

CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE BENCH

Commercial Complex (BDA)
Indiranagar
Bangalore - 560 038

Dated : 23 MAR 1989

APPLICATION NO (s) 1822 / 88(F)
W.P. NO (s) _____

Applicant (s)

Shri M. Gopala Rao

To

1. Shri M. Gopala Rao
J.T. O.
Telephone Exchange Office
Shimoga
2. Shri M. Raghavendra Achar
Advocate
1074-1075, 4th Cross
Banashankari I Stage
Greenivanshagere II Phase
Bangalore - 560 050
3. The Divisional Engineer
Telegraphs
Davanagere Division
Davanagere
Chitradurga District
4. Shri M.S. Padmajaiah
Central Govt. Stng Counsel
High Court Building
Bangalore - 560 001

Respondent (s)

V/s The Divisional Engineer, Telegraphs, Davanagere

Subject : SENDING COPIES OF ORDER PASSED BY THE BENCH

Please find enclosed herewith a copy of ORDER/ADAM/INTERIM ORDER
passed by this Tribunal in the above said application(s) on 20-3-89.

For Consideration of
DEPUTY REGISTRAR
(JUDICIAL)

Encl : As above

O/C

CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE

DATED THIS THE 20TH DAY OF MARCH, 1989

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

APPLICATION NO. 1822/1988

Shri M. Gopala Rao,
Major,
S/o M. Narayana Rao,
C.T.O. Telephone Exchange Office,
Shimoga.

.... Applicant.

(Shri M. Raghavendrachar, Advocate)

v.

The Divisional Engineer,
Telegraphs,
Davanagere Division,
Davanagere.

.... Respondent.

(Shri M.S. Padmarajaiah, C.G.S.S.C.)

This application having come up for hearing to-day,

Shri P. Srinivasan, Hon'ble Member (A) made the following:

ORDER

The applicant who was working as Repeater Station Assistant (RSA) was promoted as Selection Grade RSA with effect from 1.4.1978. Purporting to act in pursuance of a judgment of this Bench of the Tribunal, The Telecom District Engineer, Davanagere by his order dated 14.12.1987, fixed the pay of the applicant as Selection Grade RSA applying Fundamental Rule 22C with effect from 1.4.1978. However, by a subsequent order dated 23.3.1988, the said pay fixation was cancelled as "the judgment of CAT, Bangalore, pertains for a particular case and cannot be extended to other cases/cadres unless specific directions are issued by the Government in the matter". The applicant has challenged this last mentioned order in this application.



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2. Shri M. Raghavendrachar, learned counsel for the applicant and Shri M.S. Padmarajaiah, Senior Central Government Standing Counsel have been heard.

3. Obviously, if the principle laid down in a decision of this Tribunal is followed in fixing the pay of persons similarly situated as those who were parties in the case before the Tribunal, it would be improper to cancel such fixation of pay later on the ground that the decision of the Tribunal would apply only to the parties who went before the Tribunal. Therefore, I have no difficulty in holding that the impugned order dated 23.3.1988 cancelling the pay fixation made by order dated 14.12.1987 is not sustainable on its own ~~terms~~. It was, however, explained at the time of hearing that the facts of the present case are not on all fours with those obtaining in the case decided by this Tribunal. That would be a different matter. However, before deciding to vary the fixation of pay once made to the disadvantage of a Government servant, he should be given an opportunity of being heard and that has not been done in this case.

4. In view of the above, the impugned order dated 23.3.1988 is hereby set aside. If, however, the respondent feel that the facts of the present case do not attract the principle laid down in the decision of this Tribunal and if they are of the view that the applicant's pay on his appointment to Selection Grade should be regulated by FR 22A and not by FR 22C, they

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will give the applicant an opportunity of being heard before taking a decision thereon. The applicant can be heard either in person or in writing after informing him as to why the administration thinks that the earlier fixation of pay in his case was wrong and that he is not entitled to fixation of his pay under FR 22C. It goes without saying that if, after doing so, the decision of the authorities still goes against the applicant, the applicant will be at liberty to agitate the matter before this Tribunal, if he so deems fit.

5. The application is disposed of on the above terms. Parties will bear their own costs.



Sd/-

MEMBER (A) 28/3/81

TRUE COPY

R. Venkatesh Rao
DEPUTY REGISTRAR (JDL) 23/3/81
CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE