

CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE BENCH
* * * * *

Commercial Complex(BOA)
Indiranagar
Bangalore - 560 038

Dated : 7 OCT 1988

REVIEW APPLICATION NOS. 70 to 75/88
IN APPLICATION NOS. 1327 to 1332/88(T)
AND
APPLICATION NOS. 1510 to 1515/88(F)

Applicants

Shri M. Vasanthababu & 5 Ors

v/s Shri M. Nanjundaswamy & 9 Ors

To

1. Shri M. Vasanthababu
Senior Auditor
ECPA Section of
Accountant General (Audit - I)
New Building
Bangalore
2. Shri V.N. Jakati
Senior Auditor RA (State)
Accountant General Audit - II
R.A. Building
Gachhadipuram
Bangalore
3. Shri K. Vinayaka
Senior Auditor
Accountant General Audit-I
Vyalikaval Building
Bangalore - 560 003
4. Shri S.N. Ahmed Sakhi
Senior Auditor
Accountant General Audit-I
Vyalikaval Building
Bangalore - 560 003

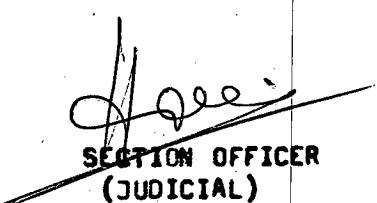
Respondents

5. Shri R. Kantharaj
Senior Auditor
Accountant General Audit-II
Accountant General Office
Bangalore - 560 001
6. Shri K.M. Ranganatham
Senior Auditor
Accountant General Audit-I
Accountant Generals Office
Bangalore - 560 001
7. Shri M. Narayanaswamy
Advocate
844, (Upstairs)
V Block, Rajajinagar
Bangalore - 560 010
8. Shri M. Nanjundaswamy
56, Jayalakshmi Nilaya
Ramakrishna Layout
Bangalore - 560 016
9. Shri S.L. Ramakrishna
No. 595, III Cross, V Main
Hemumanthnagar
Bangalore - 560 019

10. Shri M. Basavareju
No. 707, 16th Cross, 25th Main
J.P. Nagar
Bangalore - 560 078
11. Shri V. Ramachandran
H-1, Type III CPWD Quarters
Vijayanagar
Bangalore - 560 040
12. Shri D.V. Bhuvaneshamurthy
21, 4th Block, Geetha Colony
Jayanagar
Bangalore - 560 011
13. Shri K. Krishnappa
10/1, 13th cross, 8th Main
Malleshwaram
Bangalore - 560 003
14. The Accountant General (Accounts)
Bangalore - 560 001
15. The Accountant General (Audit)
Bangalore - 560 001
16. The Comptroller & Auditor
General of India
No. 18, Bahadur Shah Zafar Marg
New Delhi - 110 002
17. The Secretary
Ministry of Finance
Department of Expenditure
New Delhi
18. Shri S.K. Srinivasan
Advocate
35 (Above Hotel Swagath)
1st Main, Gandhinagar
Bangalore - 560 009
19. 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 passed by this Tribunal
in the above said Review/Applications on 26-9-88.


SECTION OFFICER
(JUDICIAL)

Encl : As above

CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE

DATED THIS THE 26TH DAY OF SEPTEMBER, 1988

Present

Hon'ble Shri Justice K.S. Puttaswamy, Vice-Chairman
and
Hon'ble Shri L.H.A. Rego, Member (A)

REVIEW APPLICATION NOS. 70 TO 75/1988

AND

APPLICATION NOS. 1510 TO 1515/1988

1. Shri M. Vasanbabu,
S/o Mailesharao,
aged 46 years,
Sr. Auditor, ECPA Section,
Accountant Generals Audit-I,
New Building, Bangalore.
2. Shri V.M. Jakati,
S/o N.R. Jakati,
aged 42 years,
Sr. Auditor (R.A. State),
Accountant General Auditor-II,
R.A. Building, Seshadripuram,
Bangalore.
3. Shri K. Vinayaka,
S/o Subbanna,
Sr. Auditor, Accountant General
Audit-I, Vyalikaval Building,
Bangalore.
4. Shri S.N. Ahmed Bakshi,
S/o Mohammed Khan,
Aged 40 years, Sr. Auditor,
Accountant General Audit-I,
Vyalikaval Building,
Bangalore.
5. Shri R. Kantharaj,
S/o C.I. Rajoo Naidu,
aged 40 years, Sr. Auditor,
Accountant General Audit-II,
Accountant Generals Office,
Bangalore.
6. Shri K.R. Ranganathan,
S/o K. Ramaiah,
aged 53 years, Sr. Auditor,
Accountant General Audit-I,
Accountant Generals Office,
Bangalore.

.... Applicants in
R.A. Nos.70 to
75/88 and also
in A.Nos.1510
to 1515/1988

(Shri M. Narayanaswamy, Advocate)

v.

1. Shri M. Nanjundaswamy,
33 years, S/o Shri Marikushaiah,
56, Jayalakshminilaya,
Ramakrishna Layout,
Bangalore.

2. Shri S.L. Ramakrishna,
30 years, S/o S.Q.
Laxmipathaiah, No.595,
III Cross V Main
Hanumanthanagar,
Bangalore.

3. Shri M. Basavaraju,
43 years, S/o Shri D.C.
Murgavalappa, No.707,
16th Cross, 25th Main, J.P. Nagar,
Bangalore.

4. Shri V. Ramachandran,
aged 52 years, S/o Shri
G. Venkataramaiah, H-1,
Type III CPWD Quarters,
Vijayanagar, Bangalore.

5. Shri D.V. Bhuvarahamurthy,
32 years, S/o D.R. Venkoba
Rao, 21, 4th Block, Geetha-
Colony, Jayanagar,
Bangalore-11.

6. Shri K. Krishnappa,
28 years, S/o Shri Kariyappa
10/1, 13th Cross, 8th Main,
Malleeshwaram, Bangalore.

7. The Accountant General,
(Accounts), Bangalore.

8. The Accountant General
(Audit), Bangalore.

9. The Controller & Auditor
General of India, New Delhi.

10. The Union of India
through its Secretary,
Ministry of Finance
(Dept. of Expenditure),
New Delhi.

(Shri S.K. Srinivasan for
Dr. M.S. Nagaraja, Advocate for
Respondent Nos. 1 to 6)

(Shri M.S. Padmarajaiah, C.G.S.S.C.
for Respondent Nos. 7 to 10)

.... Respondents in
R.A.Nos.70-75/88.

.... Respondent Nos.
9 and 10 are
also Respondent
Nos.1 and 2 in
A.Nos.1510 to
1515/1988

These applications having come up for hearing to-day,
Vice-Chairman made the following:

O R D E R

The applicants in these cases are common. The questions
which arise for decision in them are inter-related. We,
therefore, propose to dispose of them by a common order.

2. Prior to 1.3.1984 Audit and Accounts of the finances of the Union and State Governments in the country were performed by an integrated department of Government of India ('GOI'). On the recommendations of the Comptroller and Auditor General of India ('C&AG') who is the Head of that Department, GOI on 19.12.1980 accorded its approval to bifurcate the department into two separate and distinct wings called the 'Audit' and 'Accounts' Wings the details of which are elaborately set out by the C and AG in the 'Manual of Instructions for Restructuring of Cadre in IA & AD' hereinafter referred to as the Scheme. In conformity with the same, the Scheme was implemented from 1.3.1984.

3. In Applications Nos. 1327 to 1332 of 1986 which were transferred applications received from the High Court of Karnataka under Section 29 of the Administrative Tribunals Act, 1985 ('the Act'), respondents 1 to 6 in Review Applications Nos. 70 to 75 of 1988, challenged the 'Scheme' on diverse grounds. When those applications were pending before this Tribunal, on the recommendations of the Fourth Pay Commission, GOI in its order made on 12.6.1987 sanctioned the revision of pay scales to the staff working in the 'Accounts' Wing from 1.4.1987. We disposed of these applications on 8.7.1987 (Annexure-F) rejecting the challenge to bifurcation of the Department w.e.f. 1.3.1984. We however upheld the claim of the applicants therein (who are respondents Nos. 1 to 6 in Review Application Nos. 70 to 75/1988) in regard to revision of pay scales w.e.f. 1.1.1986 on parity with all other civil servants of the Union of India.



4. In Review Applications Nos. 70 to 75 of 1988 made under Section 22(3)(f) of the Act, the applicants working in

the Audit Wing and who were not parties to Applications Nos. 1327 to 1332 of 1986, have sought for a review of our order to the extent our order has made a declaration and a direction to allow them the revision of pay scales with effect from 1.1.1986. In Applications Nos. 1510 to 1515 of 1988 made under Section 19 of the Act, these very applicants, had also challenged on diverse grounds the order of GOI made on 12.6.1987.

5. When these cases came up for preliminary hearing on 13.9.1988, we directed notices to the respondents before admission. In pursuance of the same, the respondents have entered appearance through their counsel.

6. We will deal with Review Applications Nos. 70 to 75 of 1988 first.

7. In presenting these applications, there is a delay of 360 days. In I.A.No.1 the applicants have sought for condoning the same on the ground that they came to know our Order on 6.7.1988 and on that, they obtained a certified copy of our Order on 6.7.1988 and then only they had filed them, after availing of reasonable time for examination and filing. The applicants claim that these facts constitute a sufficient cause for condoning the delay in making the applications.

8. Shri M. Narayanaswamy, learned Advocate has appeared for the applicants in all these cases. Shri M.S. Padmarajaiah, learned Senior Central Government Standing Counsel has appeared for GOI and its subordinates in all these cases. Shri S.K. Srinivasan, learned Advocate has appeared for respondents 1 to 6 in Review Applications Nos. 70 to 75 of 1988. We have heard all of them on the I.A. and merits.

9. The applicants, who are seeking a review of our order were not parties to those cases. But, in JOHN LUCAS AND ANOTHER v. THE ADDITIONAL CHIEF MECHANICAL ENGINEER, S.C. RAILWAY AND OTHERS (ATR 1987 (1) CAT 612) a Full Bench of this Tribunal had held that even persons who were not parties to an order, if aggrieved by the same, can seek a review of the same under the Act. On the ratio in 'John Lucas' case, we hold that these applications are maintainable under the Act.

10. Rule 17 of the Rules which regulates limitation for a review reads thus:

17. Review of Application to be filed within thirty days - No application for review shall be entertained unless it is filed within thirty days from the date of the order of which the review is sought.

On the terms of this Rule, these applications made on 1.9.1988 are barred by time. Shri Narayanaswamy without disputing this, urges that every one of the facts and circumstances narrated in I.A. No.1 constitutes a sufficient ground for condoning the delay and condoning the same, these cases be dealt on merits.



11. We have noticed that the applicants were not parties to the transferred applications and therefore we cannot impute them with the knowledge of our order. On the other facts stated by them, which are not controverted by the respondents, there are no reasons to doubt them. If that is so, then what all has been stated by the applicants in I.A. No.1 constitute a sufficient cause to condone the delay. We, therefore, allow I.A. No.1, condone the delay and proceed to deal with the merits.

12. In our order, we have upheld the claim of respondents 1 to 6 for revised pay scales from 1.1.1986 on the very basis of the order of Government, however rejecting their claim for equality in pay scales with the Audit Wing before that date. In reaching our conclusions on both of them, we have not overlooked the true scope and ambit of Articles 14 and 16 of the Constitution of India and the rulings of the Supreme Court explaining them also. We will even assume that another view on the first aspect was possible or the same was even wrong. But, neither of them, will constitute a patent error in our order to justify review under Section 22(3)(f) of the Act read with Order 47 Rule 1 of the Code of Civil Procedure. Even otherwise, we cannot examine our order as if we are a Court of appeal. On any view there is no merit in these review applications and they call for dismissal on merits. With this, we now pass on to deal with Applications Nos. 1510 to 1515 of 1988 in which the applicants have challenged on diverse grounds the order of Government made on 12.6.1987.

13. In making these applications, there is a delay of 82 days. In I.A. No.1 the applicants have sought for condoning that delay on the very facts stated in I.A. No.1 in Review Applications Nos. 70 to 75 of 1988. For the very reasons we have condoned the delay in those cases, we must condone the delay in these cases also. We, therefore, allow I.A. No.1 and condone the delay in making these applications under Section 19 of the Act.

14. The result of our order in R.A. Nos. 70 to 75 of 1988 is that we have really upheld the order of Government

impugned in these cases. On this itself, we cannot uphold the challenge of the applicants to the order of Government made on 12.6.1987. We, therefore, hold that Applications Nos. 1510 to 1515 of 1988 are liable to be dismissed on merits.

15. In the light of our above discussion, we dismiss all these applications. But, in the circumstances of the cases, we direct the parties to bear their own costs.

Sd/-

VICE-CHAIRMAN

TRUE COPY

Sd/-

MEMBER (A) 11.6.1988




7/6
SECTION OFFICER
CENTRAL ADMINISTRATIVE TRIBUNAL
ADDITIONAL BENCH
BANGALORE