REGISTERED

CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE BENCH
* * * * * * * *

Commercial Complex (BDA)
Indiranagar
Bangalore - 560 038

Dated : 13 JUN 1988

APPLICATION NOS. 1055, 1057 & 1058 /87(F)

W.P. NO. /

Applicant(s)

Shri G. Balakrishna Rao & 2 Ors

V/s

Respondent(s)

The DG (Posts), New Delhi & another

To

1. Shri G. Balakrishna Rao
   LSG Sorting Assistant
   SRG (DET), Bangalore City RMS
   Bangalore

2. Shri V.S. Mulgund
   LSG Sorting Assistant
   RMS Bangalore Sorting Division
   Bangalore - 560 026

3. Shri K. Yellappa
   LSG Sorting Assistant
   HRO (DET), Bangalore City RMS
   Bangalore

4. Shri M. Raghavendra Achar
   Advocate
   1074-1075, Banashankari I Stage
   Sreenivasanagar II Phase
   Bangalore - 560 050

5. The Director General
   Department of Posts
   Dak-Tar Bhavan
   New Delhi - 110 001

6. The Post Master General
   Karnataka Circle
   Bangalore - 560 001

7. 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 application(s) on 8-6-88.

Received
13.6.88

Encl : As above

DEPUTY REGISTRAR
(JUDICIAL)

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE

DATED THIS THE 8th DAY OF JUNE, 1988.

Present : Hon'ble Sri P.Srinivasan Member (A)

APPLICATION Nos. 1055, 1057 & 1058/87.

1. G.Balakrishna Rao,
LSG Sorting Assistant,
SRO(DET), Bangalore City RMS?
Bangalore.

2. V.S.Mulgund,
LHG Sorting Assitant,
RMS Bangalore Sorting Division,
Bangalore - 26.

3. K.Yellappa,
LSG Sorting Assistant,
HRO (DET), Bangalore City RMS,
Bangalore. ... Applicants

( Sri M.R.Achar ... Advocate )

vs.

1. The Director General,
Department of Post,
Dakghar Bhavan,
New Delhi.

2. The Post Master General,
Karnataka Circle,
Bangalore. ... Respondents

( Sri M.S.Padmarajaiah ... Advocate )

These applications having come up before the Tribunal today, Hon'ble Sri P.Srinivasan, Member (A) made the following :

ORDER

All these applications involve a common issue and are therefore, conveniently dispose of by a common order.

2. The three applicants before me, V.B.Balakrishna Rao, V.S.Mulgund and K.Yellappa, are working as LSG Sorting Assistants in the Postal Department in Karnataka. All of them came on transfer on different dates to the Karnataka Circle

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under rule 38 of P & T Manual Volume IV from other circles. Under that rule they were obliged to take the bottom position of the seniority in the posts in which they were absorbed in the Karnataka Circle as on the date they came over to that circle. They were working at that time in the grade of Rs.260-480. Under the time bound promotion scheme, introduced in the postal department a person was eligible for promotion to a higher scale after completion of 16 years of service in the immediately lower scale. This scheme was introduced to relieve stagnation in the same scale for a long period. The applicants and certain others were, under this scheme, promoted to the higher scale of Rs.425-640, by order dated 9.1.1984 w.e.f. 30.11.1983. The initial pay of such persons on such promotion was fixed in accordance with the rules governing such fixation. A certain Jagadish was later promoted to the scale Rs.425-640, again under the time bound promotion scheme w.e.f. 2.4.1984 and his initial pay in the said higher scale was also fixed in accordance with the relevant rules on the subject. Immediately before the introduction of the revised pay scales pursuant to the recommendations of the 4th Pay Commission, the 3 applicants were drawing pay in the old pay scale of Rs.425-640 as follows : Yellappa Rs.455/-, Balakrishna Rao Rs.455/-, V.S.Mulgund Rs.530/-. On the same date Jagadish who as stated earlier was promoted under the time bound scheme to the scale of Rs.425-640 w.e.f. 2.4.1984 was drawing a pay of Rs.440/-; another person, Sri H.V.Ramachandra Murthy who was also promoted to the grade of Rs.425-640 under the time bound scheme w.e.f. 30.11.1983 along with the applicants was drawing a pay of Rs.515/- in that grade. The revised pay scale recommended



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by the 4th Pay Commission in place of the old scale of Rs.425-640 was Rs.1440-2300. The C.C.S.(Revised pay) rules 1986 were promulgated to govern fixation of pay of Government servants in the revised pay scales. Under these rules persons drawing pay at a number of stages in the old scale were bunched together and were made eligible for fixation at the same stage in the revised pay scale. Accordingly, Sri Mulgund who was drawing a pay of Rs.530/- and Sri Ramachandramurhty who was drawing a pay of Rs.515/- in the old scale were both fixed at the same stage in the revised scale i.e., 1560/-. However, since the date of increment of Ramachandra Murhty was the 1st of April in the old scale, the date of his next increment in the revised scale was fixed as 1.4.1986. The date of annual increment of Mulgund was 1st November in the old scale and therefore the date of his next increment in the revised scale was fixed as 1.11.1986. Mulgund's grievance is that since he was drawing pay at a higher stage in the old scale, even though under the bunching system pay as on 1.1.1986 in the revised scale was fixed at the same figure as that of Ramachandra Murthy, giving Ramachandra Murthy an increment in the revised scale earlier than him was totally unfair.

3. Coming to Yellappa and S.B.Balakrishna Rao (applicants) they were drawing a pay of Rs.455/- in the old scale immediately before 1.1.1986 and they were fixed at Rs.1440/- in the revised pay scale as on 1.1.1986. Under the bunching system, Jagadish who was drawing a pay of Rs.440/- in the old scale was also fixed at Rs.1440/- in the revised scale from 1.1.1986. The date of annual increment of Yellappa in the old scale was the 1st of November and that of Balakrishna



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Rao was the 1st of September while that of Jagadish was the 1st of April. Therefore, the date of next increment in the revised scale was fixed as 1.11.1986 for Yellappa, 1.9.1986 for Balakrishna Rao and 1.4.1986 for Jagadish. Here again the complaint of Yellappa and Balakrishna Rao (applicants) is that since they were drawing pay in the old scale immediately before 1.1.1986 at a stage higher than that of Jagadish, at least the date of the next increment should have been the same as in the case of Jagadish.

4. Sri M.R.Achar, learned counsel for the applicants, drawing attention to the second proviso to Rule 8 of the CCS Revised Pay rules 1986 which protects a senior against his date of increment being fixed later than that of his juniors, submits that seniority for this purpose (viz fixation of pay and the date of increment in the revised scale) does not mean seniority in the service but seniority measured by length of service in the same scale of pay. He submits that Mulgund had put in longer years of service than Ramachandra Murthy in the scale of Rs.425-640 and similarly Yellappa and Balakrishna Rao had put in longer years of service than Jagadish in the same scale and taking into account this factor, their dates of next increment in the revised scale should have been protected, Mulgund vis-a-vis Ramachandra Murthy and Yellappa and Balakrishna Rao vis-a-vis Jagdish.

5. Sri M.S.Padmarajaiah, learned counsel for the respondents submits that the protection in respect of the date of increment provided in the second proviso of Rule 8 applies only to cases of seniors vis-a-vis their juniors. As the applicants had come on transfer from other circles under rule 38 they took bottom seniority on their joining the Karnataka circle. Mulgund was junior to Ramachandra Murthy. Yellappa

and Balakrishna Rao were junior to Jagadish in this manner. That being so they cannot claim protection of the dates of their increment in the manner that they have done.

6. I have considered the arguments of counsel of both sides carefully. The relevant rule which is applicable to the present case is Rule 8 of the CCS Revised Pay Rules 1986. I may here extract the rule to the extent it is necessary for the present controlversy :

> "The next increment of a Government servant whose pay has been fixed in the revised scale in accordance with sub-rule(1) of Rule 7 shall be granted on the date he would have drawn his increment, had he continued in the existing scale.
>
> Provided that in cases where the pay of a Government servant is stepped up in terms of Note 3 or Note 4 or Note 7 to sub-rule(1) of Rule 7, the next increment shall be granted on the completion of qualifying service of twelve months from the date of the stepping up of the pay in the revised scale :
>
> Provided further that in cases other than those covered by the preceding proviso, the next increment of a Government servant, whose pay is fixed on the 1st day of January, 1986 at the same stage as the one fixed for another Government servant junior to him in the same cadre and drawing pay at a lower stage then his in the existing scale, shall be granted on the same date as admissible to his junior, if the date of increment of the junior happens to be earlier."

The first point to be noticed here is that the date of next increment in the revised scale is the same as the date of increment in the pre-revised scale. The second proviso takes care of a situation where a senior in the service drawing higher pay than the junior is, under the bunching system, fixed at the same stage of pay in the revised pay scale as his junior who was drawing a lower pay in the old pay scale. In that case, if the date of increment of the junior falls on an earlier date, the senior is also to be granted the next increment after 1.1.1986 on the same date. Here ~~Hence~~, it is not

disputed that Mulgund was, by the application of rule 38, junior to Ramachandra Murthy, and Yellappa and Balakrishna Rao were junior to Jagadish. That being so, Mulgund cannot avail of the 2nd proviso to Rule 8 vis-a-vis Ramachandra Murhty and Yellappa and Balakrishna Rao cannot claim the same benefit vis-a-vis- Jagadish. In my view this seems to be a harsh and unfair rule. As I had mentioned earlier, though Mulgund was junior to Ramachandra Murthy, he was in fact drawing pay at a higher stage (Rs.530/-) than Ramachandra Murthy (Rs.515/-) in the old scale. It was bad enough that both of them were fixed at the same stage in the revised pay scale i.e. Rs.1560/-. But Mulgund was placed in a worse position because the date of his next increment was fixed at 1.11.1986 as against 1.4.1986 for Ramachandra Murthy. Thus Mulgund suffered not only in the fixation of his pay in the revised scale from 1.1.1986 but also suffered a permanent loss as his increments thereafter would fall due after Ramachandra Murthy drew his increment. Similarly the situation in which Yellappa and Balakirshna Rao have been placed is also unfair to them. However, since the proviso to Rule 8 is clear, I am not in a position to give any relief to any of the applicants. But I may here note that under rule 13 of the said rules, the Government is empowered to relax any of the rules in cases of hardship. In my view these are cases of hardship which deserve consideration at the hands of the Government. The applicants may therefore apply to the Government for relaxation of the proviso of rule 8 in their cases in order to refix their dates of increment and it is for the Government to consider their applications under rule 13. I would leave the matter at that.

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2. In view of what I have stated above the applications are dismissed subject to the observations made above. Parties to bear their own costs.

sd/-

MEMBER (A) 01.1.


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