

CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE BENCH

Commercial Complex (BDA)
Indiranagar
Bangalore - 560 038

Dated : 13 FEB 1989

APPLICATION NO (S) 772 to 778 /88(F) & 121 / 89(F)

W.P. NO (S) _____ /

Applicant (s)

Shri Narasimhaswamy & 7 Ors
To

1. Shri Narasimhaswamy
No. 223, 11th 'B' Cross
J.P. Nagar II Phase
Bangalore - 560 078

2. Shri R. Krishnamurthy Rao
234, Shastry Nagar
Thyagarajanagar P.O.
Bangalore - 560 028

3. Shri M.R. Raghunatha Rao
428/A, 17th Main
Srinagar
Bangalore - 560 050

4. Shri S.K. Varadaraja Iyengar
563, 'Srinilaya', 16th Main
Srinagar
Bangalore - 560 050

5. Shri G. Narahari Rao
327, 58th Cross
III Block, Rajajinagar
Bangalore - 560 010

6. Shri T.S. Venkatesha Murthy
268, IIIrd 'Y' Block
Rajajinagar
Bangalore - 560 010

7. Shri K.S. Shamachar
1152, 58 Cross
Prakashnagar
Bangalore - 560 021

Respondent (s)

v/s The Secretary, M/o Communications, Dept of Posts,
New Delhi & 3 Ors

8. Shri A. Malleswar
No. 31, II Stage
Postal Colony
Sanjay Nagar
Bangalore - 560 024

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

10. The Secretary
Ministry of Communications
Department of Posts
Dak Bhavan, Parliament Street
New Delhi - 110 001

11. The Senior Superintendent of Post Offices
Bangalore South Division
Bangalore - 560 041

12. The Senior Superintendent of Post Offices
Bangalore West Division
Bangalore

13. The Senior Superintendent of Post Offices
Bangalore East Division
Bangalore

14. 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 a copy of ORDER/STAY/INTERIM ORDER
passed by this Tribunal in the above said application(s) on 2-2-89.

Dr. H. S. Rao

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE BENCH, BANGALORE

DATED THIS THE SECOND DAY OF FEBRUARY 1989

Present: Hon'ble Justice K.S.Puttaswamy .. Vice Chairman
Hon'ble Shri L.H.A.Rego .. Member (A)

APPLICATION NO. 772 to 778/88(F) & 121/89(F)

1. Narasimhaswamy,
No.223, 11th 'B'Cross,
II Phase, J.P.Nagar,
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8.A.Malleeswar,
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Srinagar, Bangalore 560 050

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563, Srinilya, 16th Main
Srinagar, Bangalore 560 050.

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III Block, Rajajinagar,
Bangalore 560 010.

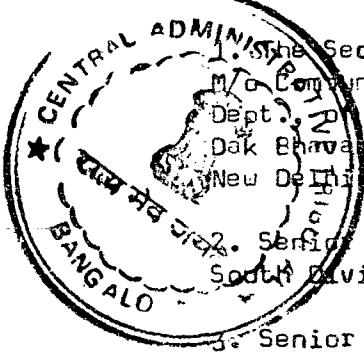
6. T S Venkatesha Marthy,
268, 3rd 'Y'Block,
Rajaji nagar, Bangalore 560 010.

7. K S Shamschar,
1152, 5B Cross,
Prakeshnagar,
Bangalore 560 021.

..Applicants

(Shri MF Achar .. Advocate)

vs.



1. The Secretary,
M/o Communications,
Dept. of Posts,
Dak Bhawan, Parliament St.,
New Delhi 110 001.

4. Senior Superintendent of
Post Offices,
East Division,
Bangalore.

2. Senior Superintendent of Post Offices,
South Division, Bangalore.

3. Senior Supdt., of Post Offices,
West Division, Bangalore.

..Respondents

(Shri MS Padmarajaiah .. Sr.Central Govt. Standing Counsel)

This application has come up today before this Tribunal for Orders. Hon'ble Vice Chairman made the following:

ORDER

As the questions raised in these cases are common we propose to dispose of them by a common Order.

2. All the applicants are retired postal employees. On their retirement, they have all been engaged as Short Duty Assistants(SDA) on hourly wage, on which, there is no dispute. The dispute ~~between~~ however, is confined to the additive element of Dearness Allowance(DA) in computing the hourly wage payable to the applicants and others similarly engaged, who are not pensioners but are termed as Reserve Trained Pool candidates (RTP) engaged on the same basis in the Department.

3. In determining the hourly wage in respect of SDAs, Govt. in its Order dated 25.3.1988 (Annexure A) had excluded the DA element as they were in receipt of DA on their pension. In terms of the aforesaid Order of Govt. recoveries have been effected or proposed to be effected from the applicants and therefore in challenging the same, they have sought for appropriate directions.

4. In justification of the order made on 25.3.1988, the respondents have filed their reply.

Shri M.R.Achar, learned counsel for the applicants, contends that the impugned order made by Government on 25.3.1988 excluding the DA element in computing the hourly wage payable to his clients who perform the very same duties as the RTPs, was discriminatory, irrational and violative of Article 14 of constitution.

5. Shri MS Padmarajaiah, learned Senior Central Govt. Standing counsel appearing for the respondents contends that the exclusion of the DA element in regard to the pensioners was a case of valid classification and not irrational at all.

7. The true scope and ambit of Articles 14 & 16 of the Constitution have been explained by the Supreme Court in a large number of cases.

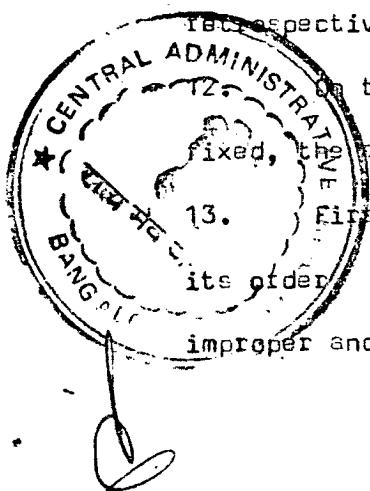
In re-Special Courts Bills AIR 1978 SC 478 a Constitution Bench of 7 learned Judges reviewing all in the earlier cases have summarised and re-stated the principles. Bearing those principles stated by the Supreme Court we must ascertain whether the exclusion of DA element in regard to pensioners is valid or not.

8. The pensioners, who are already in receipt of DA on their pension and the RTPs who are not receipt of any other amounts, much less any DA belong to two separate and distinct classes. The nature of work performed by either of them, cannot be the sole and decisive factor to hold that they belong to one and the same class. In adjudging the charge of discrimination, we have therefore to examine the matter in depth and in its entirety. When their cases are examined in all their aspects, with due regard to the principles of classification, we cannot say that the Order of Govt., excluding the DA element in regard to pensioners, is violative of Articles 14 & 16 of the Constitution. On the contrary, we are of the view that the said Order of Govt., to that extent is valid.

9. Sri Achai next contends that in any event it was not open to Govt. to make its Order retrospective from 28.7.1986 and effect recoveries.

10. Shri P. Durai Rajan sought to support the retrospectivity given in the Order of Government and recoveries in conformity with the same.

11. The order was made and issued by Govt on 25.3.1983 giving it retrospective effect however from 28.7.1986.



12. In the faith of the earlier orders made and the uniform rates fixed, the applicants have worked and drawn their wages.

13. Firstly it was not open to Govt. to give retrospectivity to its order. Even if Govt. had that power, then also on facts it was improper and unjust to give retrospectivity. On any view the

retrospectivity given from 28.7.1986 to 25.3.1988 is illegal, improper and unjust. We must therefore take exception to the order of Govt. to this extent and issue appropriate directions.

14. In the light of our above discussion, we make the following orders and directions:

- i) We dismiss these applications in so far as they challenge the Govt. Order dated 25.3.1983 of fixing different hourly wage rates in regard to pensioners and non-pensioners.
- ii) We declare that the fixation of different hourly wage rates for pensioners and non-pensioners will be effective from 25.3.1988 only and not for any period prior thereto.
- iii) We direct the respondents to modulate all payments to the applicants on the basis of our above declaration.

Applications are disposed of in the above terms. But in the circumstances of the cases, we direct the parties to bear their own costs.

bk.

Sd/-

VICE CHAIRMAN

Sd/-

MEMBER (A)

12-2-1987.

TRUE COPY

[Signature] (3)2
DEPUTY REGISTRAR (JD)
CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE

एस-व्यवहार-7/Corr.-7

स्वास्थ्यमंत्री आर्क विभाग/DEPARTMENT OF POSTS, INDIA
कार्यालय/Office of the

To

Sri K. L. Narahari Rao.
No 327, 58th cross, III Block
Rajajinagar, BG-560010.

प्रबंध अधिकारी डाक घर Mr. Supdt. of POs
बैंगलोर वेस्ट डिस्ट्रिक्ट Bangalore West Dist.
बंगलूरु Bangalore-560 010.

B3/38/91-92/dtd @ BG 10 the 9-4-91.

Sub: Drawal of difference of SDA
allowance - reg.

Re: Your representation dtd 15-3-91.

With reference to your representation
cited above this is to inform that as per
Office records your name is K. L. Narahari Rao
But in CAT order and e.o letter it is men-
tioned as R. Narahari Rao. You are request-
ed to get it corrected for further info early.

प्रबंध अधिकारी डाक घर Mr. Supdt. of POs
बैंगलोर वेस्ट डिस्ट्रिक्ट Bangalore West Dist.
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CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE BENCH
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Commercial Complex (BDW)
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Dated : 13 FEB 1989

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Received
K.M.M. 13-2-89

Deputy Registrar
(Central)

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Sd/-

VICE CHAIRMAN

Sd/-

MEMBER(A)

T 2.2.1987.

TRUE COPY

bk.

[Signature]
DEPUTY REGISTRAR (JDL) 13
CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE

CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE BENCH
* * * * *

Commercial Complex(BDA)
Indiranagar
Bangalore - 560 038

Dated 12 JUL 1991

MISCELLANEOUS
PETITION NO.
204/91 IN -

APPLICATION NOS

772 to 778/88(F) & 121

/89(F)

W.P. NO (S)

Applicant (s)

Shri Narasimhamurthy & 6 Ors

To

1. Shri K.G. Narahari Rao
327, , 58th Cross
III Block, Rajajinagar
Bangalore - 560 010
2. Shri M. Madhusudan
Advocate
844 (Upstairs), 17th 'G' Main
V Block, Rajajinagar
Bangalore - 560 010
3. The Secretary
Ministry of Communications
Department of Posts
Dak Bhawan
Parliament Street
New Delhi - 110 001
4. The Senior Superintendent
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Bangalore South Division
Bangalore - 560 041

Respondent (s)

V/s The Secretary, M/o Communications,
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Bangalore East Division
Bangalore - 560 001
7. Shri M.S. Padmarajaiah
Central Govt. Stng Counsel
High Court Buildings
Bangalore - 560 001

Subject : SENDING COPIES OF ORDER PASSED BY THE BENCH

Please find enclosed herewith a copy of the ORDER/~~SEX~~/X/
~~INTERIM ORDER~~ passed by this Tribunal in the above said M.P.
~~application(s)~~ on 5-7-91.

Copy received 0/
M. Madhu
12/7/91
(M. Madhusudan) Advocate.

[Signature]
DEPUTY REGISTRAR
(JUDICIAL)

Received
12/7/91.

CENTRAL ADMINISTRATIVE TRIBUNAL: BANGALORE.

DATED THIS THE 5TH DAY OF JULY, 1991.

PRESENT:

Hon'ble Mr. Syed Fazlulla Razvi, .. Member(J)
And;
Hon'ble Mr. S.Gurusankaran, .. Member(A)

MISCELLANEOUS PETITION NO.204 OF 1991
in
APPLICATIONS NOS.772 TO 778 OF 1988 & 121 OF 1989

Narasimhaswamy and 6 others. .. Applicants.

v.

The Secretary,
Ministry of Communications,
Department of Posts & 2 others. .. Respondents.

—

This Miscellaneous Petition coming on for orders to-day, Hon'ble Shri Syed Fazlulla Razvi, Member(J) made the following:

O R D E R

The petitioner in this miscellaneous petition is the 5th applicant in Applications Nos. 772 to 778 of 1988 and 121 of 1989 disposed of by this Tribunal by order dated 2-2-1989. It is the case of the petitioner that whereas his initials are 'K.G.', by oversight and mistake in the original application 'G' only is mentioned as his initial and this mistake being a clerical one, he may be permitted to correct the same in the original application as 'K.G.Narahari Rao' instead of 'G.Narahari Rao'. The prayer in this application is two fold - one is to correct the name by adding the correct initials in the original application and the second prayer is to correct the original order passed by this Tribunal accordingly in consonance with the amendment in the original application.



Sri M.S.Padimaraajaiah to whom a copy of this miscellaneous petition has been served, fairly submitted that the mistake being a clerical one, he has no objection whatsoever for allowing this petition and making the necessary correction. The miscellaneous petition is accordingly allowed. Office to correct the name of the 5th applicant by adding the correct initials as 'K.G.Narahari Rao' instead of G.Narahari Rao'. The original order passed by this Tribunal should be corrected accordingly by adding the correct initials of the 5th applicant Sri K.G.Narahari Rao.

The miscellaneous petition is disposed of accordingly.

Sd/-

MEMBER(A)

Sd/-

MEMBER(J)

TRUE COPY

Rathy 12/7/91
SECTION OFFICER
CENTRAL ADMINISTRATIVE TRIBUNAL
ADDITIONAL BENCH
BANGALORE

