

CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE BENCH
* * * * *

Commercial Complex (BDA)
Indiranagar
Bangalore - 560 038

Dated : 18 AUG 1988

APPLICATION NO.

460 to 462

/88(F)

W.P. NO.

Applicant(s)

Shri H.V. Venkataramaiah & 2 Ors

v/s

Respondent(s)

The DG, Telecom, New Delhi & another

To

1. Shri H.V. Venkataramaiah
Assistant Engineer
Postal Civil Sub-Division
3rd Cross, Durgigudi
Shimoga - 577 201

5. The Director General
Department of Telecommunications
PAT Section
Sanchar Bhavan
New Delhi - 110 001

2. Shri T.S. Raghavan
Assistant Engineer
Telecom Civil Sub-Division
D.T.O. Compound
Bellary - 583 101

6. The Superintending Engineer
P & T Civil Circle
Bangalore - 560 001

3. Shri N. Gururaja Rao
Assistant Surveyor of Works/AE
Office of the Superintendent Engineer
Postal Civil Circle
Bangalore - 560 020

7. Shri M. Vasudeva Rao
Central Govt. Stng Counsel
High Court Building
Bangalore - 560 001

4. Shri Ranganatha S. Jois
Advocate
36, 'Vagdevi'
Shankarapuram
Bangalore - 560 004

Subject : SENDING COPIES OF ORDER PASSED BY THE BENCH

Please find enclosed herewith the copy of ORDER/~~STRAK~~/~~ENTERPRISE ORDER~~
passed by this Tribunal in the above said application(s) on 11-8-88.

Encl : As above

For - Venkata Rao
DEPUTY REGISTRAR
(JUDICIAL)

CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE.

DATED THIS THE 11TH DAY OF AUGUST, 1988

Present: Hon'ble Shri Justice K.S. Puttaswamy, Vice-Chairman
and
Hon'ble Shri P. Srinivasan, Member (A)

APPLICATION NOS. 460 TO 462/1988

1. Shri H.V. Venkata Ramaiah,
S/o. H. Visveswaraiah,
aged about 47 years,
working as Asst. Engineer,
Postal Civil Sub-Division,
Shimogga.
2. Shri T.S. Raghavan,
S/o. Tirumalai Swamy,
Working as Asst. Engineer,
Telecom Civil Sub-Division,
Bellary.
3. Shri N. Gururaja Rao,
S/o late N.R. Nagaraja Rao,
Aged about 49 years,
Working as Asst. Surveyor of
Works/AE, O/o Superintendent
Engineer, Postal Civil Circle,
Bangalore-20.

... Applicants.

(Shri S. Ranganatha Jois, Advocate)

v.

1. The Director General,
Dept. of Telecommunications,
PAT Section, Sanchar Bhavan,
New Delhi.
2. The Superintending Engineer,
P & T Civil Circle,
Bangalore.

... Respondents.

(Shri M. Vasudeva Rao, C.G.A.S.C.)



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

D R O E R

These are applications made by the applicants under
Section 19 of the Administrative Tribunals Act, 1985
('the Act').

2. Sriyuths H.V. Venkataramaiah, T.S. Raghavan and N. Gururaja Rao, applicants before us were promoted as regular Assistant Engineers along with Sriyuths R. Ganapathy and G. Seethapathi. The applicants claim that they are seniors to both Ganapathi and Seethapathi.

3. For reasons that are not necessary to notice, Seethapathi who is junior to Ganapathy was allowed to draw a higher pay than Ganapathy as also the applicants at any rate from the date of their regular promotions in 1973. On noticing the higher fixation of pay to Seethapathi, the applicants as also Ganapathy made representations to the Director General, P & T, New Delhi ('DG') some time 1978-79 or thereafter urging him to step up their pay to the level of their junior Shri Seethapathi. On 5.11.1983 the DG rejected their claims for more than one reason stated in his order of that date.

4. Aggrieved by the aforesaid decision of the DG, Ganapathy and one Shri G.L. Kulkarni, approached the High Court of Karnataka on 20.3.1985 in Writ Petition Nos. 4805 and 4806 of 1985. On the constitution of this Tribunal, those writ petitions were transferred to this Tribunal and they have been allowed by a Division Bench of this Tribunal on 1.5.1987. On the basis of that order and the further orders made in favour of Sriyuths Ganapathi and Kulkarni, the applicants made a further representation before the DG urging him to



step up their pay to the level of Seethapathi and Ganapathi. On 18.1.1988 the DG has again rejected them reiterating his earlier decision against them. Hence, these applications.

5. In their replies, the respondents have inter alia urged that these applications which seek to agitate matters which really arose in 1978 or before 1.11.1982 were not maintainable before this Tribunal and in any event were barred by time. Shri M. Vasudeva Rao, learned Additional Central Government Standing Counsel appearing for the respondents raised this as a preliminary objection and drew support from the rulings of this Tribunal in V.K. MEHRA v. SECRETARY, INFORMATION AND BROADCASTING (ATR 1986 CAT 203) and KSHAMA KAPUR v. UNION OF INDIA (1987 (4) ATC 329).

6. Shri S. Ranganatha Jois, learned counsel for the applicants in countering the contention of Shri Rao contends that the limitation for these applications had to be computed only from 18.1.1988 (Annexure-D) on which day the DG rejected the claim of the applicants vis-a-vis Ganapathy and so computed these applications were in time. Alternatively Shri Jois contends, that the grievance of the applicants for stepping up of their pay to the level of their juniors was a continuing wrong or a continuing cause of action and, therefore, the denial of the same every month gives them a fresh cause of action on which footing these applications were well in time.



7. We have earlier noticed that the applicants were regularly promoted as Assistant Engineers along with Shri Seethapathi and Ganapathi in 1978. When they were so promoted, for reasons that are not necessary to notice, Seethapathi was allowed to draw pay at a higher rate than the applicants. If that is so, we must really take that as the 'starting point of limitation or the starting point for the grievance of the applicants. When their pay was first fixed on regular promotions that should be taken as the real and decisive fixation of pay and that fixation which reflects itself in the payments made from time to time does not get itself altered or obliterated for any reason. We are of the view that in such cases, the theory of continuing wrong or continuing cause of action will not at all arise. What emerges from this discussion is that the cause of action or the grievance of the applicants in these cases really arose and became final well before 1.11.1982. If the grievance or the cause of action arose prior to 1.11.1982, as ruled by this Tribunal in Mehra's and Kshama Kapur's cases this Tribunal has no jurisdiction to entertain these applications and adjudicate them on merits.

8. We will even assume that what we have expressed earlier is not the correct position and examine the case of the applicants with reference to the further events that happened in 1983. On 5.11.1983 the DG expressly rejected the claim of the applicants for stepping up their pay and communicated his order to them and Ganapathi

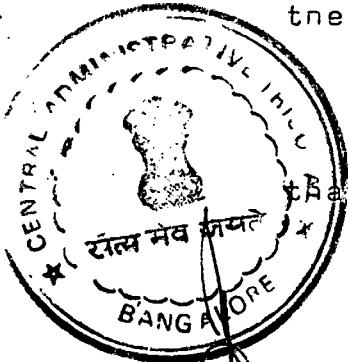


also. Whatever be the reasons on which the applicants kept quiet, it cannot at all be doubted that an adverse order made against them as early as on 5.11.1983 had been allowed to become final. On this adverse order ^{of the} made on 5.11.1983 period of limitation for these applications had in any event, must be computed from that date and not from 18.1.1983 which really reiterated what had been decided on 5.11.1983.

9. As pointed out by us in Kshama Kapur's case, continuing representations made and the continuing reiterations made by the authorities out of sheer courtesy and grace, does not in any way alter the legal position for computation of limitation against the order dated 5.11.1983. If limitation is computed from 5.11.1983, as that should be, then these application, made on 10.3.1988 are clearly barred by time. On this ground also these applications are liable to be dismissed.

10. On any view of the matter, we are satisfied that these applications are liable to be rejected upholding the preliminary objection urged by Shri Rao. On this view, the question of considering the merits of the cases does not arise. We, therefore, decline to examine the merits of the cases.

11. In the light of our above discussion, we hold that these applications are liable to be dismissed. We,



therefore, dismiss these applications. But in the circumstances of the cases, we direct the parties to bear their own costs.

Sd/-

VICE-CHAIRMAN

11/8/17

Sd/-

MEMBER (A)

11/10/17

TRUE COPY



np/MRv.

R. Venkatesh
DEPUTY REGISTRAR (JD)
CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE