REGISTERED

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

Commercial Complex(BDA)
Indiranggar
Bangalore - 560 038

Dated : 29 JUL 1988

APPLICATION NOS. 655 to 670, 793 to 810, 814 to 828
896 to 900 & 929 to 939/88(F)

Applicants

Shri S. Nanjundaswamy & 64 Ors V/s

Respondents

The Secretary, M/o Finance
(Dept of Expenditure), New Delhi & 6 Ors

To

1. Shri S. Nanjundaswamy
2. Shri S.S. Buslul Huck
3. Shri P. Shanmugam - I
4. Shri J. Vijayaraghavan
5. Shri P. Shanmugam - II
6. Shri M.N. Shankar
7. Shri Nagapati V. Bhat
8. Shri Kalappa Shivappa Kammar
9. Shri P.K. Prasad
10. Shri Subraya Shesha Bhat
11. Shri Ramachandra Narayan Kulkarni
12. Shri S.A. Hakeem
13. Shri Nagu Poojari
14. Shri G. Mohan Rao
15. Shri P.B. Ryavanki
16. Shri H.S. Kamath

(Sl Nos 1 to 16 -
Deputy Accounts Officers
Office of the General Manager
Telecommunications, Karnataka Circle
Bangalore - 560 009)

17. Shri C. Srinivasamurthy
18. Shri V.S. Raghavan
19. Shri M.C. Timmapur
20. Shri B.L. Manamohana
21. Shri Rajashekara
22. Shri M. Krishnamurthy
23. Shri H. Venkatesh
24. Shri P. Papanna
25. Shri K.R. Savalsung
26. Shri N.B. Kushnoor
27. Shri H. Sankaranarayana Bhat
28. Shri K. Abdul Rezak
29. Shri Ananda Ganiga
30. Shri K.N. Manjunatha Holla
31. Shri Suresh J. Naik
32. Shri K.G. Deshpande
33. Shri H. Prabhakara Rao
34. Shri A.M. Narasimha Rao

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35. Shri K. Jayarao

36. Shri H.K. Sasha

37. Shri C. Balaramaiah

38. Shri K.R. Srinivasan

39. Shri C. Nagappan

40. Shri M.K. Sakkinakeri

41. Shri K. Brahmiah

42. Shri S. Ramani

43. Shri P.D. Mahale

44. Shri D. Mohana Krishnan

45. Shri V. Bommayan

46. Shri R. Munirathnam Naidu

47. Shri B. Venkataramanarao

48. Shri Shaik Hussain

49. Shri A. Ramapoorthy

(Sl Nos. 17 to 49 -

C/o Dr M.S. Nagaraja
Advocate
35 (Above Hotel Swagath)
Ist Main, Gandhinagar
Bangalore - 560 009)

50. Shri A. Vasudeva
31/7, 13th Main, Vijayanagar
Bangalore - 560 040

51. Shri V.J. George Jayasheelan
No. 2, Vasanthappa Block
Ganganahalli
Bangalore - 560 032

52. Smt A.C. Sarvamangala
136, 'Ambika'
7th Block, Jayanagar
Bangalore - 560 011

53. Shri H.A. Keshava Das
265, 9th Main, 3rd Block
Jayanagar
Bangalore - 560 011

54. Shri B.R. Teja Murthy
81, C.P.W.D. Quarters
Block - 5, Koramangala
Bangalore - 560 034

55. Shri K. Balasubramanian

56. Mrs.Ms Prabhavathamma

57. Ms S. Sulochana

58. Shri K.S. Sundaram

59. Shri S. Sugumaran

60. Smt Vijayalakshmi Gopalakrishnan

61. Smt Nagamani S. Rao

62. Smt Mary Philomena C'Couto

63. Shri P. Murthy

64. Smt Padmini Murthy

65. Shri M. Radhakrishnan

(Sl Nos. 55 to 65 -

Senior Accountants
Office of the Deputy Director
of Accounts (Postal)
Basava Bhavan
Bangalore - 560 001)

66. Dr M.S. Nagaraja
Advocate
35 (Above Hotel Swagath)
Ist Main, Gandhinagar
Bangalore - 560 009

67. The Secretary
Ministry of Finance
(Department of Expenditure)
New Delhi - 110 001

68. The Member (Finance)
Telecommunication Board
Department of Telecommunications
Sanchar Bhavan
New Delhi - 110 001

69. The General Manager
Telecommunications
Karnataka Circle
Bangalore - 560 009

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70. The Controller of Accounts
Central Accounts Office
Department of Mines
Geological Survey of India
Calcutta - 1

71. The Controller General of Accounts
Ministry of Finance
Department of Expenditure
Lokanayak Bhavan
New Delhi - 110 003

72. The Deputy Director of Accounts (Postal)
Karnataka Circle
Bangalore - 560 001

73. The Director General (Postal Wing)
Dak-Thar Bhavan
New Delhi - 110 001

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

75. Shri M. Vasudeva Rao
Addl. 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 the copy of ORDER passed by this Tribunal in the above said applications on 14-7-88.

for DEPUTY REGISTRAR
(JUDICIAL)

Encl : As above

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE BENCH:BANGALORE

DATED THIS THE FOURTEENTH DAY OF JULY, 1988

Present: Hon'ble Shri Justice K.S. Puttaswamy .. Vice Chairman

Hon'ble Shri L.H.A. Rego .. Member (A)

APPLICATION NOS. 655 TO 670, 793 TO 810
814 TO 828, 896 TO 900 AND 929 TO 939
OF 1988

1. Shri S. Nanjundaswamy
   Aged 35 years
   Son of late R. Sannaiah.
2. Shri S.S. Bulul Huck
   Aged 36 years
   Son of S.M. Shahul Hameed.
3. Shri P. Shanmugam-I
   Aged 38 years
   Son of A. Perumal.
4. Shri J. Vijayaraghavan
   Aged 34 years
   Son of V.P. Jirulai Chetty
5. Shri P. Shanmugam-II
   Aged 35 years
   Son of Perianna Chetty.
6. Shri M.N. Shankar
   Aged 39 years
   Son of M.K. Narayanappa.
7. Shri Nagapati V. Bhat
   Aged 36 years
   Son of Venkataraman Bhat.
8. Shri Kalappa Shivappa Kammar
   Aged 46 years
   Son of Shivappa Kammar.
9. Shri P.K. Prasad
   Aged 44 years
   Son of P. Saranana Goud.
10. Shri Subraya Shesha Bhat
    Aged 36 years
    Son of Shesha Shankar Bhat.
11. Shri Ramachandra Narayan Kulkarni
    Aged 52 years
    Son of Narasimha Kulkarni.
12. Shri S.A. Hakeem
    Aged 56 years
    Son of Syed Jaffer.
13. Shri Nagu Poojari
    Aged 36 years
    Son of Chenna Poojari.
14. Shri G. Mohan Rao
    Aged 41 years
    Son of Parameshwaraiah.

15. Shri P.B. Ryavanki
Aged 39 years
Son of B. Ryavanki.

16. Shri H.S. Kamath
Aged 42 years
Son of H. Kamath.

.. APPLICANTS 1 to 16 in Application Nos. 655 to 670/88.

(All applicants are working as Deputy Accounts Officers in the office of the General Manager, Telecommunications, Karnataka Circle Bangalore-9.

