

REGISTERED

CENTRAL ADMINISTRATIVE TRIBUNAL  
BANGALORE BENCH  
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Commercial Complex (BDA)  
Indiranagar  
Bangalore - 560 038

Dated : 14 JUN 1988

APPLICATION NO.

497

/ 88(F)

W.P. NO.

Applicant(s)

Shri H.V. Sreenivasamurthy  
To

Respondent(s)

V/s The DG Posts, New Delhi & another

1. Shri H.V. Sreenivasamurthy  
Circle Complaints Officer  
Office of the Post Master General  
Karnataka Circle  
Bangalore - 560 001
2. The Director General of Posts  
Ministry of Communications  
New Delhi - 110 001
3. The Post Master General  
Karnataka Circle  
Bangalore - 560 001
4. 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 10-6-88.

Encl : As above

DEPUTY REGISTRAR  
(JUDICIAL)

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL  
BANGALORE BENCH BANGALORE

DATED THIS DAY THE 10th JUNE 1988

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

APPLICATION No. 497/88(F)

H.V. Sreenivasamurthy  
Circle Complaints Officer  
O/o the Postmaster General  
Karnataka Circle, Bangalore 560 001 - Applicant

v

1. Director General of Posts  
Ministry of Communications  
Government of India  
NEW DELHI 110001

2. The Postmaster General  
Karnataka Circle  
Bangalore 560001 - Respondents  
(Sri M.S.Padmarajaiah, S.C.G.S.C.)

this Tribunal

This application came up before me for hearing  
today and Hon'ble Sri P. Srinivasan, Member (A) made the  
following

ORDER

In this application, the applicant who is Circle  
Complaints Officer in the Postal Department at Bangalore  
is aggrieved by letter dated & 16.7.1987 of the Department  
of Posts, New Delhi addressed to the Postmastergeneral,  
Bangalore ('PMG') which was communicated to the applicant  
by PMG's letter dated 27.7.1987.

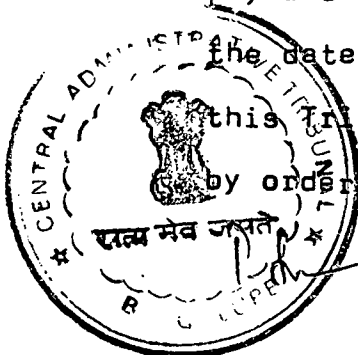
2. The applicant argued his case personally. Sri  
M.S.Padmarajaiah, learned S.C.G.S.C., appeared on  
behalf of the respondents and they have been heard.

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3. The relevant facts, briefly, are as follows: The applicant who was earlier in a non-gazetted post was promoted to Postal Superintendent Service Group B ('PSS B') w.e.f. 8.2.1980. There was some dispute about the fixation of his initial pay on such promotion. The applicant and certain others who were promoted by the same order represented to the respondents that their initial pay had not been rightly fixed. Eventually by order dated 25.11.1983 issued from the office Director/general Posts, New Delhi ('DGP') the claims of the applicant and others in regard to the manner of fixation of their initial pay on promotion to PSS B were accepted but the order went on to say that the actual ~~date of~~ benefit on account of pay fixation shall be admissible only from the date of issue of that order i.e. 25.11.1983 and not from the date from which the persons concerned were promoted. The result was that in the applicant's case the benefit of re-fixation of his initial pay was given from 25.11.1983 and not from 8.2.1980 when he was actually promoted. The applicant made a representation against the said order of 25.11.83 and requested that he be given the benefit from 8.2.1980. That representation was rejected by letter dated 22.10.84. Another person similarly situated like the applicant viz. Y.L.Vasudeva Rao in whose case also the benefit of fixation of initial pay was not given from the date of his promotion but from the date of the order challenged ~~his~~ the decision before this Tribunal in A.No. 1731/86. That application was decided by order dated 24.3.1987 by me in his favour. Thereafter

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the applicant made another representation to the respondents relying on the order of this Tribunal in A.No. 1731/86 in Vasudeva Rao's case once again claiming the benefit of refixation from the date of his promotion to PSS B i.e. 8.2.80. This representation was also rejected by letter dated 16.7.1987 from the Department of Posts, New Delhi to PMG who in turn communicated to the applicant by endorsement dated 27.7.1987. While rejecting the applicant's claim, the Department of Posts observed that the judgement given by this Tribunal was applicable only to the case of Vasudeva Rao who was the applicant and was not of universal application. <sup>is</sup> This ~~has~~ what the applicant now challenges.

4. Normally, the present application would have to be treated as out of time because the applicant's claim of benefit of refixation from 8.2.80 was in fact rejected by communication dated 22.10.1984 and the cause of action arose on that date. With reference to that date, the applicant should have filed the application on or before 1.5.1986 in view of Sec. 21 of the Administrative Tribunals Act, 1985 but ~~was~~ he filed <sup>it</sup> only on 21.3.88. However, after that rejection the applicant made a fresh & claim which was founded on the order of this Tribunal dated 24.3.1987. He ~~was~~ requested <sup>in</sup> that letter that he should be given the same treatment as was accorded to Vasudeva Rao in pursuance of the decision of this Tribunal. That claim was rejected on the ground <sup>the decision</sup> that in Vasudeva Rao's case had no application to his case.

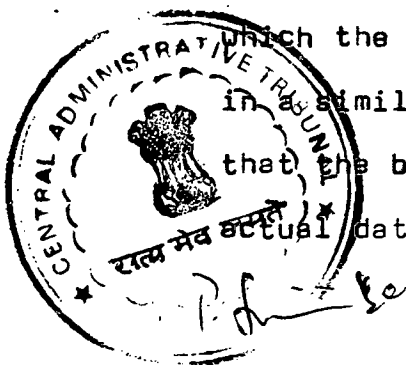
The question is whether the respondents were right in rejecting

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this last claim of the applicant based on the decision of this Tribunal. I am, therefore, of the view that the specific cause of action raised in this application arose on 27.7.87 and with reference to that date the application is in time. I now proceed to deal with the merits of the application.

5. There is no dispute that by letter dated 25.11.1983 the respondents accepted the principle of fixation of pay on promotion to PSS B claimed by the applicant and others. Whether this was done as a special case in relaxation of normal rules is not relevant in this context. The Government felt that the applicant and others were entitled to fixation of pay on promotion in accordance with the principle suggested by them. Once this claim is accepted, it is to be implemented from the date the applicant and others were promoted to PSSB. I find no justification for postponing the benefit to the date on which the orders were issued accepting the claim of the applicant. The contention of the respondents would lead to an anomalous position. If the claim of the applicant in regard to refixation of initial pay had been accepted earlier than on 25.11.1983, they would get the benefit from that earlier date. The date of benefit cannot be made to depend on an arbitrary date like the date on which the claim is accepted particularly, when the claim is based on some principle which the authorities have accepted. As mentioned earlier, in a similar case of Vasudeva Rao this Tribunal held that the benefit of refixation should be given from the actual date of promotion. The ratio of that decision



squarely applies to the present case also and I find no reason to take a different view. That being so, the respondents could not reject the applicant's claim on the ground that the decision in Vasudevarao's case was not applicable to the case of the applicant. I have, therefore, no hesitation in quashing the impugned order dated 16.7.1987 of the Department of Posts, New Delhi (Annexure P 4).

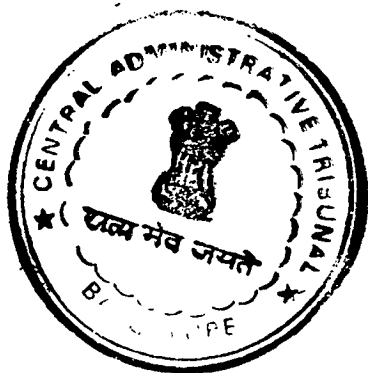
6. In the case of K.P. Kamath, it was represented on behalf of the respondents, that he had been allowed the benefit of refixation of pay from the date of his actual promotion ~~then~~ by an order ~~xxx~~ dated 4.11.81 but that order had been revoked by a general order dated 13.11.85 issued by the office of the DG which in general terms lays down that the actual benefit of refixation could be given only from the date of issue of the order agreeing to such refixation. Whatever the respondents may have done in Kamath's case, I am satisfied that on principle once a particular method of fixation of initial pay on promotion to the post of PSS B is accepted, the benefit of such acceptance should be given from the date of actual promotion and not from the date of acceptance. As I have stated earlier this is what was held by me in Vasudeva Rao's case and I see no reason to differ from that view.

7. In the result I pass the following orders :  
The letter dated 16.7.1988 issued by the Department of Posts, New Delhi is hereby set aside. As a

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consequence, the letter dated 25.11.83 issued by the DG also stands cancelled to the extent that it denies the benefit of refixation of pay to the applicant from the date of his promotion to PSS B.



2. The respondents will extend to the applicant the benefit of refixation of initial pay conveyed in DG's letter dated 25.11.1983 from the date of his actual promotion i.e. 8.2.1980 and pay him all the arrears arising from such fixation within three months from today.

8. In the result the application is allowed. There shall be no order as to costs.

sd/-

18/6/84

(P. Srinivasan)  
Member (A)

**TRUE COPY**

*P. V. Srinivasan*  
DEPUTY REGISTRAR (JDL) 13/6  
CENTRAL ADMINISTRATIVE TRIBUNAL  
BANGALORE