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

Dated : 25 NOV 1988

APPLICATION NOS. 863 to 866/87(F), 785 & 786/88(F)
AND 1787 to 1789/88(F)

Applicants

Shri H.R. Kasturi Rangan & Ors

V/s

Respondents

The Secretary, M/o Home Affairs (Services), New Delhi & Ors

To

1. Shri H.R. Kasturi Rangan I.P.S.
Deputy Commissioner of Plice (Crime)
Office of the Commissioner of Police
Infantry Road
Bangalore - 560 001

2. Shri K. Narayan I.P.S.
C/o Shri K.R.D. Karanth
Advocate
32, Mangalnagar
Sankey Road Cross
Bangalore - 560 052

3. Shri S.S. Masali I.P.S.
Deputy Commissioner of Police
Headquarters
Bangalore City

4. Shri K.S. Mendegar I.P.S.
Superintendent of Police
Raichur District
Raichur

5. Shri A.R. Infant I.P.S.
Superintendent of Police
Chitradurga District
Chitradurga

6. Shri Kuchanna Srinivasan I.P.S.
Superintendent of Police
Bangalore Division
Karnataka Lokayukta
Bangalore

7. Shri Shanker Mahadev Bidari I.P.S.
Superintendent of Police
Tumkur District
Tumkur

8. The Secretary
Ministry of Home Affairs (Service)
Govt. of India
New Delhi - 110 001

9. The Chairman
Union Public Service Commission
Dholpur House
Shahajahan Road
New Delhi

10. The Secretary
Department of Home Affairs
Govt. of Karnataka
Vidhana Soudha
Bangalore - 560 001

11. Shri Ajay Kumar Singh I.P.S.
Deputy Commissioner of Police
(Traffic), Public Utility Building,
Mahatma Gandhi Road
Bangalore - 560 001

12. Smt Jija Hari Singh I.P.S.
Superintendent of Police
(Fraud Squad), C.O.D.
Carlton House, Palace Road
Bangalore - 560 001

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13. Shri Subhas Bharani I.P.S.
Deputy Commissioner of Police
City Armed Reserve (CAR)
Mysore Road
Bangalore - 560 018

14. Shri S.C. Saxena I.P.S.
Superintendent of Police
Chief Security & Vigilance Officer
Karnataka Agro Industries
Corporation Ltd., Hebbal
Bangalore - 560 024

15. Shri D.V. Guruprasad, I.P.S.
Assistant Inspector General of
Police (North Zone)
Central Security Force
Block 13, C.G.O. Complex
Lodhi Road
New Delhi - 110 003

16. Shri S.T. Ramesh I.P.S.
Assistant Director
Intelligence Bureau
Ministry of Home Affairs
11, Man Singh Marg
New Delhi - 110 001

17. Shri N. Achuta Rao I.P.S.
Superintendent of Police
Dharwad

18. Shri D.N. Munikrishna
Superintendent of Police
Mysore

19. Shri B.N. Nagaraj
Deputy Commandant General
Home Guards & Civil Defence
Ulsoor
Bangalore - 560 008

20. Shri B.Y. Bhosle
Superintendent of Police
Uttara Kannada District
Karwar

21. Shri K.R.D. Karanth
Advocate
32, Mangalnagar
Sankey Road Cross
Bangalore - 560 052

22. Shri M. Narayanaswamy
Advocate
844 (Upstairs)
V Block, Rajajinagar
Bangalore - 560 010

23. Shri S.V. Narasimhan
State Govt. Advocate
C/o Advocate General (KAT Unit)
BDA Commercial Complex
Indiranagar
Bangalore - 560 038

24. Shri M.S. Padmarajaiah
Central Govt. Stng Counsel
High Court Building
Bangalore - 560 001

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Subject : SENDING COPIES OF ORDER PASSED BY THE BENCH

Please find enclosed herewith a copy of ORDER passed by this Tribunal in the above said applications on 18-11-88.

SECTION OFFICER
(JUDICIAL)

Encl : As above

CENTRAL ADMINISTRATIVE TRIBUNAL: BANGALORE

DATED THIS THE 18TH DAY OF NOVEMBER,1988.

Present:

Hon'ble Mr.Justice K.S.Puttaswamy, .. Vice-Chairman.

And:

Hon'ble Mr.L.H.A.Rego, .. Member(A)

APPLICATIONS NUMBERS 863 TO 866 OF 1987

c/w

APPLICATIONS NUMBER 785 AND 786 OF 1988

c/w

APPLICATIONS NUMBERS 1787 TO 1789 OF 1988

1. H.R.Kasturi Rangan, I.P.S.,
S/o H.K.Ramaswamy Iyengar,
Deputy Commissioner of Police (Crime),
Office of the Commissioner of Police,
Infantry Road, Bangalore-560 001. .. Applicant in A.Nos.863 of 1987, 785 of 1988 and Respondent-4 in A.Nos.1787 to 1789/88

2. K.Narayan, I.P.S.,
S/o Sri Appa, Deputy Commissioner of Police, Law & Order (West),
Office of the Commissioner of Police,
Infantry Road, Bangalore-1. .. Applicant in A.No.864/87 and Respondent-6 in A.Nos.1787 to 1789/88

3. S.S.Masali, I.P.S.,
Superintendent of Police,
Kolar. .. Applicant in A.Nos.865/87, 786/88 and Respondent-8 in A.Nos.1787 to 1789/88

4. K.S.Mendegar,
Superintendent of Police,
Railways, Bangalore. .. Applicant in A.No.866 of 1987 and Respondent-9 in A.Nos.1787 to 1789/88

5. A.R.Infant, I.P.S.,
Superintendent of Police,
Chitradurga District,
Chitradurga. .. Applicant in A.No.1787/88

6. Kuchanna Srinivasan, I.P.S.,
Superintendent of Police,
Bangalore Division,
Karnataka Lokayuktha,
Bangalore. .. Applicant in A.No.1788/88

7. Shankar Mahadev Bidari, I.P.S.,
Superintendent of Police,
Tumkur District,Tumkur. .. Applicant in A.No.1789/88

(By Sri K.R.D.Karanth, Advocate for Applicants at Sl.Nos.1 to 4 and Sri M.Narayanaswamy, Advocate for Applicants at Sl.Nos.5 to 7)

v.

1. The Union of India,
represented by its Secretary,
Ministry of Home Affairs (Services),
Government of India,
New Delhi-1.

2. The Committee for Selection to
Indian Police Service by promotion
from State Police Service, repre-
sented by Chairman, Union Public Service Commission,
Patiala House, New Delhi.

3. The State of Karnataka,
represented by its Secretary to Government,
Home Department, Vidhana Soudha,
Bangalore-560 001. .. Respondents 1 to 3 in
all the Applications.

4. Ajai Kumar Singh, I.P.S.,
Deputy Commissioner of Police (Traffic),
Public Utility Buildings,
Mahatma Gandhi Road,
Bangalore-560 001.

5. Smt. Jija Hari Singh, I.P.S.,
Superintendent of Police (Fraud Squad),
C.O.D., Carlton House,
Palace Road, Bangalore-560 001.

6. Subhas Bharani, I.P.S.,
Deputy Commissioner of Police,
City Armed Reserve, Mysore Road,
Bangalore-560 018.

7. S.C.Saxena, I.P.S.,
Superintendent of Police,
Chief Security & Vigilance Officer,
Karnataka Agro Industries Corporation Ltd.,
Hebbal, Bangalore-560 024.

8. D.V.Guruprasad, I.P.S.,
Assistant Inspector General of Police
(North Zone), Central Security Force,
Block 13, C.G.O Complex, Lodhi Road,
New Delhi-110 003.

9. S.T.Ramesh, I.P.S.,
Superintendent of Police,
State Intelligence,
2, Nrupathunga Road, Bangalore-2.

10. N.Achutha Rao, I.P.S.,
Superintendent of Police,
Dharwad. .. Respondents 4 to 10 in
A.Nos. 863 to 866/87 & 785 & 786/88

11. D.N.Munikrishna, Major,
Superintendent of Police,
Mysore. .. Respondent-5 in A.Nos.1787 to 1789/88

12. B.N.Nagaraj, Major,
Deputy Commandant General,
Home Guards & Civil Defence,
Ulsoor, Bangalore. .. Respondent-7 in A.Nos.1787 to 1789/88

13. R.S.Kalyana Shetty, Major,
Retd. Superintendent of Police. .. Respondent-10 in
A.Nos.1787 to 1789/88

14. A.D.Naik, Major,
Retd. Superintendent of Police.

15. B.R.Shetty, Major,
Retd. Superintendent of Police.

16. B.Y.Bhosle, Major,
Superintendent of Police,
Uttara Kannada District,
Karwar.

17. T.Thyagarajan, Major,
Retd. Superintendent of Police. .. Respondents 11 to 14 in A.Nos.1787 to 1789/88

(By Sri M.S.Padmarajaiah, Standing Counsel for Respondents 1 and 2
Sri S.V.Narasimhan, Govt.Advocate for Respondent-3
Sri M.Narayanaswamy,Advocate for Respondents 4, 5, 7, 8 and 9)

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These applications having come up for hearing, Hon'ble Vice-Chairman made the following:

ORDER

Whether Explanation-1 ('Explanation-1') of sub-rule (3) of Rule 3 of the Indian Police Service (Regulation of Seniority) Rules,1954 ('the Rules') framed by Government of India ('GOI') in exercise of the powers conferred on it by the All India Services Act,1951 (Central Act LXI of 1951) ('the Act') is constitutionally valid or not is the principal question that arises for our determination in these applciations made under Section 19 of the Administrative Tribunals Act,1985 ('the AT Act'). In order to appreciate the same and all other questions urged by both sides in all these cases, it is first necessary to notice the facts which are not also in dispute.

2. Sriyuths H.R.Kasturirangan, K.Narayan, S.S.Masali and K.S. Mendegar who are the applicants in Applications Nos. 863 to 866 of 1987 and 785 and 786 of 1988 joined service in 1970 as Deputy Superintendents of Police ('DSP') of the Karnataka Police Service ('KPS') a service of Karnataka Government. We will hereafter refer to them as applicants or as Promotee Officers ('POs'). In Notification No. HD 370 PEG 78 dated 12-12-1979 (Annexure-A) Government of Karnataka ('GOK') had confirmed the applicants and 5 others as DSPs from 1-11-1978. In due course they have

been promoted as Superintendents of Police ('SPs') and are so functioning from the dates of their promotions.

3. Sri Ajai Kumar Singh, Smt. Jija Hari Singh, Sriyuths Subhas Bharani, S.C.Saxena, D.V.Guruprasad, S.T.Ramesh and N.Achutha Rao arrayed as respondents 4 to 10 in Application Nos. 863 to 866 of 1987 and 785 and 786 of 1988, A.R.Infant, Kuchanna Srinivasan and Shankar Mahadev Bidari ('Infant, Srinivasan and Bidari') applicants in Applications Nos. 1787 to 1789 of 1988 are all direct recruits to the Indian Police Service ('IPS') one of the premier All India Services of our country and are borne on the Karnataka Cadre of IPS. We will hereafter refer to them as respondents or as Direct Recruits ('DRs').

4. The Indian Police Service (Recruitment) Rules,1954 ('Recruitment Rules') regulate the method of recruitment to IPS. Rule 4 of these rules provides for direct recruitment on the basis of a competitive examination as also for appointment by promotion of substantive members of the State Police Service.

5. The Indian Police Service (Appointment by Promotion) Regulation,1955 ('Regulation'), elaborately regulates the method of selection and appointments to IPS from State Police Services of the country. Under these Regulations, for the calendar years 1976, 1977 and 1978 there were no selections and appointments to the IPS from KPS for the reason that there were no eligible officers for selection in those three years.

6. For the calendar year 1979 also, there were no selections to the IPS from KPS.

7. Ultimately on 22-10-1980, there were selections to the IPS from KPS for the calendar year 1980 or as on 1-1-1980, in which the duly constituted Selection Committee ('SC') selected the applicants and 9 others with whom we are not concerned to IPS from KPS which list was later approved by the Union Public Service Commission

('UPSC'). On the basis of the said Select List and all other relevant factors GOI on 3-4-1981 had appointed the applicants to the IPS allotting them 1976 as the Year of Allotment ('YOA'). On the YOA assigned to them by GOI, the applicants urged the Government to allot them 1973 as their YOA to which it had not acceded. As the YOA assigned to them by the GOI was in conformity with Explanation-1 to sub-rule (3) of Rule 3 of the Rules, the applicants in challenging its validity have also sought for a direction to declare them as selected to the IPS during the year 1979 regulating all other matters on that basis.

8. Sriyuths Infant, Srinivasan and Bidari had also challenged the very same provision in Applications Nos. 1787 to 1789 of 1988 and had sought further directions on that basis. These applications filed on 2-11-1988, were posted for admission before us on 3-11-1988, by which time we were in the midst of hearing the other applications. We have heard them for admission.

9. We will hereafter refer to Applications Nos. 863 to 866 of 1987 and 785 and 786 of 1988 as the 'first set' and Applications Nos. 1787 to 1789 of 1988 as the 'second set'.

10. In the first set, the POs have urged that on their eligibility and vacancies earmarked for promotees, they should have been selected to the IPS as on 1-1-1979 and appointed to the vacancies existing as on that day and their further conditions of service in the IPS be regulated on that basis. Secondly and alternatively, they have urged that reckoning their continuous officiation in the senior posts respectively from 6-1-1978, 23-1-1978, 28-9-1978 and 2-8-1978, they should be allotted 1973/1975 as their YOA instead of 1976 and that they be ranked below respondents 4 and 5 but above respondents 6 to 10.

11. In resisting the first set of applications, GOI and GOK and other respondents have filed their replies.

12. Sri K.R.D.Karanth, learned Advocate has appeared for the applicants in the first set. Sriyuths M.S.Padmarajaiah, S.V.Narasimhan and M.Narayanaswamy, learned Advocates has appeared for respondents 1 and 2, 3, 4, 5, 7, 8 and 9 respectively in the first set. Respondents 6 and 10 who have been duly served in the first set, have remained absent and are unrepresented. Sri Narayanaswamy has also appeared for the applicants in the second set.

13. Learned counsel for the respondents have urged that the applicants in the first set really seek to agitate matters concluded against them on 3-4-1981 on which day GOI assigned them the YOA and reckoning the period of limitation from that date their applications were either beyond our jurisdiction or were barred by time as ruled by this Tribunal in V.K.MEHRA v. THE SECRETARY, MINISTRY OF INFORMATION AND BROADCASTING [1986(1) ATR 203] and DR.(SMT.)KSHAMA KAPUR v. UNION OF INDIA [1987(4) ATC 329].

14. Sri Karanth countering the contention urged for the respondents, has urged that the principal challenge of the applicants was to the validity of Explanation-1 and on the principles enunciated in G.K.SHENAVA AND OTHERS v. UNION OF INDIA AND OTHERS (Applications Nos. 970 to 981 of 1987 and connected cases decided on 26-8-1988) these applications were in time.

15. Whatever be their case on other claims and challenges, there cannot be any dispute on the fact that the applicants are challenging the validity of Explanation-1 which is a statutory Rule made by GOI.

16. In Shenava's case we have examined the legal position of limitation on a challenge to a law and on the same we have expressed thus:

> "34. It is well recognised, that a law on a statute book, operates every day and in fact every moment. Consequently, a person affected by such law, suffers injury or grievance, every day and every moment.

35. When there is challenge to a law, enacted by the Legislature or Government, the requirement of an 'order' and 'representation' as contemplated in Section 21 of the Act, will not arise. If that is so, then this Tribunal cannot insist, on either of them, as a condition precedent, for entertaining the applications under the Act or as a starting point or threshold for computing limitation, under Section 21 of the Act. That defect or lacuna, if any, in Section 21 of the Act cannot be remedied by this Tribunal. In such a situation, the only plausible manner of resolving this seeming legal conundrum, is to hold, that the wrong sought to be redressed, is a continuing one or a continuing cause of action, analogous to the principle, underlying Section 22 of the 1963 Act. On this conclusion, which is logical, legal and inevitable in the aforesaid circumstances, we must perforce hold, that the applications before us are in time. We are of the considered view, that this is inevitable and cannot at all be overcome.

36. In Mehra's and Kshama Kapur's case, this Tribunal did not at all deal with challenge to a law. Both of these cases only dealt with orders made against the applicants in question. Hence, the principles enunciated in those cases, do not bear on the point that arises in the cases before us".

On these principles which apply in all fours, Applications Nos. 863 to 866 of 1987 and 785 and 786 of 1988 to the extent they challenge Explanation-1 have necessarily to be held as maintainable and in time also. For these very reasons, we reject this preliminary objection of the respondents to this extent only which necessarily means that we must examine the validity of the impugned Rule on merits only.

17. In Application Nos.785 and 786 of 1988 filed on 26-9-1988 the applicants have challenged an order made against them by GOI on 15-2-1988 (Annexure-A) and their challenge to the same is in time.

18. We will even assume that every one of the fact situations stated by the applicants on their selections and appointments to IPS for 1979 are correct and examine their case on that basis.

19. Whatever be the merits in their respective cases on this aspect, on either side, the fact remains that selections and appointments to the IPS from KPS were not made for the year 1979 and thus their claim/or grievance arose in 1979 and in any event well before 3 years since this Tribunal was constituted. On the principles

enunciated in Mehra's and Kshama Kapur's cases, we cannot entertain and adjudicate the same under the AT Act.

20. Even otherwise, in asserting their claim for selection to IPS for 1979, there is a delay of 8 years. We find no justification to ignore this inordinate delay and laches of the applicants. On this ground also, this claim of the applicants calls for our rejection. With this we now pass on to deal with the principal question.

21. Sri Karanth has urged that Explanation-1 to sub-rule (3) of Rule 3 of the Rules, destroying or materially altering the concept of continuous officiation in the senior posts and assigning the YOA on that basis which had stood the test of time, was irrational, unfair unjust, arbitrary and was violative of Articles 14 and 16 according to the new dimension enunciated by the Supreme Court in E.P.ROYAPPA v. STATE OF TAMILNADU (AIR 1974 SC 555) and elaborated in SMT.MANEKA GANDHI v. UNION OF INDIA AND ANOTHER (AIR 1978 SC 597) and AJAY HASIA AND OTHERS v. KHALID MUJIB SEHRAVARDI AND OTHERS (AIR 1981 SC 487 = 1981 (1) SCC 258).

22. Learned counsel for the respondents refuting the contention of Sri Karanth, have urged that the impugned provision which seeks to remedy the incongruities that prevailed earlier, was reasonable and valid.

23. In order to properly decide the question, it is useful to notice the Rules and their true import first.

24. Prior to 17-4-1964, Rule 3 omitting sub-rule (2) which has no bearing on these cases read thus:

> 3. **Assignment of Year of Allotment** - (1) Every officer shall be assigned a year of allotment in accordance with the provisions hereinafter contained in this rule.
>
> xx xx xx
>
> (3) The year of allotment of an officer appointed to the Service after the commencement of these rules, shall be -
>
> (a) where the officer is appointed to the Service on the results of a competitive examination, the year

in which such examination was held;

(b) where the officer is appointed to the Service by promotion in accordance with rule 9 of the Recruitment Rules, the year of allotment of the junior-most among the officers recruited to the Service in accordance with rule 7 of those Rules who officiated continuously in a senior post from a date earlier than the date of commencement of such officiation by the former:

Provided that the year of allotment of an officer appointed to the Service in accordance with rule 9 of the Recruitment Rules who started officiating continuously in a senior post from a date earlier than the date on which any of the officers recruited to the Service, in accordance with rule 7 of those Rules, so started officiating shall be determined ad hoc by the Central Government in consultation with the State Government concerned.

Provided further that an officer appointed to the Service after the commencement of these Rules in accordance with rule 9 of the Recruitment Rules shall be deemed to have officiated continuously in a senior post prior to the date of the inclusion of his name in the Select List prepared in accordance with the requirements of the Indian Police Service (Appointment by Promotion) Regulations framed under rule 9 of the Recruitment Rules, if the period of such officiation prior to that date is approved by the Central Government in consultation with the Commission.

Explanation 1 - An officer shall be deemed to have officiated continuously in a senior post from a certain date if during the period from that date to the date of his confirmation in the senior grade he continues to hold without any break or reversion a senior post otherwise than as a purely temporary or local arrangement.

Explanation 2 - An officer shall be treated as having officiated in a senior post during any period in respect of which the State Government concerned certifies that he would have so officiated but for his absence on leave or appointment to any special post or any other exceptional circumstance.

On 17-4-1964, the second proviso to sub-rule (3) was deleted and in its place Explanation-1 was incorporated.

25. Rule 3 as amended on 17-4-1964 and thereafter omitting sub-rule (2) and clauses (c) and (d) of sub-rule (3), which have no bearing on these cases, reads thus:-

"3. Assignment of Year of Allotment - (1) Every officer shall be assigned a year of allotment in accordance with the provisions herein after contained in this rule.

xx xx

(3) The year of allotment of an officer appointed to the Service after the commencement of these rules shall be -

(a) where the officer is appointed to the Service on the results of a competitive examination the year following the year in which such examination was held;

(b) where the officer is appointed to the Service by promotion in accordance with rule 9 of the Recruitment Rules, the year of allotment of the junior-most among the officers recruited to the Service in accordance with rule 7 of these Rules who officiated continuously in a senior post from a date earlier than the date of commencement of such officiation by the former:

Provided that the year of allotment of an officer appointed to the Service in accordance with rule 9 of the Recruitment Rules who started officiating continuously in a senior post from a cadre earlier than the date on which any of the officers recruited to the Service, in accordance with rule 7 of those Rules, so started officiating shall be determined ad hoc by the Central Government in consultation with the State Government concerned.

Explanation I - In respect of an officer appointed to the Service by promotion in accordance with sub-rule (1) of rule 9 of the Recruitment Rules, the period of his continuous officiation in a senior post shall, for the purposes of determination of his seniority; count only from the date of the inclusion of his name in the Select List, or from the date of his officiating appointment to such senior post whichever is later:

Provided that where the name of a State Police Service Officer was included in the Select List in force immediately before the reorganisation of a State and is also included in the first Select List prepared subsequent to the date of such reorganisation, the name of such officer shall be deemed to have been continuously in the Select List with effect from the date of inclusion in the first mentioned Select List.

Explanation 2 - An officer shall be deemed to have officiated continuously in a senior post from a certain date if during the period from that date to the date of his confirmation in the senior grade he continues to hold without any break or reversion a senior post otherwise than as a purely temporary or local arrangement.

Explanation 3 - An officer shall be treated as having officiated in a senior post during any period in respect of which the State Government concerned certifies that he would have so officated but for his absence on leave or training.

Explanation 4 - An officer appointed to the Service in accordance with sub-rule (1) of the rule 9 of the Recruitment Rules shall be treated as having officiated in a senior post during any period of appointment to a non-cadre post if the State Government has certified within three months of his appointment to the non-cadre post that he would have so officiated but for his appointment for a period not exceeding one year and, with the approval of the Central Government, for a further period not exceeding two years, to a non-cadre post under a State Government or the Central Government in a time-scale identical to the time-scale of a senior post:

Provided that the number of officers in respect of whom the certificate shall be current at one time shall not exceed one half of the maximum size on the Select List

permissible under sub-regulation (1) of regulation 5 of the Indian Police Service (Appointment by Promotion) Regulations,1955, and follow the order in which the names of such officers appear in the Select List:

Provided further that such certificate shall be given only if, for every senior officer in the Select List appointed to a non-cadre post in respect of which the certificate is given, there is one junior Select List officer officiating in a senior post under rule 9 of the Indian Police Service (Cadre) Rules,1954.

Provided also that the number of officers in respect of whom the certificate is given, shall not exceed the number of posts by which the number of cadre officers holding non-cadre posts under the control of the State Government falls short of the deputation reserve sanctioned under the Schedule to the Indian Police Service (Fixation of Cadre Strength)Regulations,1955.

xx xx"

We must first ascertain the scope of Rule 3 in general and Explanation-1 in particular.

26. The very first rule of interpretation of statutes has been explained by Maxwell on the Interpretation of Statutes (11th Edition) in these words:-

"A statute is the will of the legislature, and the fundamental rule of interpretation, to which all others are subordinate, is that a statute is to be expounded "according to the intent of them that made it". If the words of the statute are in themselves precise and unambiguous no more is necessary than to expound these words in their natural and ordinary sense, the words themselves in such case best declaring the intention of that legislature."

The progressive rule of construction of statutes which has now come to stay has been explained by Bhagwati,J. (as His Lordship then was) in K.P.VARGHESE v. I.T.O. ERNAKULAM AND ANOTHER (AIR 1981 SC 1922) in these words:

"..... The task of interpretation of a statutory enactment is not a mechanical task. It is more than a mere reading of mathematical formulae because few words possess the precision of mathematical symbols. It is an attempt to discover the intent of the legislature from the language used by it and it must always be remembered that language is at best an imperfect instrument for the expression of human thought and as pointed out by Lord Denning, it would be idle to expect every statutory provision to be "drafted with divine prescience and perfect clarity". We can do no better than repeat the famous words of Judge Learned Hand when he said:".....it is true that the words used, even in their literal sense, are the primary and ordinarily the most reliable, source of interpreting the meaning of

> any writing be it a statute, a contract or anything else. But, it is one of the surest indexes of a mature and developed jurisprudence not to make a fortress out of the dictionary; but to remember that statutes always have some purpose or object to accomplish, whose sympathetic and imaginative discovery is the surest guide to their meaning". We must not adopt a strictly liberal interpretation of section 52 sub-section (2) but we must construe its language having regard to the object and purpose which the legislature had in view in enacting that provision and in the context of the setting in which it occurs. We cannot ignore the context and the collocation of the provisions in which Section 52 sub-section (2) appears, because, as pointed out by Judge Learned Hand in most felicitous language:"..... the meaning of a sentence may be more than that of the separate words, as a melody is more than the notes, and no degree of particularity can ever obviate recourse to the setting in which all appear, and which all collectively create....."

Bearing these and all other rules, we proceed to ascertain the scope of the Rules.

27. That the title of an Act or a Rule gives a clue to the understanding of an Act or Rule but cannot control the plain meaning of the relevant provision is now well-settled. The title of the Rules relates to regulation of seniority of the members of the service, from different sources.

28. The preamble to the Rules merely refers to the source of power for framing the Rules.

29. Rule 1 of the Rules deals with the title and commencement of the Rules. These Rules came into force from 8-9-1954.

30. Rule 2 defines the terms (a) cadre, (b) Commission, (c) Competitive examination, (d) gradation list, (e) officer, (f) Recruitment Rules, (g) senior post, (h) Service, (i) State Cadre, (j) State Government concerned and (k) Select List which generally occur in the Rules. But, very significantly, they do not define the terms 'Year', 'Seniority' and 'Year of Allotment', the meaning of which is very decisive, in the true construction of the Rules. The terms are not defined in any other Rule or in the earlier Indian Civil Service (Regulation of Seniority) Rules of 1930 also.

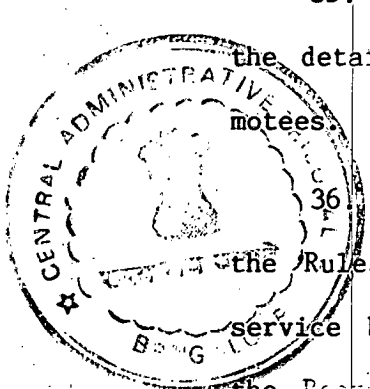
31. A close analysis of the Rules and the Seniority Rules of other All India Services reveals that the YOA to members of the service and their seniority in that service, are closely interlinked. Seniority has a close nexus with the YOA to the service. The YOA to the service determines the seniority of the member of the service. In Shenava's case we have explained the meaning of the terms 'YOA' and 'Seniority' and their interrelationship also.

32. Rule 3 of the Rules regulates the YOA to the members of the service.

33. Sub-rule (1) enjoins on the GOI to assign the YOA to every member of the service in accordance with the provisions made in sub-rule (3) of the Rules. This exhaustively deals with the YOA to the persons drawn from the two sources namely, direct recruits and promotees.

34. Sub-rule (3)(a) of Rule 3, provides for YOA to an officer appointed to the service, on the results of a competitive examination. When a person is appointed to a service on the results of a competitive examination, he has to be assigned the YOA following the year, in which such examination was held. This clause relates to the YOA, in respect of direct recruits or regular recruits from the open market.

35. Clause (b) of sub-rule (3) of Rule 3 elaborately sets out the detailed formula or principle for alloting the YOA to the promotees.



36. Explanation-1 to clause (b) of sub-rule (3) of Rule 3 of the Rules directs that in respect of an officer appointed to the service by promotion in accordance with sub-rule (1) of Rule 9 of the Recruitment Rules, the period of his continuous officiation in a senior post shall, for the purposes of determination of his seniority or allotment count only from the date of inclusion of his name

name in the Select List or from the date of his officiating appointment to such senior post whichever is later. This explanation, which is really in the nature of a proviso, adopts the twin criteria for determining the seniority of a promotee officer. The twin criteria are the date of selection or continuous officiation whichever is later.

37. The Select List referred to in the explanation must necessarily refer to the Select List in which the officer is placed and appointed and not to earlier Select Lists which become inoperable so far as he is concerned for a variety of reasons that are not necessary to notice also. In AKHILENDRA NATH TRIVEDY AND ANOTHER v. UNION OF INDIA AND OTHERS [(1988) 7 A.T.C. 700] the Patna Bench of this Tribunal has expressed the same view (vide: paras 32 and 33). We see no reason to differ from that view, which is binding on us.

38. The language of this explanation is clear and presents no difficulty in its construction. If that is so, then we will not be justified in invoking any other rule of construction and cloud its meaning. In ascertaining its meaning, we cannot look to the law as it stood prior to its amendment, its interpretation by Courts and restrict or enlarge its meaning.

39. An analysis of other provisions of the Rules is unnecessary for these cases. With this we now pass on to examine the validity of the impugned provision.

40. Articles 14 and 16 of the Constitution are one group of articles and Articles 15 and 16 are only an extension of Article 14 to specific cases. In other words, Article 14 is said to be the genus and Articles 15 and 16 its species. It is trite, therefore, that the principles governing Article 14 equally govern Articles 15 and 16 of the Constitution as well and this does not require a reference to decided cases.

41. The true scope and ambit of Article 14 has been explained by the Supreme Court in a large number of cases. In RAM KRISHNA DALMIA AND OTHERS v. JUSTICE S.R.TENDOLKAR AND OTHERS (AIR 1958 SC 538) and RE:SPECIAL COURTS BILLS CASE (AIR 1979 SC 478) the Supreme Court reviewing all the earlier cases has elaborately re-stated the scope and ambit of Article 14 of the Constitution.

42. On the new dimension of Article 14 of the Constitution namely arbitrariness is the very antithesis of rule of law enshrined in Article 14 of the Constitution evolved for the first time in Royappa's case, Bhagwati,J.(as His Lordship then was) expressed thus:-

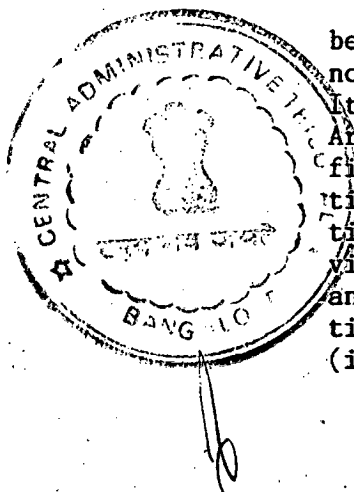
> "We cannot countenance any attempt to truncate its all-embracing scope and meaning, for to do so would be to violate its activist magnitude. Equality is a dynamic concept with many aspects and dimensions and it cannot be "cribbed,cabined and confined" within traditional and doctrinaire limits. From a positivistics point of view, equality is antithetic to arbitrariness. In fact equality and arbitrariness are sworn enemies; one belongs to the rule of law in a republic while the other, to the whim and caprice of an absolute monarch. Where an act is arbitrary it is implicit in it that it is unequal both according to political logic and constitutional law and is therefore violative of Article 14....."

In Maneka Gandhi's case the same learned Judge elaborated this principle in these words:-

> "The principle of reasonableness, which legally as well as philosophically, is an essential element of equality or non-arbitrariness pervades Article 14 like a brooding omnipresence....."

In Ajay Hasia's case the same learned Judge speaking for the Bench had summarised the principle in these words:

> "..... The true scope and ambit of Article 14 has been the subject-matter of numerous decisions and it is not necessary to make any detailed reference to them. It is sufficient to state that the content and reach of Article 14 must not be confused with the doctrine of classification. Unfortunately, in the early stages of the evolution of our constitutional law, Article 14 came to be identified with the doctrine of classification because the view taken was that that article forbids discrimination and there would be no discrimination where the classification making the differentia fulfils two conditions, namely, (i) that the classification is founded on an intelligible



differentia which distinguishes persons or things that are grouped together from others left out of the group; and (ii) that that differentia has a rational relation to the object sought to be achieved by the impugned legislative or executive action. It was for the first time in E.P.Royappa v. State of Tamil Nadu that this Court laid bare a new dimension of Article 14 and pointed out that that article has highly activist magnitude and it embodies a guarantee against arbitrariness. This Court speaking through one of us (Bhagwati,J.) said: [SCC p.38: SCC(L&S) p.200, para 85]

> The basic principle which, therefore, informs both Articles 14 and 16 is equality and inhibition against discrimination. Now, what is the content and reach of this great equalising principle? It is a founding faith, to use the words of Bose,J., "A way of life", and it must not be subjected to a narrow pedantic or lexicographic approach. We cannot countenance any attempt to truncate its all-embracing scope and meaning, for to do so would be to violate its activist magnitude. Equality is a dynamic concept with many aspects and dimensions and it cannot be "cribbed, cabined and confined" within traditional and doctrinaire limits. From a positivistic point of view, equality is antithetic to arbitrariness. In fact, equality and arbitrariness are sworn enemies; one belongs to the rule of law in a republic while the other, to the whim and caprice of an absolute monarch. Where an act is arbitrary it is implicit in it that it is unequal both according to political logic and constitutional law and is therefore violative of ARticle 14, and if it affects any matter relating to public employment, it is also violative of Article 16. Articles 14 and 16 strike at arbitrariness in State action and ensure fairness and equality of treatment ment.

This vital and dynamic aspect which was till then lying latent and submerged in the few simple but pregnant words of Article 14 was explored and brought to light in Royappa case and it was reaffirmed and elaborated by this Court in Maneka Gandhi v. Union of India where this Court again speaking through one of us (Bhagwati,J.) observed: (SCC pp.283-84, para 7)

> Now the question immediately arises as to what is the requirement of Article 14: What is the content and reach of the great equalising principle enunciated in this Article? There can be no doubt that it is a founding faith of the Constitution. It is indeed the pillar on which rests securely the foundation of our democratic republic. And, therefore, it must not be subjected to a narrow, pedantic or lexicographic approach. No attempt should be made to truncate its all embracing scope and meaning, for to do so would be to violate its activist magnitude. Equality is a dynamic concept with many aspects and dimensions and it cannot be imprisoned within traditional and doctrinaire limits..... Article 14 strikes at arbitrariness in State action and ensures fairness and equality of treatment. The principle of reasonableness, which legally as well as philosophically, is an essential element of equality or non-arbitrariness pervades Article 14 like a brooding omnipresence.

> This was again reiterated by this Court in International Airport Authority case at page 1042 (SCC p.511) of the Report. Inmust therefore now be taken to be well settled that what Article 14 strikes at is arbitrariness because any action that is arbitrary, must necessarily involve negation of equality. The doctrine of classification which is evolved by the Courts is not paraphrase of Article 14 nor is it the objective and end of that article. It is merely a judicial formula for determining whether the legislative or executive action in question is arbitrary and therefore constituting denial of equality. If the classification is not reasonable and does not satisfy the two conditions referred to above, the impugned legislative or executive action would plainly be arbitrary and the guarantee of equality under Article 14 would be breached. Wherever therefore there is arbitrariness in State action whether it be of the legislature or of the executive or of an 'authority' under Article 12, Article 14 immediately springs into action and strikes down such State action. In fact, the concept of reasonableness and non-arbitrariness pervades the entire constitutional scheme and is a golden thread which runs through the whole of the fabric of the Constitution."

In the later cases, the Court has reiterated these principles and has applied them to specific cases.

43. In adjudging the validity of the Explanation we must also bear in mind two more principles. In Ranganathan's case a Full Bench of this Tribunal has noticed them in these words:

> "51. We must also bear in mind one of the great constitutional principles propounded by James Bradley Thayer, a renowned constitutional lawyer of America namely 'that the judicial veto, is to be exercised only in cases that leave no room for reasonable doubt'. This has been articulated by the eminent Jurist-Judges of the American Supreme Court via., Justices Holmes, Brandeis and Frankfurter in more than one case (see: Article on "The Influence of James B.Thayer upon the work of Holmes, Brandeis, and Frankfurter" in the self-same treatise in "Supreme Court Statecraft" by Wallace Mendelson, First Indian Reprint, 1987 Edition). One other principle which we should bear in mind is that the validity of a law must be examined and decided as many by the law making authority itself and not from the standpoint that a better law could have been enacted or a better solution found to the problem, should not influence us in adjudging the validity of a law."

Bearing all these principles in mind, we now proceed to examine the validity of the explanation.

44. We must at the very outset notice that sub-rule (3) of Rule 3 of the Rules has been framed to deal with cases of promotee officers who belong to a separate class or group. Sub-rule (3)(b) and the

Explanation operates against all promotee officers. Sub-rule (3)(b) and the impugned provision do not violate the principles of a valid classification expounded by the Supreme Court in numerous cases summarised in Special Court Bill's case. Sri Karanth did not rightly contest this position.

45. According to the applicants, the earlier provision or the earlier principles had struck a 'just balance' between the conflicting claims of direct recruits and promotees and that it had been so recognised by the Supreme Court in ANAND PRAKASH SAKSENA v. UNION OF INDIA AND OTHERS (AIR 1963 SC 754) and HARJEET SINGH AND OTHERS v. UNION OF INDIA AND OTHERS [1980 (3) SCC 205 = 1980 SCC (L & S) 351] and there was no justification whatsoever to unnecessarily tinker with the same and inflict injustice on the promotees.

46. The power of GOI to frame the impugned rule under the Act is not and cannot be disputed. If the power to frame the rule is not in dispute, then the interpretation placed on the unamended rules has hardly and relevance in deciding its validity. In reality and in substance, this contention of the applicants runs counter to the second principle enunciated in Ranganathan's case namely that the validity of a law must be examined and decided as made by the law making authority only, without reference to other factors. On this ground itself, we cannot uphold this contention of the applicants.

47. Even otherwise, when a law is made by a competent legislative authority, a Tribunal or a Court cannot take exception to the same on the ground that what stood earlier was valid, good, just or fair and the law making authority should not unnecessarily tinker with the same and make a law contrary to the earlier law or make a law differently. We are of the view that acceptance of this position will strike at the very source and power of law-making and is wholly unsound. On principle and authority, we find it difficult to uphold this contention of the applicants.

48. On what we have expressed earlier, it is unnecessary for us to make a detailed reference to Saksena's and Harjeet Singh's cases which interpreted the unamended Rules.

49. Every one of the grounds on the alleged unreasonableness or arbitrariness of the explanation was really built on what had been expressed by the Supreme Court in Saksena's and Harjeet Singh's cases. Except for them, no new ground was placed before us to hold that Explanation-1 was unreasonable, arbitrary, unjust and unfair. On this score itself we must reject the challenge of the applicants.

50. We must ever remember that GOI as the legislative authority to make rules as also the cadre-controlling authority with experience gained was in a better position to resolve the conflicting claims by adding the explanation. When the applicants fail to establish the unreasonableness and arbitrariness of the explanation, then on the principles enunciated in Ranganathan's case, we should be reluctant to hold that they are unreasonable and arbitrary.

51. In Akilendra Nath Trivedy's case, the Patna Bench dealing with the construction of Explanation-1 and not its validity expressed thus:

> "33. I find it difficult to accept this argument for two reasons. Firstly, a select list always means the current select list. The old list loses its status and significance as soon as a new select list is prepared. This is evident from Regulation 7(4) of the Promotion Regulations. Secondly, there can be no rationale for giving recognition to officiation in a senior post by a non-select list officer during any period. It is possible to think of a situation in which a State Police Service Officer included in the Select List for one year got subsequently excluded from the Select List because of adverse reports against him. After a year or two, he may come back in the list on the basis of better reports subsequently. More often than not, officiation in a senior post is governed by the exigencies of service, and does not necessarily depend on the merits or qualifications of the officer concerned. In such a situation, it will be quite inappropriate to grant such an officer the benefit of continuous officiation for the purpose of seniority even for the years for which he was not, strictly speaking, cleared for appointment to senior posts. It has to be borne in mind that though the primary purpose of Select List is to have a list of

> officers suitable for appointment on promotion to the Service (I.P.S.in this case) as and when substantive vacancies arise against the promotion quota, the list can also be used to make temporary appointment to cadre posts (as distinguished from substantive appointments to the Service), if there is a short-term vacancy or no suitable cadre officer is available and the conditions stipulated in Rule 9 of the Cadre Rules are fulfilled. A comparison of the provisions of Regulations 8 and 9 of the Promotion Regulations will bring out the position in this regard."

We are of the view that these reasons given by the Bench on the construction are sound for sustaining its validity also. Every one of these reasons in our view is sufficient to hold that the impugned rule does not make an unreasonable provision but only makes a reasonable provision and does not suffer from the vice of arbitrariness or is antithetical to the new dimension of Article 14 of the Constitution.

52. Even the observations of the Supreme Court in Harjeet Singh's case on a junior officer selected and frog-leaping or being selected and not posted in the senior post, also justified Government to add the impugned provision.

53. On applying the principles of new dimension of Articles 14 and 16 of the Constitution to every one of the factors and grounds urged, we find it difficult to hold that Explanation-1 attracts the vice of that dimension or is violative of Articles 14 and 16 of the Constitution.

54. On the foregoing discussion, we hold that there is no merit in this contention of the applicants.

55. Every one of the reasons given by us to sustain the Explanation, justifies us to reject the challenge of the applicants in Applications Nos. 1787 to 1789 of 1988 to the said provision. On this it follows that Applications Nos. 1787 to 1789 of 1988 are liable to be rejected without issuing notices to the respondents.

56. On facts there is no dispute that the assignment of 1976 as YOA to the applicants is in conformity with Rule 3 of the Rules.

On this the decision of GOI taken on 3-4-1981 and reiterated later does not call for our interference at all. This very conclusion also justifies us to reject all other challenges of the applicants in Applications Nos. 1787 to 1789 of 1988.

57. As all the contentions urged for the applicants fail, 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. 18/11/1988.

Sd/-
MEMBER(A) 18.XI.88

CENTRAL ADMINISTRATIVE TRIBUNAL np/ BANGALORE

TRUE COPY

25/11/88
SECTION OFFICER
CENTRAL ADMINISTRATIVE TRIBUNAL
ADDITIONAL BENCH
BANGALORE

Recd. as Regd. letter No. 919 RB/9/93

Pl. enter in SLP list (if not entered already), SLP Register & main Register & add to file thereafter with a photocopy of this and a photo copy of the order, submit in O/C for perusal & for information to Hon'ble V.C. & Hon'ble Members

D. Nos. ~~1295-98/89/IVA~~

Supreme Court of India,
New Delhi.

Dated 27-8-1993
28th

From: The ~~Deputy~~ Registrar
Supreme Court of India,
New Delhi.

To
The Registrar
Central Administrative Tribunal
Bengalore Bench, Commercial Complex (B.D.A.) Indira Nagar, Bangalore- 38.

CIVIL APPEAL NOS. 3891-3894 OF 1993
(~~C.A.~~ Application Nos. 863,865 of 1987 and 785 & 786 OF 1988)

H.R. Kasturi Rangan & ~~Ors.~~ ...Appellants

Versus

Union of India & Ors. ...Respondents

Sir,

In pursuance of Order XIII, Rule 6, S.C.R. 1966, I am directed by their Lordships of the Supreme Court to transmit herewith a Certified copy of the Order dated the 28th July, 1993 in the appeals above-mentioned. The certified copy of the Decree made in the said appeals will be sent later on.

Please acknowledge receipt.

Yours faithfully,

DEPUTY ~~REGISTRAR~~ REGISTRAR

/Joshi/

Certified to be a true copy
Deputy Registrar (Judl.)
28.8.1993
Supreme Court of India

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION
CIVIL APPEAL NOS. 3891-3894 /93
(Arising out of SLP(C) Nos.2998-3001/89)

460384

H.R. Kasturi Rangan & Ors. ....Appellants

Versus

Union of India & Ors. ....Respondents

O R D E R

Leave granted.

The two appellants were appointed to the Karnataka State Police Service in the rank of Dy. Superintendent of Police (Non-IPS) in January 1976. In January 1978 appellant No.1, H.R. Kasturi Rangan was posted to officiate in a cadre post while the appellant No.2, S.S. Masali was so posted to officiate in a cadre post in September, 1978. Respondent No.4, Ajay Kumar Singh who belonged to the 1974 batch of the Indian Police Service (Karnataka Cadre) was promoted to a senior scale post on 17.10.1978. The appellants were confirmed as Dy. Superintendent of Police in the State Police Service by notification issued on 2.3.1979, with effect from 1.1.1978. Respondent No.5, Smt. Jija Hari Singh, a direct recruit to the Indian Police Service of the 1975 batch was promoted to a senior scale post on 24.11.1979. The selection committee constituted under Regulation 3 of

...2/-

the Indian Police Service (Appointment by Promotion) Regulation, 1955 met in December, 1980, when name of both the appellants was included in the select list for the IPS to which they were appointed on 3.4.1981. In 1982 the year of allotment was given to both the appellants as 1976, on their appointment to IPS by promotion in this manner.

The appellants made applications to the Central Administrative Tribunal in 1987 and 1988 making the grievance that they were entitled to a year of allotment earlier than 1976 on account of the reason that they should have been included in the select list for appointment by promotion to I.P.S. which ought to have been prepared two years earlier. The appellants contended that the delay in inclusion of their names in the select list by a period of two years was occasioned on account of the failure of the selection committee to meet for two years, even though the requirement of Regulation 5 of the I.P.S. (Appointment by Promotion) Regulation, 1955 is that the committee "shall ordinarily meet at intervals not exceeding one year". The appellants also challenged the validity of Explanation 1 of the first proviso to Rule 3(3)(b) of the I.P.S. (Regulation of Seniority) Rules, 1954. The Tribunal has dismissed these applications of the appellants. Hence these appeals

....3/-

by special leave.

This matter has been placed before a three Judge Bench on account of an order dated 12.1.1993 made by a Bench of two learned Judges. It appears that the order was made on account of a submission made at the hearing that there appeared to be some conflict between the decisions in Union of India Vs. Mohan Lal Capoor & Ors. (1974) 1 SCR 797) and Syed Khalid Rizvi & Ors. Vs. Union of India & Ors. (JT 1992 (Supple.) SC 169) and that the word "ordinarily" in Regulation 5 appears to have been overlooked by the Bench deciding Rizvi's case.

Having heard learned counsel we are satisfied that there is no conflict between the decisions in Mohan Lal Capoor and Syed Khalid Rizvi. As for the submission that the word "ordinarily" occurring in Regulation 5 appears to have been overlooked in Rizvi, we find that it is not so inasmuch as the learned Judges in para 9 have referred to it while dealing with Regulation 5. The learned counsel for the respondent, who had made that submission before a two Judge Bench, then referred to the observations in para 34 of the decision in Rizvi wherein Regulation 5 has been described as mandatory while saying that

...4/-

"preparation of the select list every year is mandatory". In our opinion these observations in the decision in Rizvi have to be read in the context and together with what follows that observation. It has been stated thereafter that the dereliction of the statutory duty must satisfactorily be accounted for by the State Government concerned and this Court takes serious note of wanton infraction. It is clear from the observations which follow that the importance of performing this exercise annually was emphasised and it was pointed out that in the event of any failure, the lapse must be satisfactorily explained by the State Government concerned. This is itself an indication of the purpose for which the performance of that exercise annually was described as mandatory, without saying that its breach invalidates the subsequent action. This conclusion is obvious also from the conclusion reached in Rizvi thereafter in para 35 of the report. K. Ramaswamy, J. speaking for the bench stated the contention and the conclusion thereon as under :

> "The question then is whether the failure to prepare the select list could give rise to an inference that rules have been collapsed and the State Government's local arrangement shall be given legitimacy as regular appointments. After giving our anxious

...5/-

consideration of the end resultants, we find it hard to accept the contention.
.....
We, therefore, hold that for failure to prepare select list every year, rule 3(3)(b) of the Seniority Rule, Rules 5 and 9 of the Recruitment Rules and Regulation 9 of Promotion Regulations have not been broken down and the appointment by local arrangement by the State Govt. under Regulation 8 of the Promotion Regulations and Rule 9 of the Cadre Rules are not valid and legal. The promotee officers are not entitled to count their whole officiating period towards their seniority."

It is, therefore, clear that the failure to prepare the select list annually was not accepted as a ground to invalidate the select list for that reason alone in Rizvi. It is in this manner that the word 'mandatory' used in para 34 has to be understood.

The contention in the present case of learned counsel for the appellants being substantially the same which was rejected in para 35 of the decision in Rizvi, there is nothing in that decision to lend support to ~~be~~ the appellants' contention based on this ground in the present case.

Learned counsel for the appellants also reiterated the submission advanced before the Tribunal relating to the validity of Explanation 1 of the Proviso

.....6/-

to Rule 3(3)(b) which reads as under :-

"3. Assignment of year of allotment -

(1) Every officer shall be assigned a year of allotment in accordance with the provisions hereinafter contained in this rule.

... ...

(3) The year of allotment of an officer appointed to the service after the commencement of these rules shall be -

(a) Where the officer is appointed to the service on the results of a competitive examination the year following the year in which such examination was held ;

(b) Where the officer is appointed to the service by promotion in accordance with Rule 9 of the Recruitment Rules, the year of allotment of the juniormost among the officers recruited to the service in accordance with Rule 7 of these Rules who officiated continuously in a senior post from a date earlier than the date of commencement of such officiation by the former :

Provided that the year of allotment of an officer appointed to the service in accordance with Rule 9 of the Recruitment Rules who started officiating continuously in a senior post from a cadre earlier than the date on which any of the officers recruited to the service, in accordance with Rule 7 of those rules, so started officiating shall be determined ad hoc by the Central Government in consultation with State Government concerned.

Explanation 1 - In respect of an officer appointed to the service by promotion in accordance with sub-rule (1) of Rule 9 of the Recruitment Rules, the period of his continuous officiation in a senior post shall, for the purpose of determination of his seniority, count only from the date of the inclusion of his name in the Select List, or from the date of his officiating appointment to such senior post whichever is later.

... ..."

....7/-

The contention of learned counsel for the appellants is that in the case of a promotee exclusion of the period of his continuous officiation prior to the date of inclusion of his name in the select list is discriminatory. We find no merit in this contention. The promotees to the I.P.S. comtitute a class distinct from the direct recruits to that Service. The claim for inclusion of the period of their officiation prior to inclusion of their name in the select list in all situations does not appear to be reasonable inasmuch as that may amount to conferring on them the benefit of membership of service in the I.P.S. from a date prior to their selection for entry into the service.

We are also satisfied that the Tribunal was right in taking into account the laches of the appellants inasmuch as they approached the Tribunal after about 5 years of the date on which the cause of action arose as a result of the appellants being given the year of allotment. In disputes relating to seniority in a service, the lapse of several years changes the scenario due to the events happening in the intervening period and, therefore, the aggrieved person must invoke the remedy promptly within a reasonable period. In our

....8/-

opinion, no interference is called for with the Tribunal's order.

Consequently, the appeals are dismissed. No costs.

Sd/-
.....J.
(J.S. Verma)

Sd/-
.....J.
(S. Mohan)

Sd/-
.....J.
(S.P. Bharucha)

New Delhi;
July 28, 1993.

All communications should be addressed to the Registrar, Supreme Court, by designation. NOT by name
Telegraphic address :- "SUPREMECO"

Red with RPAD No 262
H. enter in Sl. Register
Main Register & Copy to be added to file of O.A. 863 & 865/87 & T.A. 782/88 to file of O.A-863/87.

D. No. s.1295/to 1298/89/ Sec IV A

SUPREME COURT INDIA

Dated New Delhi, the 26th October 1993.

FROM

The Registrar (Judicial),
Supreme Court of India,
New Delhi.

TO

The Registrar,
Central Administrative Tribunal,
Bangalore Bench, Commercial Complex (BDA),
Indiranagar, Bangalore.

Rs 1/Tx01/93
So (JII)/Bri.B.

Central Administrative Tribunal
Dy. No. 119/J.II/93
Date 2.11
Additional Bench

CIVIL APPEAL NOS.3891 TO 3894 OF 1993.

H. R. Kasturi Rangan & Anr. ...Appellants.

Versus

Union of India & 9 Ors. ...Respondents.

Sir,

In continuation of this Registry's letter of even number dated the 27th/28th August, 1993, I am directed to transmit herewith for necessary action a certified copy of the Decree dated the 28th ~~Sept~~ July, 1993 of the Supreme Court in the said appeals.

Please acknowledge receipt.

Yours faithfully,

for REGISTRAR(JUDICIAL)

IN THE SUPREME COURT OF INDIA

ORIGINAL JURISDICTION

CIVIL APPELLATE JURISDICTION

Sup. C. 54
Assistant Registrar (Judl.)
24.1.95 199
Supreme Court of India

Writ Petition No. of 199

473954

CIVIL APPEAL NOS.3891 TO 3894 OF 1993.

(Appeals by special leave granted by this Court by its Order dated the 28th July, 1993 in Petitions for Special Leave to Appeal (Civil) Nos.2998 to 3001 of 1989 from the Judgment and Order dated the 18th November, 1988 of the Central Administrative Tribunal, Bangalore Bench in Application Nos.863 and 865 of 1987 (F), and 785 and 786 of 1988 (F).

H.R. Kasturi Rangan & Anr. ...Appellants.

Versus

Union of India & 9 Ors. ...Respondents.

(For full cause title please see Schedule 'A' attached herewith).

28th July, 1993.

CORAM:

HON'BLE MR. JUSTICE J.S. VERMA
HON'BLE MR. JUSTICE S. MOHAN
HON'BLE MR. JUSTICE S.P. BHARUCHA

For the Appellants: Mr. S. Ravinder Bhat, Advocate.

For Respondent Nos. 1 and 2: Mr. M.L. Verma, Senior Advocate, (Ms. Sushma Suri, Advocate not present).

For Respondent No.3: Mr. M. Veerappa, Advocate.

For Respondent Nos. 4 to 6: M/s. R.K. Gupte and P.C. Kapoor, Advocates.

For Respondent No.8: In person (Not present).

The Appeals above-mentioned being called on for hearing before this Court on the 28th day of July, 1993; UPON perusing the record and hearing counsel for the appearing parties above-mentioned, respondent No.8 in-person not being present, THIS COURT DOTH ORDER:

1. THAT the appeals above-mentioned be and are hereby dismissed;

2. THAT there shall be no costs of these appeals in this Court;

...2/-

AND THIS COURT DOTH FURTHER ORDER that this ORDER be punctually observed and carried into execution by all concerned;

WITNESS the Hon'ble Shri Manepalli Narayanarao Venkatachaliah, Chief Justice of India, at the Supreme Court, New Delhi, dated this the 28th day of July, 1993.

Sd/- S.K. RAWAL
ADDITIONAL REGISTRAR

IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

PETITION FOR SPECIAL LEAVE TO APPEAL(CIVIL)

NO. 9998-3001 OF 1989

CA Nos 3891-94/93

BETWEEN

1. H.R.Kasturi Rangan,I.P.S.
   S/o Shri H.K.Ramaswamy Iyengar
   Dy. Commissioner of Police(Crime)
   Office of the Commissioner of Police
   Infantry Road, Bangalore 560 001

2. S.S. Mesali I.P.S.
   Superintendent of Police
   Railways, Bangalore

.. Petitioners

AND

1. Union of India
   THROUGH the Secretary
   Ministry of Home Affairs (Services)
   Government of India
   New Delhi 110 001

2. The Committee for Selection to Indian Police Service by Promotion from State Police Service
   REPRESENTED by its Chairman, Union Public Service Commission
   New Delhi

3. State of Karnataka
   REPRESENTED by its Secretary to Government, Home Department
   Vidhana Soudha, Bangalore

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FILED ON

4. Ajay Kumar Singh
(Formerly Dy.Commissioner of Police(Traffic) Public Utility Buildings M.G.Road, Bangalore) now working a s D.I.G. Headquarters, Office of the D.G. & I.G. of Police Nrupthanga Road, Bangalore

5. Smt. Tija Hari Singh (Formerly S.P., Fraud Squad, C.O.D., Carlton House Palace Road, , Bangalore) now posted as Deputy Commissioner of Police (Traffic), Public Utility Building, M.G.Road Bangalore 560 001

6. Subhas Bharani(Formerly Dy.Commissioner of Police, City Armed Reserve, Mysore Road, Bangalore)presently posted as Dy.Commissioner of Police, Law & Order (West) No.1,Infantry Road Bangalore 560 001

7. S.C.Saxena(Previously S.P. Chief Security & Vigilance Officer, Karnataka Agro Industries Corporation Ltd., Hebbal Bangalore) now posted as Dy. Commissioner of Police, City Armed Reserve Mysore Road, Bangalore

8. D.V. Guruprasad, I.P.S. Assistant I.G. of Police (North Zone), Central Security Force, Block 13 C.G.O. Complex, Lodhi Road New Delhi 110 003

9. S.T.Ramesh, I.P.S. (Formerly S.P., State Intelligence, 2 Nrupathanga Road, Bangalore) now posted as Central Intelligence Officer, No.8, Infantry Road Bangalore 560 018

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10. J.Achutha Rao, I.P.S.
(Formerly S.P. Dharwad)
Now working as Superintendent of Police
Mangalore D.K., Karnataka .. Respondents

- respondent Nos. 1-10 in A.No.s 863 and 865/1987 and 785-86 of 1988)

N.B. Parties in A.Nos.864 and 866/87 and A.Nos.1787-1789 of 1988 have not been shown in above cause title, since petitioners are impugning the order in so far it relates to A.Nos.863 and 865 of 1987 and 785-86 of 1988)

PETITION UNDER ARTICLE 136 OF THE CONSTITUTION

To

The Hon'ble Chief Justice of India
and his Companion Justices of the
Supreme Court of India

The humble petition of the petitioners abovenamed

MOST RESPECTFULLY SHEWETH:

1. The present petition under Article 136 of the Constitution is against the Order of the Central Administrative Tribunal, Bangalore, dated November 18, 1988 in A.No. 863, 865 of 1987(F) and 785, 786 of 1988(F). Since the

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SUPREME COURT

~~ORIGINAL JURISDICTION~~

CIVIL APPELLATE JURISDICTION

~~Writ Petition No.~~ xxxxx

CIVIL APPEAL NOS.3891 TO 3894 OF 1993.

~~Petitioner~~ xxxxx

M.R. Kesturi Rangan & Anr. Appellants.

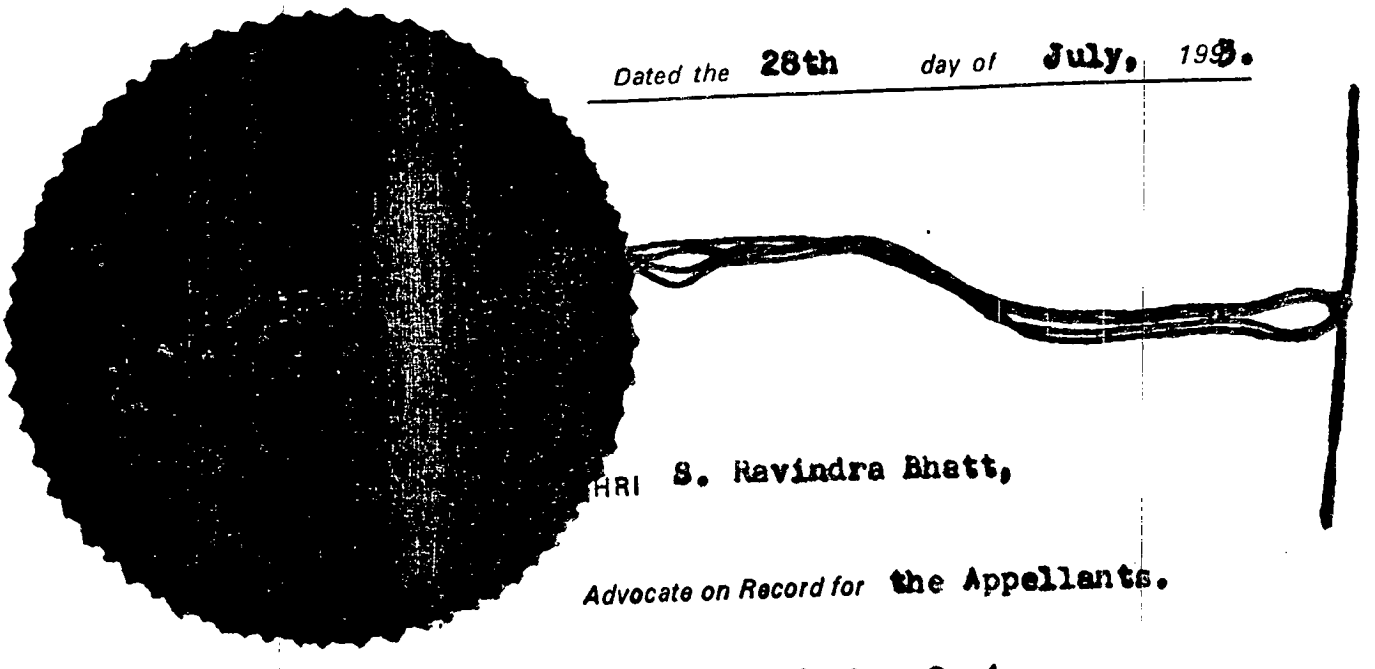
Versus

Union of India & 9 Ors. Respondents.

CENTRAL ADMINISTRATIVE TRIBUNAL, BANGALORE BENCH Application Nos.863 and 865 of 1987 (F) and 786 of 1988 (F).

DECREE DISMISSING THE APPEALS WITH NO COSTS.

Dated the 28th *day of* July, 1993.



SHRI S. Ravindra Bhatt,

Advocate on Record for the Appellants.

Compared with

~~SHRI~~ Mrs. Sushma Suri,

No. of folios

Advocate on Record for Respondent Nos.1 and 2.

Mr. M. Veerappa,
Advocate on record for Respondent No.3.

Mr. P.C. Kapoor,
Advocate on record for Respondent Nos. 4 to 6.

SEALED IN MY PRESENCE

Respondent No.8 - In-person.

GW/25.9.93

25/10/93