17. Shri C. Srinivasamurthy
Aged 44 years, o/o GMT, Bangalore.
S/o. Shri K. Chidambaraiah.

18. Shri V.S. Raghavan
Aged 36 years, o/o AE, CTSO, B'lore.
Son of Shri S. Varadachari.

19. Shri M.C. Thimmapur
Aged 41 years, o/o. T.D.E., Belgaum.
S/o. Shri C.G. Thimmapur.

20. Shri B.L. Manamohana
Aged 39 years, o/o GMT, Bangalore.
S/o. late B.T. Lakshminarayanappa.

21. Shri Rajashekara
Aged 43 years, o/o GMT, Bangalore.
S/o. Shri Puttaswamappa.

22. Shri M. Krishnamurthy
Aged 38 years, o/o GMT, Bangalore.
S/o. Shri M. Ramaiah.

23. Shri H. Venkatesh
Aged 38 years, o/o TDE, Shimoga.
S/o. Shri Harinarayanappa.

24. Shri P. Pappanna
Aged 44 years, o/o TDE, Hassan.
Son of Chikkapullanna.

25. Shri K.R. Savalsung
Aged 38 years, o/o TDE, Gulbarga
S/o. Shri Ramappa Savalsung.

26. Shri N.B. Kushnoor
Aged 38 years, o/o TDE, Gulbarga.
S/o.Shri Balagi V Kushnoor.

27. Shri H. Sankaranarayana Bhatt
Aged about 38 years,
S/o. Late H. Chandra Bhat.

28. Shri K. Abdul Razak
Aged 40 years, o/o TDE, Mangalore.
S/o. Shri G. Koyahussan.

29. Shri Ananda Ganiga
Aged 43 years, o/o TDE, Mangalore.
S/o. Late B. Rama.

....3/-

30. Shri K.N. Manjunatha Holla
Aged 36 years, o/o TDE, Mangalore.
S/o. Shri Narayana Holla, K.

31. Shri Suresh J. Naik
Aged 35 years, O/o TDE, Mangalore.
S/o. Shri J.N. Naik.

32. Shri K.G. Deshpande
Aged 42 years, o/o TDE, Hubli.
Spn of Shri Govindarao Deshpande.

33. Shri H. Prabhakara Rao
Aged 40 years, o/o BGTD, Bangalore.9.
S/o. Shri H.P. Janardhana Rao.

34. Shri A.M. Narasimha Rao
Aged 37 years, o/o BGTD, Bangalore-9.
S/o. Shri A. Manjunatha Rao.

(All are working as Deputy Accounts officers)

.. APPLICANTS 1 to 18 in Application Nos. 793 to 810.

35. Shri K. Jayaram
Aged 45 years
S/o. late Shri K. Krishnamurthy.

36. Shri H.K. Shesha, Aged 36 years,
S/o. late Sh. Keshavamurthy.

37. Shri C. Balaramaiah
Aged 37 years
S/o. Shri C. Ramaiah.

38. Shri K.R. Srinivasan
Aged 38 years
S/o. K. Rajagopalan.

39. Shri C. Nagappan
Aged 38 years
S/o. Shri Chinanan.

40. Shri M.K. Bekkinakeri
Aged 36 years
S/o. K.N. Bekkinakeri.

41. Shri K. Brahmiah
Aged 37 years
S/o. K. Balaiah.

42. Shri S. Ramani
Aged 35 years
S/o. Shri N. Subbumahalingam.

43. Shri P.D. Mahale
Aged 33 years
S/o. Shri Das.

44. Shri D. Mohana Krishnan
Aged 36 years
S/o. Shri C.R. Devarajan.

45. Shri V. Bommayan
Aged 41 years
S/o. Shri Vellaiah, Goundar.

CENTRAL ADMINISTRATIVE TRIBUNAL BANGALORE

46. Shri R. Munirathnam Naidu
Aged 38 years
S/o. Shri R.V. Naidu.

47. Shri B. Venkataramana Rao
Aged 37 years
S/o. Shri B. Govindarao.

48. Shri Shaik Hussain
Aged 43 years
S/o. Shri Shaik Mastan.

49. Shri A. Ramamoorthy
Aged 39 years
S/o. Shri K. Armugham. .. APPLICANTS 1 to 15 in Application Nos. 814 to 828/88.

(Applicants in sl. no.35 to 45 & 47 are working as Deputy Accounts Officers in O/O BGTD, Bangalore-9. Sl.no.46 is working as Deputy Accounts Officer in o/o Director Mtxe, Bangalore.1. Sl.no. 48 is working as Deputy Accounts Officer in O/O DET(MW) Projects, Hubli-21 and Sl.no.49 is working as Deputy Accounts Officer in O/O GMT, Q/A, Bangalore.1.).

50. Shri A. Vasudeva
Aged 45 years
S/o. late S. Anantachar.

51. Shri V.J. George Jayasheelan
Aged 46 years
S/o. Shri P. John William.

52. Smt. A.C. Sarvamangala
Aged 39 years
D/o. Late A.S. Chandrasekhara Iyer.

53. Shri H.A. Keshava Das
Aged 44 years
S/o. late Shri H.K. Alasingachar.

54. Shri B.R. Teja Murthy
Aged 47 years
S/o. Shri B.V. Rajagopala Naidu. .. APPLICANTS 1 to 5 in Application Nos. 896 to 900/88

(All applicants are working as Senior Accountants in the O/O the Pay & Accounts Officer, G.S.I., Bangalore.)

55. Shri K. Balasubramanian
Aged about 44 years
S/o. Shri M.A. Krishnamurthy.

56. Ms. Y.L. Prabhavathamma
Aged 38 years
D/o. Shri Y. Lakshmanachar.

57. Ms. S. Sulochana
Aged 39 years
D/o. Shri S. Sampangi.

58. Shri K.S. Sundaram
Aged 39 years
S/o. K.S. Srinivasan.

59. Shri S. Sugumaran
Aged 37 years
S/o. Shri P. Shanmugam.

60. Smt. Vijayalakshmi Gopalakrishnan
Aged 38 years
D/o. Shri V.R. Thiruvengadam.

61. Smt. Nagamani S. Rao
Aged 35 years
W/o. Shri S.G. Subba Rao.

62. Smt. Mary Philomena C'Couto
Aged 41 years
W/o. Shri Adolf D'Couto.

63. Shri P. Murthy
Aged 36 years
S/o. Sri Poongodai.

64. Smt. Padmini Murthy
Aged 36 years
W/o. Shri P. Murthy.

65. Shri M. Radhakrishnan
Aged 40 years
S/o. Shri M. Meenakshisundaram. ... APPLICANTS 1 to 11 in Application Nos. 929 to 939/1988.

(All are working as Senior Accountants in the O/O Deputy Director of Accounts, Basava Bhavan, Bangalore - 560 001).

(Dr. M.S. Nagaraja, Advocate)

Vs.

1. Union of India
Represented by Secretary to Government
Ministry of Finance
(Deptt. of Expenditure)
New Delhi ... Respondent 1 in Application Nos. 655 to 670, 793 to 810, 814 to 828 & Respondent 3 in Application nos. 896 to 900 and 929 to 939/1988.

2. Member Finance
Telecommunication Board
Deptt. of Telecommunication
Sanchar Bhavan, New Delhi. ... Respondent 2 in Application Nos. 655 to 670, 793 to 810 & 814 to 824/1988.

.....6/-

3. The General Manager
Telecommunications
Karnataka Circle
Bangalore. .. Respondent 3 in Application nos. 655 to 670, 793 to 810, & 814 to 828/88.

4. The Controller of Accounts
Central Accounts Office
Department of Mines
Geological Survey of India
Calcutta.1. .. Respondent 1 in Application no. 896 to 900/1988.

5. The Controller General of Accounts
Ministry of Finance
Department of Expenditure
Loknayak Bhavan
New Delhi. .. Respondent 2 in Application no. 896 to 900/1988.

6. The Deputy Director of Accounts (Postal)
Karnataka Circle
Bangalore-1. .. Respondent 1 in Application no. 929 to 939.

7. The Director General (Postal Wing)
Dak Tar Bhavan
New Delhi. .. Respondent 2 in Application no. 929 to 939/1988.

(Shri M.S. Padmarajaiah & Shri M. Vasudeva Rao Standing Counsel)

These applications having come up before the Tribunal today, Hon'ble Vice Chairman, made the following:

O R D E R

As the questions that arise for determination in these cases are common, we propose to dispose of them by a common order.

Prior to 1.1.1986, applicants in A. Nos. 655 to 670,793 to 810 and 814 to 828 of 1988

.....7/-

were working as Junior Accounts Officers (JAOs) in the Department of Telecommunications (DT) which posts are equivalent to those of Section Officers (SOs) of the Indian Audit and Accounts Department (IA&AD) of Government in all respects. Prior to 1-1-1986, applicants in A. Nos. 929 to 939 of 1988 and in A. Nos. 896 to 900/1988 were working as Junior Accountants (JAs) in the Postal Accounts Department of Government (PAD) and the Accounts Wing of the Geological Survey of India (GSI) respectively. The posts of JAs in the Departments of PAD and GSI are equivalent to the posts of JAs in the IA&AD in all respects.

3. In its Order No.F.5(32)E III - PT.II dated 12.6.1987, Government inter alia accorded its sanction for placing the posts of SOs and JAs in the IA&AD in the revised scales of pay, however restricting such benefit from 1.4.1987 only. In conformity with this order of Government, by separate but identical orders made, the respective departmental heads of DT, PAD & GSI, had made similar orders allowing the applicants also similar benefits but restricting the same from 1.4.1987 and not from 1.1.1986 as they now claim. Hence in these separate but identical applications made under section 19 of the Administrative Tribunals Act of 1985 (Act), they have sought for a direction to extend them the benefit of such revision from 1.1.1986 on the ground that they were similarly situated with those of the IA&AD to whom this Tribunal had extended the benefit of revision from 1.1.1986 as in the case of all other civil servants of the Union of India.

....8/-

4. In separate but identical replies the respondents have resisted these applications. The respondents had asserted that there were inherent differences and distinctions between the posts held by the applicants and those working in the IA&AD or other departments of Government and that on any view they were not entitled for benefits of revision of their pay scales from 1.1.1986.

5. Dr. M.S. Nagaraja, learned counsel for the applicants, contends that the duties, responsi--bilities and the scales of pay allowed to the JAOs and JAs of the Departments of DT, PAD & GSI were similar to their counterparts in the IA&AD in whose favour Government had made its order on 12.6.1987 and by us in M. NANJUNDASWAMY AND OTHERS V. ACCOUNTANT GENERAL AND OTHERS (1987 SLJ Part III Vol. 25 page 531) and therefore the applicants were clearly entitled to revised scales of pay from 1.1.1986.

6. Shri M.S. Padmarajaiah, learned Senior Central Government Standing Counsel, appearing for respondents, except in A. Nos. 896 to 900/88 wherein Shri M. Vasudeva Rao, learned Addl. Central Government Standing Counsel, (appears) refuting the contention of Dr. Nagaraja, sought to support the respective orders made against the applicants restricting the benefit of revision of pay scales from 1.4.1987.

7. On this very question in NANJUNDASWAMY's case, we have expressed thus:

> "The true scope and admbit of Article 14 of the Constitution, has been explained by the Supreme Court in a large number of cases. In Ramakrishna Dalmia v. Justice Tendolkar[8] (Re:Special Court Bills case), the Supreme Court had reviewed all the earlier cases and had re-stated all the facets of Article 14 of

the Constitution. The new dimension of Article 14 of the Constitution, namely, that arbitarariness was the very anti--thesis of the rule of law enshrined in Article 14 of the Constitution, evolved in E.P. Royappa v. State of Tamil Nadu[9] has been elaborated and explained by the Supreme Court in Maneka Gandhi v. Union of India.[10] Bearing the principles enunciated in all these cases, we must examine the claim of the applicants based on Article 14 of the Constitution.

The order made by GOI on 12-6-1987 reads thus:

'No.F.5(32)-E.III/86-Pt.II
Government of India
Ministry of Finance
Department of Expenditure

New Delhi
the 12th June 1987.

Office Memorandum

Subject: Restructuring of Accounts Staff in Organised Accounts Cadres.

Based on the recommendation of the Fourth Central Pay Commission the scales of pay for Auditors and Section Officer in Audit stream of Indian Audit and Accounts Department (IA&AD) is on the following lines:

	Pre-revised Rs	Revised Rs	
1. Assistant Audit Officer:	650-30-740-35-880-EB-40-1040.	2000-60-2300-EB-75-3200.	80%
2. Section Officer:	500-20-700-EB	1640-60-2600-EB-75-2900.	20%
3. Senior Auditor:	425-15-500-EB-15-560-20-700-EB-25-800	1400-40-1600-50-2300-EB-60-2600.	80%
4. Auditor:	330-10-380-EB-12-500-EB-15 560	1200-30-1560-EB-40-2040	20%

2. The Fourth Central Pay Commission vide para 11.38 of Part-I of its Report have observed that the Audit and Accounts functions, are complementary to each other and are generally performed in many Government offices in an integrated manner which is necessary for their effective functioning. Accordingly, the Pay Commission have recommended that there should be broad parity in the pay scales of the staff in IA&AD and other Accounts organisations. It has further recommended that

....10/-

the proposed scales of pay of Rs 1400-2600 and Rs 2000-3200 may be treated as functional grades in future and that there will be no selection grade for any of these posts. As regards the number of posts in the higher functional scales, the Commission left this matter for the Government to decide.

3. The revised scales of pay for the Accounts staff in Organised Accounts Cadres under the Controller General of Defence Accounts, Controller General of Accounts, Department of Post and Telecommunications and also in Indian Audit and Accounts Department at par with Audit stream have already been notified vide this Ministry's Notifications No.s F....IC/86 dated 13.9.1986 and 22.9.1986 respectively. In accordance with these modifications certain persons have already been allowed the higher revised scales of pay subject to the conditions laid down therein.

4. The question regarding number of posts to be placed in the higher scales of pay has been under the consideration of the Government and it has now been decided that the ratio of number of posts in higher and lower scales in the Organised Accounts cadres as well as in Accounts Wing of the IA&AG may be as follows:

(i) Section Officer (SG)	Rs 2000-60-2300-EB-75-3200	80%
(ii) Section Officer	Rs 1640-60-2600-EB-75-2900	20%
(iii) Senior Accountant	Rs 1400-40-1600--50-2300-EB-60-2600	80%
(iv) Junior Accountant	Rs 1200-30-1560-EB-40-2040	20%

The designations in different Organised Accounts cadres may be different. In such cases also the pay structure on these lines may be decided.

5. These orders take effect from 1.4.1987. The respective cadre controlling authorities may now take necessary action to prescribe criteria for appointment to the higher functional grades requiring promotion to the grades of Rs 1400-40-1600-50-2300-EB-60-2600 and Rs 2000-60-2300-EB-75-3200 on the same lines as adopted for Audit stream and thereafter take necessary action to implement these orders.

6. The orders in respect of Railway Accounts organisation will be issued separately.

7. These orders issued in consultation with the Comptroller and Auditor General of India in so far as these relate to IA&AD.

Hindi version is attached.

sd/-
(A.N. SINHA)
Director

To

1. The Comptroller & Auditor General of India
   (with usual number of spare copies)
   (Shri P.K. Lahiri, Director Staff).
2. Financial Advisor (Defence Services)
3. Comptroller General of Accounts, Ministry of Finance.
4. Member (Finance), Department of Posts.
5. Member (Finance), Department of Telecommunications.

