3. Smt.Sowmya D.Pant
4. Smt.Anasuya Gokhale
5. Smt.N.S.Leelavathy
6. Sri D.R.Srinivasan.

All working in the office of the Accountant General (A&E), Karnataka, Bangalore.

.. Respondents.

Dated 25th January, 1989

CORAM:

HON'BLE MR. JUSTICE M.M.DUTT
 HON'BLE MR. JUSTICE T.K.THOMMEN

For the Petitioners : Mr.V.C.Mahajan, Senior Advocate.
 (M/s.Arun Madan, T.C.Sharma &
 C.V.Subba Rao, Advocates with him.)

Contd...2/-

THE PETITIONS FOR SPECIAL LEAVE TO APPEAL AND THE APPLICATIONS FOR STAY above-mentioned being called on for hearing before this Court on the 25th day of January, 1989, UPON hearing Counsel for the Petitioner(s) herein THIS COURT while directing issue of Notice to the Respondents herein to show cause why delay be not condoned and Special Leave be not granted to the Petitioners herein to appeal to this Court against the Order of the Court above-mentioned, DOTH ORDER that pending the hearing and final disposal by this Court of the applications mentioned above for stay after notice, the operation of the Order dated 25th January, 1988 of the Central Administrative Tribunal, at Bangalore in Original Applications Nos. 1078 to 1083 of 1987 (F) be and is hereby stayed;

AND THIS COURT DOTH FURTHER ORDER THAT THIS ORDER be punctually observed and carried into execution by all concerned.

WITNESS the Hon'ble Shri Raghunandan Swarup Pathak, Chief Justice of India, at the Supreme Court, New Delhi, this the 25th day of January, 1989.

say
(V.P. SINGHAL)
DEPUTY REGISTRAR.

q
V.P. SINGHAL
DEPUTY REGISTRAR
SUPREME COURT
NEW DELHI-110 001

SUPREME COURT

CIVIL/CRIMINAL/APPELLATE JURISDICTION

SPECIAL LEAVE PETITIONS (CIVIL) NOS.14613-18 OF 1988

WITH
CIVIL MISCELLANEOUS PETITIONS NOS.30689-94 OF 1988
(Applications for condonation of delay in filing the Special
Leave Petition.)

AND

CIVIL MISCELLANEOUS PETITIONS NOS.30683-88 OF 1988
(Applications for ex-parte stay)

Appellants/
Petitioners

Respondent/
Petitioners

The Accountant General, Karnataka & Ors. .. Petitioners.

Versus.

Smt. S.G. Bharathi & Ors.

.. Respondents.

ORDER DIRECTING ISSUE OF SHOW
CAUSE NOTICE AND GRANTING
AD-INTERIM EX-PARTE STAY.

Dated the 25th day of January, 1989

SHRI P. Parmeshwaran,
Advocate-on-Record for the Petitioners.

SHRI
Advocate-on-Record for

SHRI
Advocate-on-Record for

Engrossed by AS/

Examined by
Compared with
No. of folios

28/1/81

SEALED IN MY PRESENCE

All communications should
be addressed to the Registrar,
Supreme Court, by designation,
NOT by name.
Telegraphic address :-
"SUPREMECO"

D. No. 8.3682-92 etc/88/IV-A.

SUPREME COURT
INDIA

Dated New Delhi, the 3rd May, 1993

19

FROM

The Assistant Registrar,
Supreme Court of India,

TO

The Registrar,
Central Administrative Tribunal,
Commercial Complex (BDA)
Indiranagar, Bangalore-38.

CIVIL APPEAL NOS. 2269- TO 2346 OF 1993

(Central Administrative Tribunal Applications Nos. 240 to 251
of 1988, 415 to 435/88, 929 to 939/88, 188 to 215/88, and 1078
to 1083 of 1987.)

Accountant General Bangalore & Ors. etc.

...Appellants.

-Versus-

Smt. P. Pushpavathy and Others etc.

...Respondents.

Sir,

In pursuance of Order XIII, Rule 6, S.C.R. 1966, I am
directed by their Lordships of the Supreme Court to transmit
herewith a Certified copy of the Order dated the 26th April,
1993 alongwith a certified copy of Judgment dated 4th February,
1992 in the appeals above-mentioned. The certified copy of the
decree made in the said appeals will be sent later on.

~~It is acknowledged that~~ Please acknowledge receipt.

Yours faithfully


ASSISTANT REGISTRAR

715
Please be informed
that the same
will be filed with
the concerned court
as soon as possible

IN THE SUPREME COURT OF INDIA

Certified to be a true copy
Additional Registrar (Adm.)
..... 3..... 293
Supreme Court of India

CIVIL APPELATE JURISDICTION

440152
t 2346
CIVIL APPEAL NO. 2269 1993

(Arising out of Special Leave Petition(C) Nos. 10211-22)

WITH

(SLP(Civil) Nos. 10534-54, 13878-88, 14564-91, 14613-18/88)

The Accountant General, Bangalore and Ors. ... Appellants
etc.

vs.

Smt. P.Pushpavathy & Ors. etc.

... Respondents

C R D E R

✓ Special leave granted.

It is submitted that the points raised in these appeals are covered by a judgment of this court in Union of India & Ors. vs. The Secretary, Madras Civil Audit & Accounts Association & Anr etc. JT 1992(1) SC 586. These appeals are disposed of in terms of the said judgment.

SC/-

(K. JAYACHANDRA REDDY)

New Delhi,
26th April, 1993

SC/-
(C. I. BRAHMA)

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

CIVIL APPEALS NOS. 1783-84 OF 1990

UNION OF INDIA AND ORS.

.....Appellants

vs.

440151

THE SECRETARY, MADRAS CIVIL
AUDIT & ACCOUNTS ASSOCIATION
AND ANR. ETC.

..... Respondents

(With C.A. Nos. 772-777/89, 1085-90/89, 535-40/89,
705-725/89, 945-74/89, 1043-63/89, 1024-42/89, 73³ 38/89,
739-747/89, 726-37/89, 997-999/89, 3117/89, 1064-84/89,
1000-23/89, 975-96/89, 3623-25/88, 3698-3704/88, 3705-14/88 & 3678/89). *Certified to be a*

Certified to be a true copy

Amritsar Registration (Sub.)
..... 3-5 1993
Supreme Court of India

JUDGMENT

K. JAYACHANDRA REDDY, J.

All these appeals pursuant to the special leave granted are filed by the Union of India, the Comptroller & Auditor General and the Principal Accountant General. The only question that arises for consideration is whether the benefit under Office Memo (O.M.) dated 12th June, 1987 issued by the Government of India, Ministry of Finance, Department of Expenditure should be extended to the members of the Accounts Wing of the Indian Audit and Accounts Department ("I.A. & A.D." for short) with effect from 1.1.86 as in the case of Audit Wing or whether it should be from 1.4.87 as indicated in the said Office Memo? Several of the employees belonging to the Accounts wing filed petitions and the Bangalore Bench of the Central Administrative Tribunal ("CAT" for short) held that they are entitled to the benefit with effect from

1.1.85. Subsequent to the said judgment some of the employees in the Accounts Wing in the Tamilnadu filed petitions before the Madras Bench of the CAT claiming that benefit should be extended with effect from 1.1.85. The Madras Bench was not prepared to agree with the view taken by the Bangalore Bench and the matter was referred to the Chairman of the CAT who constituted a Full Bench presided over by himself. The Full Bench agreed with the view taken by the Bangalore Bench and answered the reference accordingly. Following the decision of the Full Bench, the Madras Bench passed the final orders. All these appeals are filed against several orders passed by the Madras Bench as well as the Bangalore Bench. It is contended on behalf of the Union of India that the Office Memo dated 12.5.87 is based on the recommendations of the Fourth Central Pay Commission which consists of two parts. The first part recommends corresponding scales of pay for the existing posts in the Accounts Wing giving effect from 1.1.85. The other part is contained in para 11.38. Pursuant to those recommendations the Government decided to implement the same with effect from 1.4.87. It is also contended that the Full Bench failed to appreciate correctly that the second part of the recommendation of the Pay Commission clearly indicated that the number of posts to be placed in these scales were to be identified by the Government and the Government could therefore decide and then give effect at a later date. The learned counsel on behalf of the respondents employees contended that the Pay Commission recommended that there should be parity in the pay scales of the staff in the I.A. & A.D. and other accounts organisations and since all of them discharge the similar duties the benefit should

be extended to all of them uniformly with effect from 1.1.86. To appreciate these contentions it becomes necessary to refer to the history of the case briefly and to the relevant documents including the recommendations of the Pay Commission.

I.A. & A.D. headed by the Comptroller & Auditor General of India (C. & A.G.) recommended some time in 1983 to Government of India to bifurcate I.A. & A.D. into two separate and distinct wings, one to exclusively deal with 'audit' and the other to deal with 'accounts' with their own separate personnel. The Government of India after considering all aspects approved the proposal in December, 1983. Thereafter C. & A.G. formulated a scheme on 19.12.83 for bifurcation of the I.A. & A.D. into two separate and distinct wings from 1.3.84 providing for all incidental and auxilliary matters thereto. Before the restructuring of the cadres, the staff working in the I.A. & A.D. were asked to exercise their option to serve in either of the two wings. Some exercised the option. There was a grievance that the various equivalent cadres in Audit and Accounts wing were not paid the same scales of pay and the persons allotted to the Audit wing were drawing more pay than the persons in the Accounts wing. The Fourth Pay Commission which is looking into various aspects of the matter recommended in its report that there should be parity of scales of pay between the two wings. The Government took the necessary decision on the basis of the recommendations and the same were published in the Gazette on 13.9.85. The Government accepted the recommendations relating to the scales of pay and decided to give effect from 1.1.86 in respect of the

recommendations of scales of pay for Group 'D' employees. Thereafter Ministry of Finance, Department of Expenditure accordingly issued Office Memo dated 12.5.87 regarding the posts to be placed in higher scales of pay and it was mentioned that these orders would take effect from 1.4.87. The grievance of these employees is that these recommendations should take effect from 1.1.86. The Fourth Pay Commission in para 11.38 of its Report made the following recommendations:

"We have considered the matter. There has all along been parity between the staff in the IA & AD and accounts staff of other departments, which has been disturbed by restructuring the IA & AD into two separate cadres, Viz. audit cadre and accounts and establishment cadre and giving higher pay scales to a major portion of the staff on the audit side. The audit and accounts functions are complementary to each other and are generally performed in many Govt. offices in an integrated manner which is necessary for their effective functioning. The staff in these offices perform functions of internal check and audit suited to the requirements of each organisation which are equally important. There is direct recruitment in the scale of 330-550 in all the audit and accounts cadres through Staff Selection Commn./Rly. Recruitment Board from amongst university graduates. We are therefore of the view that there should be broad parity in the pay scales of the staff in IA & AD and other accounts organisations. Accordingly we recommend that the posts in the pay scale of Rs.425-700 in the organised accounts cadres may be given the scale of 1400-2600. In the Railways this will apply to the post of sub-head in both the ordinary and selection grades. We also recommend that this should be treated in future as a functional grade requiring promotion as per normal procedure. The proposed scale of 2000-3200 of section officer may also be treated as a functional grade. With the proposed scales, there will be no selection for any of the posts. As regards the number of posts in the functional scales of Rs.1400-2500 and Rs.2000-3200, we note that about 53 per cent of the total posts of junior/senior auditor and 66 per cent of the total posts of ordinary and selection grade of section

officer in IA & AD are in the respective higher scales. Govt. may decide the number of posts to be placed in the scales of (i) 1400-2600 and (ii) Rs.2000-3200 in the other organised accounts cadres taking this factor into consideration. All other accounts post may be given the scales recommended in Chap. 8."

From this it emerges that the Pay Commission made two recommendations i.e.:

"(i) there should be broad parity in the pay scales of staff in the IA & AD and other Accounts organisations;

(ii) the scales of pay of Rs.1400-2000 and Rs.2000-3200 should be treated as functional (grades) requiring promotion as per normal procedure. The number of posts to be placed in these scales to be decided by the Government."

So far as the first part of the recommendations is concerned, it has been implemented and there is no dispute about the same. The second part of the recommendations relates to the treatment of the scales of pay of Rs.1400-2000 and Rs.2000-3200 as functional grades requiring promotion as per normal procedure and also the number of posts to be placed in these scales of pay. The Pay Commission also observed that in respect of other recommendations the Government will have to take specific decisions to give effect from a suitable date keeping in view all the relevant aspects.

Accordingly the Government had to examine and decide the number of posts to be placed in these scales of pay and a final decision was taken in the year 1987 and promotions were to be made as per normal procedure. Therefore the Government issued Office Memo that the appointments to the extent of number of posts should be made with effect from 1.4.87. The Full Bench having noted that the offices belonging to both wings do the same type of work, concluded that the principle of equal pay and equal work is fully

given effect to with effect from 1.1.85. There is a clear distinction between the two categories. Therefore, the submission that giving two different dates of implementation of the recommendations in respect of these two categories of personnel of the Accounts wing and the Audit wing offends Articles 14 and 15, is liable to be rejected.

The Full Bench of CAT further held that I.A. & A.D. consists of two wings and both should get the same scales of pay and there is nothing in the report of the Pay Commission to indicate that these were to be separated and dealt with separately. It also held that bifurcation was done only for the purpose of specialisation and efficiency and not to create two separate organisations. Relying on this and other similar observations made by the Tribunal, the learned counsel submitted that since all of them do the same work they should be treated alike and the principle of equal pay for equal work is very much attracted. We see no force in this submission. It must be noted that the Pay Commission Report clearly indicated that after bifurcation certain posts in the Accounts wing should be declared to be brought into the functional grades and thereafter the higher scales of pay should be paid to the officers fitted in such grades. It may be noted that before bifurcation all of them belonged to one Department and as such all those officers of both the wings who were entitled to the scales of pay from 1.1.85, have been granted the same with effect from that date but with regards to the posts that were to be identified and brought into the functional grades in future, the higher scales of pay cannot be made applicable retrospectively i.e. with effect from 1.1.85. It

cannot be said that on that date the posts identified subsequently were also in existence. In such a situation the principle of equal pay for equal work is not attracted as on 1.1.56.

In All India Station Masters' and Assistant Station Masters' Association & Others v. General Manager, Central Railways and Others (1950) 2 S.C.R. 311 this Court held as under:

"It is clear that, as between the members of the same class, the question whether conditions of service are the same or not may well arise. If they are not, the question of denial of equal opportunity will require serious consideration in such cases. Does the concept of equal opportunity in matters of employment apply, however, to variations in provisions as between members of different classes of employees under the State? In our opinion, the answer must be in the negative. The concept of equality can have no existence except with reference to matters which are common as between individuals, between whom equality is predicated. Equality of opportunity in matters of employment can be predicated only as between persons, who are either seeking the same employment, or have obtained the same employment."

Proceeding further the Court held thus:

"There is, in our opinion no escape from the conclusion that equality of opportunity in matters of promotion, must mean equality as between members of the same class of employees, and not equality between members of separate, independent classes."

The same principle was later confirmed in the case of Kishori Mohanlal Pakshi v. Union of India, A.I.R. 1952 S.C. 1139.

The above ratio has been followed in Unikat Sankunni Menon v. The State of Rajasthan (1957) 3 S.C.R. 430 wherein this

Court observed as under:

"It is entirely wrong to think that every one, appointed to the same post, is entitled to claim that he must be paid identical emoluments as any other person appointed to the same post, disregarding the method of recruitment, or the source from which the Officer is drawn for appointment to that post. No such equality is required either by Art.14 or Art.16 of the Constitution."

In State of Punjab v. Joginder Singh (1953) Suppl. 2 S.C.R.169, this question has been considered and it is held that the question of denial of equal opportunity could arise only as between members of the same class and that it was open to the Government to constitute two distinct services of employees doing the same work but subject to different conditions of service. The Court also concluded that the assumption that equal work must receive equal pay was not correct and that it was also not correct to say that if there was equality in pay and work there must be equality in conditions of service.

Having given our earnest consideration we are unable to agree with the view taken by the Full Bench of CAT that the principle of equal pay for equal work is attracted irrespective of the fact that the posts were identified and upgraded in the year 1987. There is no dispute that after such upgradation, officers in both the wings who are doing the equal work are being paid equal pay. But that cannot be said to be the situation as well on 1.1.86 also. The learned counsel, however, submitted that the recommendations of the Pay Commission should be accepted as a whole in respect of all the categories of employees. In this context he relied on two decisions of this Court. In Purshottam

Lal and Others v. Union of India and another (1973) 1 S.C.C. 651

a question came up whether the report of the Second Pay Commission did not deal with the case of those petitioners. It was held thus:

"Either the Government has made reference in respect of all Government employees or it has not. But if it has made a reference in respect of all Government employees and it accepts the recommendations it is bound to implement the recommendations in respect of all Government employees. If it does not implement the report regarding some employees only it commits a breach of Articles 14 and 16 of the Constitution. That is what the Government has done as far as these petitions are concerned."

In P. Parameswaran and Others v. Secretary to the Government of India (1987) Suppl. S.C.C. 18 in a short judgment this Court observed that because of the administrative difficulties the Government cannot deny the benefit of the revised grade and scale with effect from January 1, 1973 as in the case of other persons.

There is no dispute that in the instant case the terms of reference of Pay Commission applied to all the categories of Government servants. But the question is as to from which date the other category referred to above namely Assistant Accountants, Officers etc. should get the higher scales of pay. Identification of these posts and the upgradation cannot be treated as mere administrative difficulties. The implementation of the recommendations of the Pay Commission according to the terms thereof itself involved this exercise of creation of posts after identification which naturally took some time. Therefore the above decisions relied upon by the learned counsel are of no help to

the respondents.

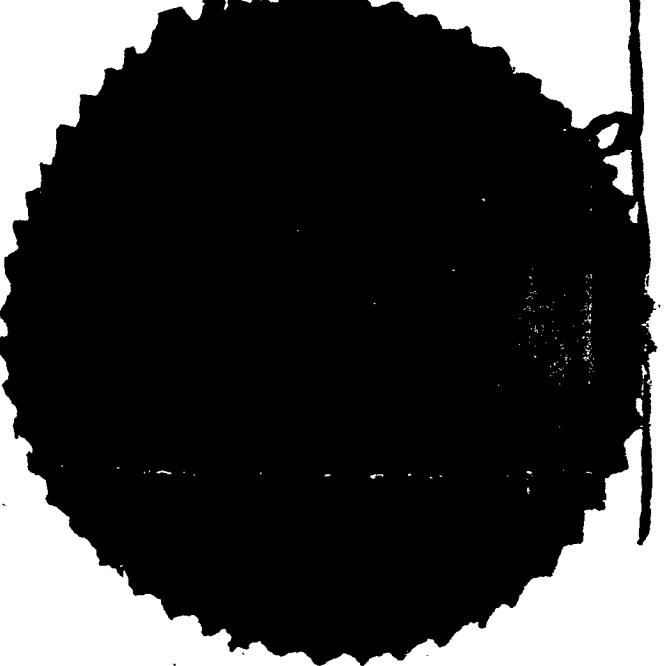
For all the above reasons we set aside the orders questioned in all these Civil Appeals and accordingly allow them. In the circumstances of the cases, there will be no order as to costs.

SuJ—

.....J.
(LALIT MOHAN SHARMA)

SuJ—

.....J.
(K.JAYACHANDRA REDDY)



RECORDED IN MY PRESENCE

23/2/92
S. S. S. 103

All communications should
be addressed to the Registrar,
Supreme Court, by designation.
NOT by name.
Telegraphic address :-
"SUPREMECO"

Recd. As Regd. Letter No. 1415
D. No. 3682-92/etc./88/Sec IV A
R/30/8/93

D. No. 3682-92/etc./88/Sec IV A

**SUPREME COURT
INDIA**

Dated New Delhi, the 25 August, 1993.

FROM The Registrar (Judicial),
Supreme Court of India,
New Delhi.

TO The Registrar,
Central Administrative Tribunal,
Commercial Complex (BDA)
Indiranagar, Bangalore - 38.

CIVIL APPEAL NOS. 2269 TO 2280, 2281 TO 2301, 2302 TO
2312, 2313 TO 2340 AND 2341 TO 2346 OF 1993.
(Tribunal's Application Nos. 240 to 251, 415 to 435, 929 to
939, 188 to 215 of 1988 (F) and 1078 to 1083 of 1987 (F)).

The Accountant General, Bangalore & 2 Ors. ...Appellants.

Versus

Smt. P. Pushpavathy & 11 Ors. etc.etc.

...Respondents.

Sir,

In continuation of this Registry's letter of even
number dated the 3rd May, August, 1993, I am directed to
transmit herewith for necessary action a certified copy
of the Common Decree dated the 26th April, 1993 of the
Supreme Court in the said appeals.

Please acknowledge receipt.

Yours faithfully,


for REGISTRAR(JUDICIAL)

CAT, B/loc
This is a decree filed in SLP list (if not entered already), SLP Register & Main Register.
Add to the relevant file & ^{list} file to all connected files & note. Thereafter, a photocopy of
this and a copy of the order be filed to Hon'ble V.C & Hon'ble Members for perusal.

SD (J2) /S. B.


SD (J2) 30/8/93

459597

XXXXXX
Writ Petition No.XXX
ofXXX
199CIVIL APPEAL NOS.2269 TO 2280, 2281 TO 2301, 2302 TO 2312,
2313 TO 2340 AND 2341 TO 2346 OF 1993.

(Appeals by special leave granted by this Court by its Order dated the 26th April, 1993 in Petitions for Special Leave to Appeal (Civil) Nos. 10211 to 10222, 10534 to 10554, 13878 to 13888, 14564 to 14591 and 14613 to 14618 of 1988 from the Judgments and Orders dated the 29th February, 11th March, 14th July, 29th February and 25th January, 1988 of the Central Administrative Tribunal, Bangalore Bench, Bangalore in Application Nos. 240 to 251, 415 to 435, 929 to 939 and 188 to 215 of 1988 (F) and 1078 to 1083 of 1987 (F) respectively).

CIVIL APPEAL NOS.2269 TO 2280 OF 1993.

The Accountant General, Bangalore & 2 Ors.

...Appellants.

Versus

Smt. P. Pushpavathy & 11 Ors.

...Respondents.

(For full cause title please see Schedule 'A' attached herewith).

CIVIL APPEAL NOS.2261 TO 2301 OF 1993.

The Accountant General, Bangalore & 2 Ors.

...Appellants.

Versus

Shri H.V. Manjunath & 20 Ors.

...Respondents.

(For full cause title please see Schedule 'B' attached herewith).

CIVIL APPEAL NOS.2302 TO 2312 OF 1993.

Union of India & 2 Ors.

...Appellants.

Versus

Shri K. Balasubramanian & 10 Ors.

...Respondents.

(For full cause title please see Schedule 'C' attached herewith).

CIVIL APPEAL NOS.2313 TO 2340 OF 1993.

The Accountant General & 2 Ors.

...Appellants.

Versus

Shri H. Gopalakrishna & 27 Ors.

...Respondents.

(For full cause title please see Schedule 'D' attached herewith).

...2/-

CIVIL APPEAL NOS.2341 TO 2346 OF 1993.

The Accountant General, Bangalore & 2 Ors. ...Appellants.

Versus

Smt. S.G. Bharathi & 5 Ors. ...Respondents.

(For full cause title please see Schedule 'E' attached herewith).

CORAM:

26th April, 1993.

HON'BLE I.R. JUSTICE K. JAYACHANDRA REDDY
HON'BLE MR. JUSTICE S.P. BHARUCHA

For the Appellants
in all the appeals: Mr. W.C. Mahajan, Senior Advocate,
(Mr. P. Parmeswaran, Advocate with him).

The Appeals above-mentioned being called on for hearing
before this Court on the 26th day of April, 1993; UPON perusing
the record and hearing counsel for the appellants herein and
UPON counsel for the appellants herein submitting before the
Court that the points raised in these appeals are covered by
a Judgment of this Court in Union of India & Ors. Vs. The
Secretary, Madras Civil Audit & Accounts Association & Anr. etc.
reported in JT 1992 (1) SC 586, THIS COURT DOETH in disposing
of the appeals in terms of the aforesaid Judgment ORDER:

THAT the Judgments and Orders dated the 29th February,
11th March, 14th July, 29th February and 25th January, 1988
of the Central Administrative Tribunal, Bangalore Bench,
Bangalore in Application Nos.240 to 251, 415 to 435, 929 to
939 and 188 to 215 of 1988 (F) and 1078 to 1083 of 1987 (F)
respectively be and are hereby set aside and in place thereof
an Order dismissing said Application Nos.240 to 251, 415 to 435,
929 to 939 and 188 to 215 of 1988 (F) and 1078 to 1083 of 1987
(F) filed by the respective respondents herein before the
aforesaid Tribunal be and is hereby substituted;

...3/-

AND THIS COURT DOETH FURTHER ORDER that this ORDER be punctually observed and carried into execution by all concerned;

WITNESS the Hon'ble Shri Manepalli Narayana Rao Venkatachaliah, Chief Justice of India, at the Supreme Court, New Delhi, dated this the 26th day of April, 1993.

Seth
(R.C. JAIN)
DEPUTY REGISTRAR
(Signature)

Q _____

IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

SPECIAL LEAVE PETITION (CIVIL) NO. 1021-22

OF 1988

Case No. 1021-22/41

In the matter of

A petition under Article 136 of the
Constitution of India for special Leave
to Appeal from the judgment and order dated
29.2.1988 passed by the Central Administrative
Tribunal, Bangalore Bench in Original
Application Nos. 240 to 251 of 1988.

And in the matter of:

1. The Accountant General,
(Accounts and Entitlements)
Karnataka, Bangalore.

2. The Comptroller and Auditor
General of India, No. 10,
Bandra, New Zafer Marg,
New Delhi.

3. The Government of India,
by its Secretary,
Ministry of Finance,
Department of Expenditure,
New Delhi.

... Petitioners

Versus

1. Smt. P. Pushpavathy
2. Smt. M. Jayashri
3. Smt. Shobha Santosh Kumar
4. Sri. S. Venkateswara
5. Km. Lakshmi Venkateswari
6. Kumari S. Jaya
7. Smt. K. Kusuma
8. Smt. K. Swarna Latna
9. Smt. M. Meera Bai
10. Km. S. Anuradha
11. Smt. M.N. Nagarathna
12. Smt. M.N. Sujatha

... Respondents

All the respondents are working
in the office of the Account and Control
(A&C) Karnataka, Bangalore.

C A No. 2281-2301/93

2(59102)

IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

SPECIAL LEAVE PETITION (CIVIL) NO. 10534-54

OF 1988

In the matter of: -

A petition under Article 136 of the Constitution of India for Special Leave to Appeal from the judgment and order dated 11.3.1988 passed by the Central Administrative Tribunal, Bangalore Bench in Original Application Nos. 415 to 435 of 1988.

And in the matter of: -

1. The Accountant General,
(Accounts and Entitlements)
Karnataka, Bangalore.
2. The Comptroller and Auditor
General of India, No. 10,
Bahadur Shah Zafar Marg, New Delhi.
3. The Government of India,
by its Secretary, M/o Finance,
Department of Expenditure,
New Delhi.

... Petitioners

VERSUS

1. Sri N.V. Manjunath
2. Sri R. Sriuivasa Murthy
3. Sri R. Rama Murthy
4. Sri C. S. Sripada Rao
5. Sri K. S. Ramachandra
6. Sri S. Viswanath
7. Sri M. Sukyanarayana Rao
8. Sat. Vasanthi Raju
9. Sat. Indira Vadirej
10. Sri C. R. Muzalifkar
11. Kun C. Sanoja
12. Sri V. Regupathy
13. Sri K. Gopal
14. Sri M. Chandrappa
15. Sri Nasim Ahmed
16. Sri A.G. Azeem Pasha
17. Sri K.P. Unnikrishna Pillai
18. Sri T.S. Panachandra

... 2/-

19. Sri S. Bhojaraj
20. Sri K. Mukundan
21. Sri S. Sundarajan

(All the respondents are working in
the office of the Accountant General (A&E)
Karnataka, Bangalore)

To

The Honourable the Chief Justice of India
and his companion Justices of the
Hon'ble Supreme Court of India.

The humble petition of the
petitioners aforesaid

MOST RESPECTFULLY SHOWETH:

1. This is a petition under Article 136 of the Constitution of India for special leave to appeal from the judgment and order dated 11.3.1988, passed by the Central Administrative Tribunal, Bangalore Bench in Original Applications Nos. 415 to 425 of 1988. By the said judgment and order the Honourable Tribunal relying on its judgment and order dated 7/8.7.1987 in the case of Nanjunda Swamy, directed that the respondents herein be given the pay scales prescribed by the OM dated 12.6.1987 w.e.f. 1.1.1986 instead 1.4.1987 provided for in the said OM. The petitioners submit that the said direction is contrary to the provisions of the OM dated 17.6.1987 and deserves to be set aside in the interest of justice.

- 2 -

60

24. Sri B. Visweswara -
25. Sri K. Jayaram
26. Sri M. S. Krishnamurthy ...
27. Sri C. Raghavendra ...
28. Sri S. Viswanath ... Respondents

(All the respondents are working in the office
of the Accountant General (E) Karnataka,
Bangalore-560001)

To
The Hon'ble the Chief Justice of India
and His companion Justices of the
Supreme Court of India.

The humble petition of the petitioners - - - - -
above named;

NOT RESPECTFULLY SHOWETH:

1. This is a petition under article 136 of the Constitution of India for special leave to appeal from the judgment and order dated 29.2.88 passed by the Central Administrative Tribunal, Bangalore Bench in Original Applications Nos. 188 to 215 of 1988. By the said judgment and order the judgment and order of Hon'ble Tribunal relying on its judgment and order dated 7/6/1987 in the case of Nanjunda Swamy, directed that the respondents herein be given the pay scales prescribed by the OM dated 12.6.1987 w.e.f. 1.1.1986 instead 1.4.1987 provided for in the said OM. The petitioners submit that the said direction is contrary to the provisions of the OM dated 17.8.1987 and deserves to be set aside in the interest of justice.

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

SPECIAL LEAVE PETITION (CIVIL) NO. 111613-18 OF 1988.
59
C A N 6s. 2341-46/93
In the matter of :-

1. The Accountant-General,
Accounts & Entitlements,
Karnataka, Bangalore.
2. The Comptroller & Auditor,
General of India, no. 10, Bahadur
Shah Zafar Marg, New Delhi.
3. The Government of India, by
its Secretary, Ministry of Finance,
Department of Expenditure, New Delhi.

.. Petitioners

V/s

1. Smt. S.G. Bharathi
2. Sri T. Gokulnanda,
3. Smt. Sowmya D. Pant
4. Smt. Anasuya Gokhale
5. Smt. N.S. Leelavathy
6. Sri D.R. Srinivasan.

All working in the office of the
Accountant General (A&E), Karnataka,
Bangalore.

.. Respondents.

And in the matter of :- Petition under Article 136 of the
Constitution of India from Judgment
and Order dt. 25.1.1988 of the
Central Admn. Tribunal, Bangalore
in O.A. Nos. 1078 to 1083/1987.

.. Contd.

SUPREME COURT
ORIGINAL JURISDICTION

CIVIL APPELLATE JURISDICTION

Writ Petition No.

~~xx600xx~~
CIVIL APPEAL NOS. 2269 TO 2280, 2281 TO 2301,
2302 TO 2312, 2313 TO 2340 AND 2341 TO 2346
OF 1993.

The Accountant General,
Bangalore & 2 Ors. etc.

~~Respondent~~
Appellants.

Versus

Smt. P. Pushpavathy & 11 Ors. Respondent **s.**
etc.etc.

CENTRAL ADMINISTRATIVE TRIBUNAL, BANGALORE
BENCH, BANGALORE.

Application Nos. 240 to 251, 415 to 435, 929
to 939, 188 to 215 of 1988 (F) and 1078 to
1083 of 1987 (F)

~~xx600xx~~ ~~xx600xx~~ ~~xx600xx~~
DECREE DISPOSING OF THE APPEALS.

Ordered this the 26th day of April, 1993.

SHRI P. Parmeswaran,

Advocate on Record for the Appellants in
Civil Appeal Nos. 2269 to 2280, 2281 to 2301,
2313 to 2340 and 2341 to 2346 of 1993.
SHRI C.V. Subba Rao,

Compared with

No. of folios

Advocate on Record for the Appellants in Civil App
Nos. 2302 to 2312 of 1993.

GW/13.8.93

RECEIVED IN THE P.R.
24/8/93