

CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE BENCH

Commercial Complex (BDA)
Indiranagar
Bangalore - 560 038

Dated : 18 JAN 1989

APPLICATION NO.

1026

88(F)

W.P. NO.

Applicant(s)

Shri R. Santhanam

To

Respondent(s)

V/s The Deputy Director of Accounts (Postal),
Karnataka, Bangalore & another

1. Shri R. Santhanam
Senior Accountant
Office of the Deputy Director of Accounts (Postal)
II Floor, G.P.O.
Bangalore - 560 001
2. Shri S.K. Srinivasan
Advocate
35 (Above Hotel Swagath)
1st Main, Gandhinagar
Bangalore - 560 009
3. The Deputy Director of Accounts (Postal)
Karnataka
II Floor, G.P.O.
Bangalore - 560 001
4. The Director General of Posts
Oak-Tar Bhavan
New Delhi - 110 001
5. Shri M.S. Padmarajaiah
Central Govt. Sng Counsel
High Court Building
Bangalore - 560 001

Subject : SENDING COPIES OF ORDER PASSED BY THE BENCH

Please find enclosed herewith the copy of ORDER/~~STAY~~ INTERIM ORDER
passed by this Tribunal in the above said application(s) on 16-1-89.

Encl : As above

DEPUTY REGISTRAR
(JUDICIAL)

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE BENCH: BANGALORE

DATED THIS THE 16TH DAY OF JANUARY, 1989

PRESENT: HON'BLE SHRI P. SRINIVASAN

..... MEMBER(A)

APPLICATION NO. 1026/88(F)

Sri R. Santhanam
Aged 46 years,
S/o D. Ranganathchar,
Aged about 50 years,
Senior Accountant,
Office of the Deputy Director
of Accounts,
Postal, Bangalore-9.

.... APPLICANT

(Shri S.K. Srinivasan.....Advocate)

Vs.

1. The Deputy Director of Accounts
Postal, Karnataka,
Bangalore.

2. The Director General
of Posts,
New Delhi.

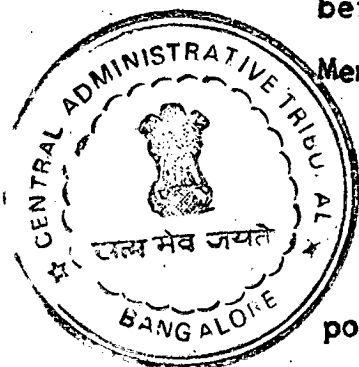
.... RESPONDENTS

(Shri M.S. Padmarajaiah.....Advocate)

This application having come up for hearing
before this Tribunal to-day, Hon'ble Shri P. Srinivasan,
Member(A), made the following :

ORDER

The applicant herein was promoted from the
post of Junior Accountant (JA) in the office of the
Deputy Director of Accounts (Postal), Bangalore (R-1)
to that of Senior Accountant (SA) with effect from



P. Srinivasan

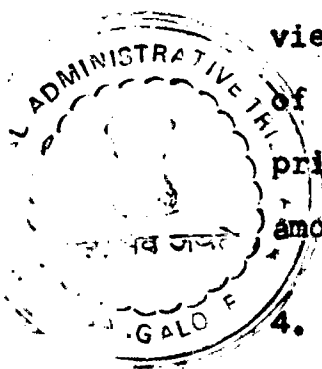
15.7.1983. As JA the applicant was drawing a special pay of Rs.35/-. Initially on his promotion his pay as SA was fixed under FR 22(a) (ii) and not under FR 22C because his appointment as SA was not treated as a promotion. The applicant challenged this in A No. 4/86 which was decided by a Bench of this Tribunal on 12-11-1986. This Tribunal held that the appointment of the applicant as SA from his earlier post of JA was a promotion and as such he was entitled to the fixation of his initial pay as SA under FR 22C and not FR 22(a) (ii). Thereafter^{by the} initial pay of the applicant as SA was fixed under FR 22C by order dated 24.6.1987. While doing so, the respondents did not take into account the special pay of Rs. 35/- which the applicant was drawing as JA immediately before his promotion. In its letter dated 1.9.1987 Government of India, Ministry of Finance, decided that the special pay of Rs. 35/- per month granted to UDCs in non-Secretariat Administrative Offices for attending to work of more complex and important nature should be taken into account for fixing pay on their promotion to the next higher post provided that the official concerned had held the post in which special pay was being drawn in a substantive capacity or in the alternative he had held the post in which special pay was being paid to him continuously for a period of three years or more. The decision conveyed in that letter was, however, made effective from 1.9.1985. The applicant was promoted as SA with effect from a date prior to 1.9.1985 and was denied that benefit. The applicant's grievance is that he has been discriminated against by not being given the benefit

of that letter. He submits that classification of persons into those promoted on or after a particular date and those promoted before that date was arbitrary. He relied on the decision of Supreme Court in D.S. NAKHARA V UNION OF INDIA AIR 1983 SC 130.

2. Shri S.K. Srinivasan, learned counsel appearing for the applicant submitted that those promoted from the post of JA to that of SA formed one homogeneous class and classifying them into those promoted prior to and after a particular date for fixing their initial pay on promotion was arbitrary and discriminatory. He relied on a decision rendered by me in application No. 1116/88 R. JAGANNATHAN V. DEPUTY DIRECTOR OF ACCOUNTS, BANGALORE, decided on 21-12-1988.

3. Shri M.S. Padmarajaiah, learned counsel for the respondents resisted the claim of the applicant on the ground that the date from which the ^{41 dispensation} new disposition came into effect had been fixed as a result of the award of the Arbitrator and was, therefore, not picked out of a hat as it were. In view of this he submitted that denying the benefit of counting special pay for those who were promoted prior to 1.9.1985 was fully justified and did not amount to discrimination.

4. After considering the rival contentions carefully, I am of the view that the applicant's claim should succeed. The respondents admit that this Tribunal having held that the appointment of



a JA as a SA is a promotion, Government of India's letter dated 1.9.1987 would apply to such promotion, if made on or after 1.9.1985. It is also admitted that otherwise the applicant fulfills the conditions prescribed in that letter for counting special pay for the purpose of fixation of initial pay in the higher post. The facts in this case, therefore, are in all respects in pari materia with those in Jagannathan's case. In order to avoid the change of discrimination under Articles 14 and 16 of the Constitution, I would read para 3 of Government of India's letter dated 1.9.1987 making the orders therein effective from 1.9.1985 to mean that the benefit of those orders would be extended from that date and not that such benefit would be denied to those promoted before that date. In view of this I direct the respondents to fix the pay of the applicant on his promotion as SA on 15.7.1983 under FR 22C taking into account the special pay drawn by him before his promotion. This fixation will, however, be notional and he will draw actual pay on this basis only from 1.9.1985, no arrears being allowed to him for the period before that date. Respondents will work out the arrears due to the applicant arising out of this order and pay the same to him within three months from the date of receipt of this order.

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5. The application is disposed of in the above terms leaving the parties to bear their own costs.

DEPUTY REGISTRAR (JDL) 787

Sd/-

MEMBER (A)

CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE BENCH

Commercial Complex(BDA)
Indiranagar
Bangalore - 560 038

Dated : 21 JUL 1989

CONTEMPT
PETITION
(CIVIL)

~~XXXXXXXXXX~~ NO (S) 50 & 51 / 89
IN APPLICATION NOS. 1116 & 1026/88(F)
W.P. NO (S)

Applicant (s)

Respondent (s)

Shri R. Jagannathan & anr
To

V/s The Deputy Director of Accounts (Postal),
Bangalore & anr

1. Shri R. Jagannathan

2. Shri R. Santhanam

(Sl Nos. 1 & 2 -

Senior Accountants
Office of the Deputy Director
of Accounts (Postal)
IV Floor, G.P.O. Complex
Bangalore - 560 001)

3. Shri K. Suman
Advocate
35 (Above Hotel Swagath)
1st Main, Gandhinagar
Bangalore - 560 009

4. The Deputy Director of Accounts (Postal)
Karnataka Circle
II Floor, GPO Complex
Bangalore - 560 001

5. The Director General of Posts
Department of Posts
Dak Tar Bhavan
Sansad Marg
New Delhi - 110 001

6. Shri M.S. Padmerajiah
Central Govt. Strig Counsel
High Court Building
Bangalore - 560 001

Subject : SENDING COPIES OF ORDER PASSED BY THE BENCH

Please find enclosed herewith a copy of ORDER/~~STAY/INTERIM ORDER~~
passed by this Tribunal in the above said application(s) on 18-7-89.

P.V. Venkatesh
DEPUTY REGISTRAR
(JUDICIAL)

Encl : As above

**In the Central Administrative
Tribunal Bangalore Bench,
Bangalore**

R. Jagannatha & anr

CP 50/89

Order Sheet (contd)

& 51/89 V/s

The Deputy Director of
Accounts (Postal),
B'lore & anr
M.S. Padmarajaiah

K. Suman

Date	Office Notes	Orders of Tribunal
		<p align="center"><u>C.P. No. 50 & 51/1989</u></p> <p><u>KSPVC/LHARM(A)</u></p> <p>18.7.1989</p> <p>Petitioners by Shri K. Suman. Respondents by Shri M.S. Padmarajaiah.</p> <p>In pursuance of our order dated 11.7.1989, the respondents have made payment of the amounts due to the petitioners on 17.7.1989. Shri Padmarajaiah has placed before us the relevant acquittance roll evidencing the payment of amounts due to the petitioners. Shri Suman having perused the same does not rightly dispute the receipt of the amounts due to the petitioners. We are also satisfied that the amounts due to the petitioners has been paid to them on 17.7.1989.</p> <p>As the respondents have complied with our order in letter and spirit, these Contempt of Court Proceedings are liable to be dismissed. We, therefore, drop these Contempt of Court Proceedings. But in the circumstances of the case, we direct the parties to bear their own costs.</p>



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[Signature]
DEPUTY REGISTRAR (JDLT) 21/7/89
CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE

SD —

SD —

VC 16/7/89

M(A) 16/7/89

D.No. 2189/89 IVA
SUPREME COURT OF INDIA
NEW DELHI

Dated 13-7-89

From: The Additional Registrar,
Supreme Court of India

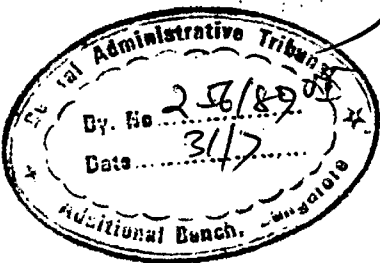
To: The Registrar
Central Administrative Tribunal
at Bangalore.

PETITION FOR SPECIAL LEAVE TO APPEAL (CIVIL) NO. 5462 of 1989
(Petition under Article 136 of the Constitution of India,
for Special Leave to Appeal to the Supreme Court from the
Judgment and Order dated 16-1-89 of the High Court
of Central Administrative Tribunal at Bangalore
in Appln. No. 1026/88
Union of India and ors Petitioners.

Versus

Sir, R. Santhanam Respondent.

I am to inform you that the Petition above-mentioned
for Special Leave to Appeal to this Court was/were filed on
behalf of the Petitioner above-named from the Judgment/Order
of the Central Administrative Tribunal at Bangalore
noted above and that the same was/were dismissed/disposed of
by this Court on the 12th day
of July, 1989.



Yours faithfully,
[Signature]
for ADDITIONAL REGISTRAR.