Copy forwarded to Financial Commissioner (Railways) Railway Board for issue of similar orders for Railway Accounts Organisation.

sd/-
(A.N. SINHA)
DIRECTOR

In this order, GOI had accepted the claim of those working in the Accounts Wing for parity with the Audit Wing. But in doing so, it had restricted or allowed the same from 1.4.1987. This has been obviously done on the recommendations of the Fourth Pay Commission.

The Fourth Pay Commission presided over by Justice Singal, examined the revision of pay scales in respect of all the civil servants of the Union of India in depth and submitted its detailed recommendations to the GOI. On those recommendations, GOI had made its orders, giving effect to the revision of pay scales, to all Departments of the GOI from 1.1.1986. The basis for making the order on 12.6.1987, was the recommendations of the Fourth Pay Commission and none other.

While GOI had generously allowed revision of pay scales from 1.1.1986 to almost all its employees, it had for no valid reason allowed the same, with effect from only 1.4.1987, to those working in the Accounts Wing. The order itself does not given any reasons for making such an invidious ditinction only to those working in the Accounts Wing. Shri Padmarajaiah, except for a vehement assertion that the same had been properly made, did not give any satisfactory and convincing reasons for the same.

We are of the view that there are no reasons whatsoever for allowing the benefit of revised pay scales only to Accounts Wing with effect from 1.4.1987 and not from 1.1.1986, as is the case of all other civil servants in the GOI whose number probably exceeds 50 lakhs and that in any event, this was a case of irrational classification without any nexus to the avowed objective and was therefore clearly violative of Article 14 of the

....12/-

> Constitution. We are also of the view, to borrow the language of Justice Desai, in D.S. Nakara v. Union of India[11] that the GOI had "picked up the date, namely, 1.4.1987 really from a hat" with caprice, which violates Article 14 of the Constitution. From this, it follows that the claim of the applicants for extending to them revised pay scales sanctioned by GOI in its order No.F.5(32)-E. III/86-Pt.II dated 12.6.1987, from 1.1.1986 instead of from 1.4.1987 calls for our acceptance".

This decision of ours in which we had even granted an order of stay was not even appealed against and has been accepted by Government. We are of the view that what is stated here, equally governs the contention urged before us.

8. In Nanjundaswamy's case, we have reproduced the order dated 12.6.1987 of Government in its entirety (vide para 31 pages 541-543 of the Report). In paras 4,5 & 6 of that Order, Government had expressed that the benefits extended by it to the cadres of the IA&AD, should also be extended to similar cadres of other departments of Government. In conformity with this direction only the departmental heads of DT, PAD & GSI had extended, in reality and substance the benefit of revision of pay scales to the applicants from 1.4.1987.

9. On what has been expressed by Government itself at paras 4, 5 & 6 of its order and by us thereon in Nanjundaswamy's case, to the extent of back-dating the benefit of revision from 1.1.1986, the claim of the applicants for similar benefits which flows from the very requirements of Articles 14 & 16 of the Constitution of India cannot be resisted by the respondents.

10. The fact that the applicants are working in other departments of Government makes no difference at

....13/-

all, for not extending what had been held in Nanjundaswamy's case. The distinctions and differences in other departments must be real and substantial and cannot be on the ground that they are working in other departments. The respondents have not shown any real and substantial differences to deny the applicants what has been accepted by us in Nanjundaswamy's case.

11. We have earlier noticed, that the posts held by the applicants either of JAOs or JAs and even their pay scales were similar in all respects to the posts and pay scales of SOs and JAs in the IA&AD. If that is so, then on the true requirements of Articles 14 & 16 of the Constitution, it is odd to hold, that the applicants are not entitled to revision from 1.1.1986. On this view, even without reference to what we have held in NANJUNDASWAMY's case the applicants are entitled to succeed.

