

CENTRAL ADMINISTRATIVE TRIBUNAL  
BANGALORE BENCH  
\* \* \* \* \*

Commercial Complex (BDA)  
Indiranagar  
Bangalore - 560 038

Dated : 28 SEP 1988

APPLICATION NO.

78

/ 88(F)

W.P. NO.

Applicant(s)

Shri L.N. Yadav

To

1. Shri L.N. Yadav  
Chargeman - I  
Gas Turbine Research Establishment  
(GTRE)  
Suranjan Das Road, Post Box No. 7575  
Bangalore - 560 075

2. Shri M. Raghevendra Achar  
Advocate  
1074-1075, Benashankari I Stage  
Sreenivasa Nagar II Phase  
Bangalore - 560 050

3. The Secretary  
Ministry of Defence  
South Block  
New Delhi - 110 011

4. The Scientific Adviser to  
Raksha Mantri and Director General  
Research & Development Organisation  
Ministry of Defence  
DHQ PO  
New Delhi - 110 011

Respondent(s)

The Secretary, M/o Defence, New Delhi & 5 O/o

5. The Director  
Gas Turbine Research Establishment  
(GTRE)  
Suranjan Das Road, Post Box 7575  
Bangalore - 560 075

6. Shri Sarjeet Singh

7. Shri P.G. Sarker

8. Shri N.S. Khedi

(Sl Nos. 6 to 8 -

Foremen  
Gas Turbine Research Establishment  
(GTRE)  
Suranjan Das Road, Post Box 7575  
Bangalore - 560 075)

9. Shri M. Vasudeva Rao  
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/RE

passed by this Tribunal in the above said application(s) on 12-9-88.

Encl : As above

*Received  
K. M. M.  
28-9-88*  
-  
O/C  
B.R. Venkatesh  
DEPUTY REGISTRAR  
(JUDICIAL)

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL  
BANGALORE BENCH: BANGALORE

DATED THIS THE TWELVETH DAY OF SEPTEMBER, 1988

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

APPLICATION NO. 78/1988

Shri L.N. Yadav  
Chargeman-I  
Gas Turbine Research  
Establishment (GTRE)  
Bangalore - 560 075  
(Shri M.R. Achar, Advocate)

.. Applicant

Vs

1. The Union of India  
represented by the  
Secretary to the Government  
of India, in the University  
of Defence, South Block  
New Delhi-110 011.
2. The Scientific Adviser to  
Raksha Manthri and  
Director General  
Research & Development  
Organisation  
Ministry of Defence  
New Delhi-110 011.
3. The Director  
Gas Turbine Research  
Establishment (GTRE)  
Bangalore - 560 075
4. Mr. Sarjoo Singh  
Foreman  
Aeronautical Development  
Establishment (ADE)  
Bangalore - 560 075
5. Mr. P.G. Sarkar  
Foreman  
Gas Turbine Research  
Establishment (GTRE)  
Bangalore - 560 075
6. Mr. N.S. Khadi Foreman  
Gas Turbine Research  
Establishment (GTRE)  
Bangalore - 560 075.

.. Respondents

(Shri M. Vasudeva Rao, Advocate)

This application having come up for hearing  
before the Tribunal today, Hon'ble Vice Chairman, made the  
following:



ORDER

In this application under Section 19 of the Administrative Tribunals Act, 1985 (Act), the applicant has challenged Letter/Order No. GTRE/0201/OC dated 1st September, 1987 (Annexure-Z) of the Director, Gas Turbine Establishment Bangalore, ('Director').

2. Shri L.N. Yadav, the applicant before us, commenced his career on 11.7.1957 as an 'Electrician (Industrial)' in the Chief Inspectorate of General Stores, Kanpur, U.P., a Defence Establishment. He resigned from that post on 31.10.1961.

3. In Kanpur, there was another Defence Establishment, then called as "Gas Turbine Research Centre", which was shifted to Bangalore in 1961 and is now designated as "Gas Turbine Research Establishment" (GTRE). Consequently, the staff working therein including respondents no. 4 to 6, were shifted to Bangalore and are working ever since then at Bangalore.

4. In the GTRE, the applicant joined service on 6.11.1961 as "Tool Maker, Gr.A" as a fresh entrant and has since advanced in his career.

5. We are concerned with only that aspect to which we will now refer.

6. On 13.3.1973, the applicant was promoted as Chargeman, Gr.II on ad hoc basis. Respondent no.5 was promoted to that very cadre on a 'regular basis' from 26.10.1973. On these promotions, the applicant claiming that he was senior to respondent no.5 approached

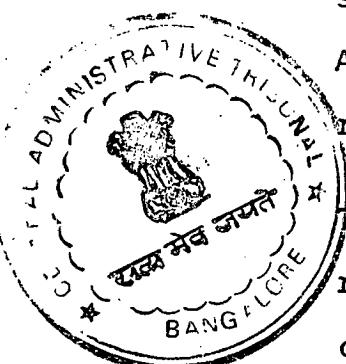
the High Court of Karnataka on 7th December, 1979 in W.P. No.19480 of 1979, inter alia claiming the following substantial relief.

"Directing that the Petitioner's case for promotion as Chargeman Gr.II be considered fairly and without bias, such promotion taking effect from a date not later than the date on which the 4th Respondent's promotion on a regular basis was made on 26.10.1973".

When this writ petition was pending there, others too were promoted on a regular basis to the cadre of Chargeman Gr.II, but not, the applicant. Thereon, the applicant filed two applications before the High Court numbered as I.A. Nos. I & II on 1.3.1983, one for impleading 10 more promotees as additional respondents, and the other for amendment of his writ petition.

On the constitution of this Tribunal, the same was transferred to this Bench and was registered as Application No.420/86. On notifying all the parties, a Division Bench consisting of one of us - Shri L.H.A. REGO, Hon'ble Member (A) - AND SHRI CH. RAMAKRISHNA RAO, Hon'ble Member (J), disposed of the same on 31.10.1986 (Annexure-W) substantially rejecting the reliefs sought, in particular the one set out by us earlier. An application for review made by the applicant was rejected by us on 26.6.1987 (Annexure-X).

On the facts noticed or the findings recorded in the judgement in A. No.420/86, the applicant claimed before the Director that he had been confirmed as Chargeman, Gr.II, from 17.2.1973, and all his further



conditions of service including all his onward promotions be regulated on that basis. On 1.9.1987, the Director rejected the same. Hence, this application.

8. Respondents 1 to 3 have filed their reply and have produced their records.

9. Shri M.R. Achar, learned counsel for the applicant, contends that the Director in rejecting what was claimed before him, had nullified the judgement of this Tribunal and had acted illegally.

10. Shri M. Vasudeva Rao, learned Additional Standing Counsel for Central Government appearing for respondents 1 to 3, refuting the contention of Shri Achar, contends that in reality and substance, the applicant was reagitating what was concluded against him in Application No. 420/86 and therefore the same is barred by res judicata.

11. The Director, had rejected the claim of the applicant on 1.9.1987 in these words.

GOVERNMENT OF INDIA  
MINISTRY OF DEFENCE  
RESEARCH & DEVELOPMENT  
ORGANISATION  
GAS TURBINE RESEARCH  
ESTABLISHMENT  
Suranjan Das Road  
Post Bag No. 7577  
BANGALORE - 560 075

Dated: 01 Sept. 1987.

To

Shri L.N. Yadav  
Asst. Foreman  
GTRE, BANGALORE-93.

Through Shri Syed Aga Jan. Sc. 'E'  
Divisional Head

Subject: CLARIFICATION WITH REGARD TO DATE OF CONFIRMATION.

Reference Your application dated 20 Jul. 1987.

It is brought to your notice that this establishment had not misguided or cheated the Tribunal

in giving wrong informations with regard to your confirmation date. As per the entry made in your service documents the date of your confirmation is 17 Feb. 1983 and not 17 Feb. 1973. You are advised to persue the same in the Establishment Section. Probably, there may be a typographical error in the judgement copy issued by the Tribunal.

sd/-  
(A.R. RAJA) SAO II  
for Director.

In this, the Director had held that the date namely, 17.3.1973 stated by this Tribunal in its judgement was a typographical error and that the same really referred to 17.2.1983 from which date only he had been confirmed as Chargeman Grade II. In so holding the Director had read the order as one document and had reached his conclusion, which he was entitled to do. We cannot, therefore, hold that the Director had sought to sit in judgement on the order of this Tribunal and had attempted to defeat the same.

12. In order to satisfy ourselves, whether 17.2.1973 mentioned at the commencement of para 11 of the judgement of this Tribunal in A. No. 420/86, had been mentioned correctly or not we have examined every aspect touching on the same. We have read the judgement in full. We have also examined the 'Judges Notes' - in serinio judicis - made by one of us (Hon'ble Shri LHA Rego), who wrote the reserved judgement in the case. We also examined the original Service Register of the applicant.

13. When the judgement of this Tribunal



is read as a whole with due regard to all the facts noticed therein, the contentions urged by both sides and in particular para 11 of the judgement in full, it is seen, that the date ~~viz~~ <sup>ja</sup> 17.2.1973 mentioned at the very commencement of this para, on which the entire case of the applicant is built, is clearly an inadvertent error, as at the sequel of the same para and even in the part preceding it the date has been correctly shown as 16.2.1983.

14. The applicant cannot therefore capitalise on the error without reading the judgement in its entirety. He is in fact nitpicking, and drawing a long bow<sup>ja</sup> to sustain a claim which is ex facie ill-founded. On this conclusion itself we should reject this contention of Shri Achar.

15. Even otherwise, on a close and careful examination of all the facts and documents touching on the same, we are convinced that the date viz. 17.2.1973 mentioned at the commencement of para 11 of the judgement, is either ~~ja~~ a typographical or a clerical mistake which is unfortunate. But that inadvertent mistake cannot be a ground to sustain an imaginary claim that had been even rejected earlier.

16. On any view, we see no merit in this contention of Shri Achar and therefore reject the same.

17. Shri Achar next contends that the case of the applicant for regular promotion from 17.2.1973 had not at all been considered and was withheld or

postponed and on that view at least his promotion on a regular basis as on that date calls for consideration and the same is not barred by the judgement of this Tribunal in Application No.420 of 1986.

18. Shri Rao contends that this very relief having been earlier rejected or not granted in A. No. 420/86 is barred by res judicata.

19. When his writ petition was pending before the High Court, the applicant represented to the Director to consider his case for regular promotion. On that application, the Director, on 23.6.1983 informed him thus:

No. GTRE/0206/PC  
Government of India  
Ministry of Defence  
Research & Development  
Organisation  
Gas Turbine Research  
Establishment  
Suranjan Das Road  
Post Box No.7575  
Bangalore - 560 075  
Date 23 June, 1983.

To

Shri LN. Yadav  
Chargeman Gde I  
GTRE, Bangalore-75.

Subject : REPRESENTATION :

(Thro: O i/c Section)

Reference: Your representation dated 18 Mar 83  
and reminder dated 20.4.83 addressed  
to Scientific Adviser to Raksha Mantri.



In this connection reply received from R&D Hqrs. vide their letter No.16357/PERS/RD-21(c) dated 2 Jun 83.

"Since Shri LN Yadav has filed a case in the Court of Law and the matter is sub-judice a reply to the representation is therefore not being sent at this stage. He may be informed accordingly".

sd/-  
(AR RAJA) AO  
for Director.

When his Writ Petition was pending, the applicant was facing a disciplinary proceeding. On that basis also,

the Director had informed the applicant on 21.2.1980  
(Annexure-O), thus:

No. GTRE/0201/PC  
Government of India  
Ministry of Defence  
Research & Development  
Organisation  
Gas Turbine Research  
Establishment  
Suranjan Das Road  
Post Box No.1777  
Bangalore - 560 075

Date: 21st February, 1980

To

Shri LN. Yadav  
Chargeman Gde-II (Ad-hoc)  
GTR, Bangalore - 560 075  
(Through: O in/c PFF)

Subject: NON-CONSIDERATION OF SENIOR PRECISION  
MECHANIC BY DPC-III FOR PROMOTION TO  
CHARGEMAN GDE-II - SHRI LN. YADAV,  
CHARGEMAN GDE-II (AD-HOC)

Reference: Your application dated 4.2.1980.

Your attention is invited to Item VI Para 7 of procedure to be observed by DPC as per DDP and Admin Reform OM No.22011/6/75-Estt(D) dated 30.12.76 (Extract enclosed). The action has been taken in the light of above para, since a disciplinary case was pending against you, at the time of DPC III.

sd/-  
(BR. BHATIA)  
Chief Admin. Officer  
for Director

On the foregoing, the present claim is pressed before us.

20. We have earlier noticed what was claimed in A. No. 420/86 and decided by this Tribunal. In that case the applicant had claimed regular promotion from 1973 and the same had been rejected or had not been granted by this Tribunal. We are not now concerned with its legality and correctness. We are not also now concerned as to why these facts and orders were

not pleaded by the applicant in his earlier case. On what had been claimed and decided in the earlier case, it is clear that the applicant is now really claiming the very relief he had earlier urged which had been rejected or not granted by this Tribunal. From this it is clear that the present claim is clearly barred by res judicata and cannot be entertained and decided by us on merits. If that is so, then we cannot examine and grant the relief whatever be its correctness or merit. On this view, we decline to examine the merits and reject the same.

21. On the foregoing discussion, we hold that this application is liable to be dismissed. We, therefore, dismiss this application. But in the circumstances of the case, we direct the parties to bear their own costs.



Sd/-

VICE CHAIRMAN

Sd/-

MEMBER (A) *W. S. M. 988*

TRUE COPY

*R. Venkatesh*  
DEPUTY REGISTRAR (JD)  
28/9/75  
CENTRAL ADMINISTRATIVE TRIBUNAL  
BANGALORE