12. Sriyuths Padmarajaiah and Rao contend that the posts themselves in the departments, had been created from 1.4.1987 against which only the applicants must be deemed to have been promoted from that date and on that view, it was not open to this Tribunal to extend them benefits from 1.1.1986.

13. Dr. Nagaraja refuting this contention, urges that there was no merit in the same.

14. In their replies, the respondents have not pleaded this ground, which is a mixed question of

....14/-

law and fact and is not one of inherent want of jurisdiction or a 'pure question of law' which is normally allowed to be urged at the hearing. On this short ground we must decline to examine this contention. But notwithstanding this, we propose to examine the same on merits also.

15. A careful examination of the order dated 12.6.1987 of Government, the correspondence that had ensued in extending that order of Government and various orders made thereon, reveal that they do not at all support this contention urged before us for the first time at the hearing. On the other hand all of them only lead us to hold otherwise.

16. At the highest, all that has happened was that either the posts are upgraded or treated as higher posts for extending the benefit of revision to those fitted against them. In the IA&AD also, the same thing had happened. From this, it follows, that the applicants are entitled to what had been held by us in NANJUNDASWAMY's case.

17. Sriyuths Padmarajaiah and Rao contend that such of those applicants that had not completed three years of service as on 1.1.1986 cannot in any event be allowed the benefit of the orders made thereto by the concerned authorities.

18. Dr. Nagaraja urges that all the applicants had completed 3 years of service also as on 1.1.1986.

19. On the requirement of 3 years of service as stipulated for promotion by the heads of departments

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only though not by Government there is no challenge by the applicants. The applicants claim that they satisfy that requirement. Whether that is so or not, cannot be examined by us and has necessarily to be examined and decided by the authorities in the first instance. We, therefore, leave that question open to be examined and decided by the authorities in the first instance. We need hardly say that if this decision is adverse to them, it is open to the applicants to challenge the same as also the very requirements before this Tribunal.

20. In their reply, the respondents had asserted that the applicant in A.No.896/88 had been allowed the revision of pay scales from 1.1.1986 and therefore his application was liable to be dismissed in its entirety. Shri Rao highlighting this, urges dismissal of this application. Dr. Nagaraja opposing this, urges that this applicant had only been placed in the revised scale, without giving him all other benefits of fixation of pay under rule 22(c) of the Fundamental Rules (FR) which was impermissible and illegal.

21. Shri Rao does not dispute the correctness of the submission of Dr. Nagaraja. If that is so, then there is force in the submission of Dr. Nagaraja. A mere placement in the time-scale of pay does not carry a Government servant anywhere. Whenever there is a revision the same must reflect itself in proper fixation under FR 22(c) as is done and is required to be done in all such cases. We do not see/ground to treat the case of the applicant in A. 896/88 differently. On this, it follows that the contention urged by Shri Rao in A.No.896/88 is liable to be rejected.

22. On the foregoing discussion, we hold that the applicants are entitled to the benefits extended to them by the respective orders made in their favour from 1.1.1986 instead of from 1.4.1987, but however, subject to their service requirement of 3 years as on that date.

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

(1) We declare that the applicants are entitled for the revised pay scales extended by Government of India in its order No. F.5(32)-E.III/86 Pt.II dated 12.6.1987 and the further orders made in their favour by the respective departments from 1.1.1986 instead of from 1.4.1987 subject to the requirement of 3 years of service as on that date. We further direct the respondents to fix the pay scales of the applicants in the revised pay scales in terms of orders made by Government of India on 12.6.1987 and the further orders made thereon by the respective departments from 1.1.1986 and extend them all such consequential and monetary benefits flowing from the same from that date.

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

Sd/- TRUE COPY Sd/-

VICE CHAIRMAN 14/7/88 MEMBER (A) 14.7.1988

mr.

29/7/88
for DEPUTY REGISTRAR (JDL)
CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE