

CENTRAL ADMINISTRATIVE TRIBUNAL

BANGALORE BENCH

Commercial Complex(BOA)
Indiranagar
Bangalore - 560 038

Dated :

6 DEC 1988

APPLICATION NOS. 1028 to 1030 & 1644/88(F)

Applicants

Shri N.S. Venugopala Rao & 3 Ors

v/s

The Regional Provident Fund Commissioner,
Bangalore & 126 Ors

To

1. Shri N.S. Venugopala Rao

2. Shri M.K. Ranganathan

3. Shri S.R. Kulkarni

(Sl Nos. 1 to 3 -

Head Clerks

Office of the Regional Provident
Fund Commissioner, Karnataka
Shavishya Nidhi Bhavan
13, Raja Ram Mohan Roy Road
Bangalore - 560 025)

4. Shri R. Nataraja

Head Clerk

Office of the Regional Provident
Fund Commissioner - II
Sub-Regional Office
Yenepoya Commercial Complex
Balmetta, Mangalore - 2

5. Shri Chandrasekhar Bharati

Advocate

Shreenivasa Mandir Upstairs
Lakshmana Rao Road
Balepet
Bangalore - 560 053

6. The Regional Provident Fund Commissioner

Karnataka Region

Shavishyanidhi Bhavan

No. 13, Raja Ram Mohan Roy Road
Bangalore - 560 025

Respondents

7. The Secretary
Ministry of Labour
Shrama Shakti Bhavan
New Delhi - 110 001

8. Smt V.K. Chinnamma

9. Shri P.S. Madhava Rao

10. Shri C.D. Dasa Gowda

11. Shri B.S. Shivashanker

12. Smt B.G. Nagerathnamma

13. Smt A. Nasapushpam

14. Smt A.T. Matilda

15. Smt V.S. Sudha

16. Smt R. Vasanthakumari

17. Shri J. Shrikantaiah

18. Shri R.L. Deshpande

19. Shri M.S. Nagaraj

20. Shri C.K. Gundappa

21. Smt N.K. Meenakshi

22. Smt M. Kamala

23. Vasundhara Radhakrishna

24. Smt C. Sarojini

25. Smt M.K. Padmavathi

26. Smt Jayanthi J. Seth

27. Smt Rama N. Rao

28. Smt Chandrika Narayan

0/2
7-12-88

....2

- 29. Smt Mythili Kumar
- 30. Shri K.S. Ramachandra
- 31. Shri A.K. Mithrananda
- 32. Shri M.S. Sudhakara Rao
- 33. Shri G. Hutche Gowda
- 34. Shri Govindaraju
- 35. Smt M.A. Indira
- 36. Smt A. Mahalakshmi
- 37. Shri Mehaboob
- 38. Shri V. Rajamani
- 39. Shri R. Purushotham
- 40. Shri A. Srinivas
- 41. Smt S. Kamala
- 42. Smt Iselambika
- 43. Sat H.B. Chandrika
- 44. Shri S.R. Aswathanarayana Rao
- 45. Shri M. Aswathanarayana
- 46. Smt B.P. Renuka
- 47. Shri T.S. Nagaraj
- 48. Shri K.M. Shiveram
- 49. Shri K. Venkatarddy
- 50. Shri G. Rameshwar
- 51. Smt Sarvamangala Bai
- 52. Smt P.N. Prabhavathi
- 53. Shri C.S. Bhuvanendrappa
- 54. Shri B. Gangadhar
- 55. Shri Khasim Sheriff
- 56. Shri Mohd. Taha Macci
- 57. Shri G. Renukaradya
- 58. Shri B.S. Mrithunjayappa
- 59. Smt A. Nirmala
- 60. Shri B. Krishnappa
- 61. Shri C.M. Marigowda
- 62. Shri S.G. Shetty
- 63. Shri Prabhad Sirei
- 64. Shri N. Anjaneyulu
- 65. Shri M.G. Venkatesh Rao

- 66. Smt Jalehres Aurodhker
- 67. Smt B. Kasturi
- 68. Shri C.K. Nagendra Prasad
- 69. Shri H.M. Jayaprakash
- 70. Shri H.S. Shivaswamy
- 71. Smt Saraswathy Kessari
- 72. Shri Abdal Sayed Khan
- 73. Shri M.L. Rama Murthy
- 74. Sat Noorjan
- 75. Sat Jayalakshmi Venugopal
- 76. Shri G. Varadrajulu
- 77. Smt Alice Rosaline
- 78. Shri K.R. Nagabhushan
- 79. Shri A.M. Vijayanarayana Gowda
- 80. Shri Radre Gowda
- 81. Shri Shivarudrappa
- 82. Shri R. Nateraja
- 83. Shri K. Ramachandran
- 84. Shri L. Dorairaj
- 85. Sat Saraswathy Prakash
- 86. Shri M.G. Surinder
- 87. Shri N. Sajjan Rao
- 88. Shri S.V. Sridhar Murthy
- 89. Smt S. Dakaramma
- 90. Shri R. Nagaraju
- 91. Shri M.A.H. Ansari
- 92. Shri S.R. Gopalecher
- 93. Shri C.R. Venkatesh
- 94. Shanthi Renukumar
- 95. Naveen Shamrao
- 96. GT Shiveshanker Sastry
- 97. J. Syed Jaffer
- 98. GK Shankarashetty
- 99. Naganath
- 100. AS Kabir Ahmed
- 101. KG Ramachandras

(All are working in the Office of the Provident Fund Regional Commissioner, Karnataka Region, Bhavishya Bhawan, Raja Ram Mohan Ray Road, Bangalore-25.

102. AR Shanthakumari
103. S Dayananda Raile
104. GV Nagasimhamurthy
105. H Dwarakanath
106. N. Venkata Jetty
107. MC Susamma
108. TN Shivakumar
109. AS Devaprakash
110. ASxRx CG Manjunath
111. S Anand
112. V Venkatesh
113. Sridhara Kubunaraya
114. Thimmappa Baler
115. Shekar Poojary
116. BS Padmanabha

(Respondents at Sl. Nos. 102 to 116 are working in the Office of the Provident Fund Regional Commissioner, Mangalore (Karnataka).)

117. Sumithra S Vaidya
118. B Balasunder
119. Leela V Naik
120. M Lingaiah
121. RA Kurgund
122. Khurshid Ahmed
123. M Chandrashekhar

(Respondents at Sl Nos. 117 to 123 are working in the Office of the Provident Fund Regional Commissioner, Hubli (Karnataka).)

124. Mohd. Shoukash Ali
125. R. Sattish Kumar
126. Khaja Mohinuddin
127. Amruth Navale
128. Suryanarayana Rao B Kulkarni

129. Channamallappa

130. Mohd. Idress

(Respondents at Sl. Nos. 124 to 130 are working in the Office of the Provident Fund & Regional Commissioner, Gulbarga (Karnataka).)

131. M Satish Pessanand

(Respondent at Sl. No. 131 working in the Office of the Regional Provident Fund Commissioner, Mysore).

132. K Venkatesh Murthy

(Working in the Office of the Regional Provident Fund Commissioner, Hassan).

133. Shri M. Vasudeva Rao,
Central Govt. Standing Counsel,
High Court Buildings, Bangalore-1.
(For R-1 and 2)

134. Shri RK Rudrappa, Advocate
39, 7th Cross, RK Puram,
Bangalore-9 (For R 41, 52 & 55)

135. Shri SB Swethadri, Adv
Papish Building, Subzi
Subedar Chatran Road,
Bangalore-9 (For R 6, 14, 21,
36, 44, 51, 63, 67, 68, 69, 75, 83,
84, 91, 92, 93, 108, 32, 3, 31, 56,
72, 27, 103, 35, 43 and 74)

136. Shri Hari Krishna S Holla, Adv
34/3, 5th Main, Gandhinagar,
Bangalore-9 (For R 10, 13, 34,
61, 62, 64, 65, 66, 71, 77, 85,
87, 90, 99 and 105).

Subject:- Sending Copies of Order passed by the Bench.

.....

Please find enclosed herewith the copy of the ORDER passed by this Tribunal in the above said applications (A Nos. 1028 to 1830 & 1644 of 88 (F) on 27th October 1988.

Encl : As stated.

AP/
SECTION OFFICER
JUDICIAL II SECTION

ta/

*Received copies of an
order of the Tribunal
of S.R. (Court Room)
7/12/88
C.S.R. (Court Room)*

9c

*Issued
to [unclear]
1-12-88*

**CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE**

DATED THIS THE 27TH DAY OF OCTOBER, 1988

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

APPLICATION NOS. 1028 TO 1030 & 1644/1988

1. Shri N.S. Venugopala Rao,
S/o Shree N.V. Shreenivaasa Moorti,
35 years, Head Clerk

2. Shri N.K. Ranganathan,
S/o Shree N.S. Krishnan,
33 years, Head Clerk

(Both are working in the O/o the P.F.
Regional Commissioner, Karnataka
Region, Raja Ram Mohan Roy Road,
Bangalore.

3. Shri R. Nataraja,
S/o Shri B. Rajanna,
35 years, Head Clerk,
O/o the Provident Fund Regional
Commissioner-II, Sub-Regional
Office, Yenepoya Commercial
Complex, Balmatta, Mangalore.

Applicants in A.No.
1028 to 1030/88

4. Shri S.R. Kulkarni, Head Clerk
O/o the P.F. Regional Commissioner,
Karnataka Region, Raja Ram Mohan Roy
Road, Bangalore.

Applicant in A.No.
1644/1988

(Shri Chandra Sekhara Bharati, Advocate)
v.

1. Regional Provident Fund Commissioner,
O/o the Regional Provident Fund
Commissioner, Karnataka Region,
Raja Ram Mohan Roy Road, Bangalore.

2. The Secretary,
M/o Labour,
Shrama Shakti Bhavan,
New Delhi.

Shri A.R. Shanthakumari
Smt. V.K. Chinnamma
Shri P.S. Madhava Rao
Shri C.D. Dasegowda
Shri S. Dayananda Mally
Shri B.S. Shivashankar

.... Respondents

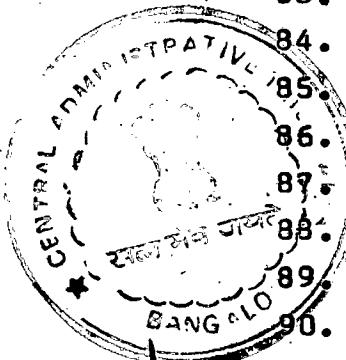


9. B.G. Nagarathnamma
10. A. Neelampushpam
11. A.T. Metilda
12. V.S. Sudha
13. R. Vasantha Kumari
14. J. Srikanthaih
15. G.V. Narasimhamurthy
16. R.L. Deshpande
17. M.S. Nagaraj
18. C.K. Gundappa
19. H. Dwarakanath
20. N.K. Meenakshi
21. M. Kamala
22. N. Venkata Jetty
23. C. Sarojini
24. M.K. Padmavathi
25. Jayanthi J. Seth
26. Rama N. Rao
27. Chandrika Narayan
28. Mythili Kumar
29. K.S. Ramachandra
30. A.K. Mithrananda
31. M.C. Susamma
32. T.N. Shivakumar
33. A.S. Devaprakash
34. M.S. Sudhakara Rao
35. G. Huche Gowda
36. Govindaraju
37. M.A. Indira
38. A. Mahalakshmi
39. C.G. Manjunath
40. V. Rajamani
41. R. Purushotham
42. S. Anand
43. Vasundhara Radhakrishna
44. A. Srinivas
45. Sumitra S. Vaidya
46. S. Kamala
47. Leelambika
48. U.B. Chandrika
49. S.R. Aswath Narayana Rao.
50. M. Aswathanarayana

.... Respondents.

51. B.P. Renuka
52. T.S. Nagaraj
53. B. Balasundar
54. K.M. Shivaram
55. K. Venkata Reddy
56. V. Venkatesh
57. M. Satish Premanand
58. G. Rameshwar
59. Leela V. Naik
60. Sarvamangala Bai
61. M. Lingaiah
62. P.N. Prabhavathi
63. C.S. Bhuvanendrappa
64. B. Gangadhar
65. Khasim Shariff
66. Mohammed Taha Macci
67. G. Renukaradhya
68. B.S. Mruthyunjayappa
69. A. Nirmala
70. B. Krishnappa
71. C.M. Marigowda
72. S.G. Shetty
73. Prahlad Sirsi
74. N. Anjaneyalu
75. M.G. Venkatesha Rao
76. Sridharakubunaraya
77. Jaishree Auradkar
78. R. Kasthuri
79. C.K. Nagendraprasad
80. H.M. Jayaprakash
81. H.S. Shivasuamy
82. Saraswathi Kesari
83. Abdul Syed Khan
84. N.L. Rama Murthy
85. Noorjan
86. Jayalaxmi Venugopal
87. G. Varadarajulu
88. Alice Rosaline
89. K.R. Nagabhushana
90. A.M. Vijayanarayana Gouda

..... Respondents.



91. Rudregouda
92. Shivarudrappa
93. R. Nataraj
94. K. Ramachandran
95. L. Dorairaj
96. R.A. Kurgund
97. Saraswathi Prakash
98. M.G. Surendar
99. N. Sajjan Rao
100. Khurshid Ahmed
101. B.V. Sridhara Murthy
102. S. Onkaramma
103. R. Nagaraju
104. M.A.M. Ansari
105. S.R. Gopalachar
106. Mohd. Shoukash Ali
107. Thimmappa Balar
108. C.R. Venkatesh
109. Mehaboob
110. H. Satish Kumar
111. Shantha Renukumar
112. Navale Shamarao
113. Khaja Mohinuddin
114. M. Chandrashekhar
115. G.T. Shivashankar Shastry
116. K. Venkatesh Murthy
117. J. Syed Jaffer
118. Amruth Navale
119. G.K. Shankarashetty
120. Naganath
121. Shekar Poojary
122. A.S. Kabir Ahmed
123. Suryanarayana Rao B. Kulkarni
124. K.G. Ramachandra
125. Channamallappa
126. B.S. Padmanabha
127. Mohd. Idress

... Respondents

from
(Respondents Sl. No.4-6,8-14,16-18
20,21, 23-30, 34-38, 40,41,43,44,
46-52, 54,55,58,60, 62-75, 77-95,
97-99, 101-105,108,109,111,112,115,
117,119-120,122 and 124 are working
in the O/o the Profident Fund
Regional Commissioner, Raja Ram
Mohan Roy Road, Bangalore.)

(Respondents from Sl. No. 3,7,15
19,22,31-33, 39,42,56,76,107,121
and 126 are working in the O/o
the Regional Provident Fund
Commissioner-II, Sub. regional
office, Balmatta, Mangalore.)

(Respondents from Sl.No.45,53,
59,61,96,100 and 114 are working
in the O/o the Regional Provident
Fund Commissioner, Hubli.)

(Respondent in Sl.No.57 is working
in the O/o the Regional Provident
Fund Commissioner, Mysore.)

(Respondents from Sl.No.106,110,113,
118,123,125 and 127 are working in
the O/o the Regional Provident
Fund Commissioner, Gulbarga.)

(Respondent in SlNo.116 is working
in the office of the Regional
Provident Fund Commissioner,
Hassan.)

(Shri M. Vasudeva Rao, C.G.A.S.C. for
Respondents 1 and 2)

(Shri R.K. Rudrappa for R.41,52,55)

(Shri S.B. Swethadri for R.6,14,21,
36,44,51,54,63,67,68,69,75,83,84,
91,92,93,108,32,3,31,56,72,27,103,
35,43, and 74)

(Shri Harikrishna S. Holla for R10,
13,34,61,62,64,65,66,71,77,85,87,
90,99 and 105).

These applications having come up for hearing to-day,
Vice-Chairman made the following:

O R D E R



These are applications made by the applicants under

Section 19 of the Administrative Tribunals Act, 1985 (Act).

2. Sriyuths N.S. Venugopala Rao, N.K. Ranganathan,
R. Nataraja and S.R. Kulkarni, who are the applicants before
us, initially joined service as Lower Division Clerks (LDCs)

in the office of the Regional Provident Fund Commissioner, Bangalore ('Commissioner') of the Employees Provident Fund Organisation, a statutory corporation established and functioning under the Employees Provident Fund and Miscellaneous Provisions Act, 1952.

3. In accordance with the Employees Provident Fund (Staff and Conditions of Service) Regulations, 1962 ('Regulations'), the applicants' and others with whom we are not concerned appeared for a departmental examination held on 30.4.1979 prescribed for the posts of Upper Division Clerks (UDCs) and were successful. On the basis of the examination results, the vacancy position and all other relevant factors, the Commissioner by his order made on 30.10.1979 promoted the applicants and 12 others with whom we are not concerned, as UDCs, on a regular basis from the forenoon of 11.10.1979 against the examination quota. But, even before that, the Commissioner had promoted the applicants as UDCs on an ad hoc basis from the dates mentioned hereunder:

Shri N.S. Venugopala Rao	20.2.1979
Shri N.K. Ranganathan	13.3.1977
Shri R. Nataraja	19.7.1977
Shri S.R. Kulkarni	20.2.1979

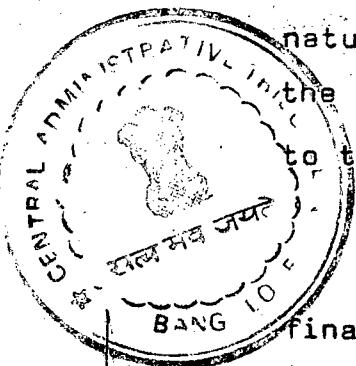
The applicants were further promoted as Head Clerks on ad hoc basis.

4. In conformity with the directions issued by a Division Bench of this Bench in S.R. ASWATHANARAYANA RAO v. THE REGIONAL PROVIDENT FUND COMMISSIONER AND OTHERS (Application No. 310 of 1986 decided on 14.11.1986) consisting

of one of us (Shri L.H.A. Rego, Member (A)) and Hon'ble Shri Ch. Ramakrishna Rao, Member (J), the Commissioner drew ~~up~~ and published a provisional seniority list in the cadre of UDCs as on 1.1.1980 according to his office order No.KN/Admn.I/-1536/87 dated 30.11.1987 (Annexure-A2) We will hereafter refer to the same as 'SL-I.' In this list, the applicants are assigned rank numbers, 124, 98, 118 and 122 respectively and respondents No.3 to 108 are assigned lower ranks. On the rankings so assigned to them as also to respondents Nos.3 to 108 the applicants had no grievance but the latter and others had diverse grievances.

5. On an examination of the objections filed before him and taking note of certain other legal proceedings, to which we will make a detailed reference at a later stage, the Commissioner in supersession of ~~SL-I~~ ^{SL-I} ~~draw up~~ and published a fresh provisional seniority list in his office order No.KN/PF/-Adm-I/531/88-89 dated 22.6.1988 (Annexure-A3) and circulated the same to all concerned. We will hereafter refer to this list as SL-II. This list resulted in a radical change in the rankings assigned to the applicants, respondents Nos.3 to 108 and others. The applicants thereby ~~slumped~~ ^{slumped} ~~skipped~~ precipitately to rank numbers 220, 162, 173 and 245 respectively therein, and naturally aggrieved, they filed objections urging the Commissioner inter alia to retain the ranks assigned to them in SL-I and treat the same as final.

6. On 6.9.1988 the Commissioner had published the final seniority list (AnnexureA4) (designated as Sl-III)



to the U.D.C.s cadre on the basis of seniority-cum-fitness. As a matter of fact the promoted U.D.Cs whether on the basis of examination or on the basis of seniority cannot be classified as direct recruits since all of them are promotees from the L.D.Cs cadre. The promotee U.D.Cs who have got promotion by qualifying departmental examination do not become 'direct recruits' just because the Central Provident Fund Commissioner has chosen to call them as such in his letter addressed to the Regional Provident Fund Commissioner. In fact the phrase "direct recruit" is well understood in service law and it is difficult to agree that an administrative authority can categorise "promotees" as "direct entrants" just to suit administrative convenience. The argument regarding estoppel does not appear to be valid since the conditions as regards seniority incorporated in the promotion orders of the applicants were not statutory conditions.

18. In view of the factual and legal position stated above, respondent No.1 is directed to recast the seniority list of the U.D.Cs treating all of them as "promotees" under the general principles of seniority in the department as applicable to promotees (vide para 6 of the notification dated 1.11.1962.)

While recasting the seniority list, all concerned parties should be afforded full opportunity to represent in the matter and there should be no violation of principles of natural justice and equity. The whole process should be completed within a period of six months.

19. The application is disposed of accordingly, with no order as to costs."

This decision was challenged by the authorities before the Supreme Court in Special Leave Petition No.7274 of 1987 inter alia on the ground, that the view propounded in that case was in conflict with that expressed by another Bench of the Tribunal, which in the context appears to refer to the decision of this Bench in Ashwathanarayana Rao's case.

14. On issuing notices to the respondents the Supreme Court on 11.8.1987 disposed of that special leave petition in these words:-

"We see no reason to entertain this Special Leave Petition. One ground in support of this petition was that there is contrary decision by one of the Benches of the Administrative Tribunal. That difficulty will not continue by refusing to grant leave. We are of the view that the appropriate rule for determining the seniority of the officers is the total length of service in the promotional posts which would depend upon the actual date when they were promoted."

This is how this case ended before the Supreme Court.

15. Before finalising SL-I the Commissioner had the benefit of these judgments and of another judgment rendered by this Bench consisting of one of us (Justice Shri K.S. Puttaswamy, VC) and Hon'ble Shri P. Srinivasan in B.S. SREENATH AND OTHERS (Application Nos. 386 to 395 of 1987 decided on 27.4.1988) also dealing with the very question but in the cadre of Head Clerks. On this, the Commissioner appointed an Expert-Committee consisting of three senior officers to examine the whole matter and submit its recommendations. The Expert Committee met on 6.6.1988, examined the matter in its entirety and recommended to the Commissioner thus:

"NOTE

The Regional Provident Fund Commissioner,
Karnataka, Bangalore vide Office Note
dated 20.5.1988 in the file relating to

revised draft/provisional seniority list of Upper Division Clerks as on 1.1.1980 has constituted a Committee consisting of the following Officers to recast the seniority list of Upper Division Clerks in the light of Central Administrative Tribunal judgement in Applications No. 310/86 and 170 & 171/86.

1. S.M. Basappa, APFC(Legal)
2. P.Srirangachari, APFC(Admn)
3. M. Palanivelu, APFC, Pre-Audit Cell.

The Central Administrative Tribunal, Bangalore Bench vide its order dated 14.11.86 in Application No.310/86 has quashed the seniority list of Upper Division Clerks as on 1.1.1980 and directed to prepare provisional seniority list superseding the previous seniority list and circulate among the concerned candidates indicating the applicant and to finalise the seniority list in the light of objections if any received from the candidates.

Though the Central Administrative Tribunal, Bangalore Bench in Application No.310/86 proceeded with the orders treating SQ and EQ quotas at par with DP & DR quotas respectively, later on, in its order dated 27.4.88 in a similar case in Applications No.386 to 395/87(F) agreed with the views expressed by the Central Administrative Tribunal, Chandigarh Bench in its order dated 23.1.1987 in OA NO T-556/86, that in TA NO the present case promotes on the basis of departmental examination who belong to Lower Division Clerks cadre

cannot be termed as direct recruits and they belong essentially to the same category as promotees from Lower Division Clerks cadre who are promoted to Upper Division Clerks cadre on the basis of seniority-cum-fitness.

Further, Central Administrative Tribunal, Chandigarh Bench has observed that as a matter of fact the promoted Upper Division Clerks whether on the basis of examination or on the basis of seniority cannot be classified as Direct Recruits since all of them are promotees from the Lower Division Clerks cadre. The promoted Upper Division Clerks who have got promotion by qualifying departmental examination do not become Direct Recruits just because the Central Provident Fund Commissioner has chosen to call them as such in his letter addressed to the Regional Provident Fund Commissioner. In fact, the phrase "Direct Recruit" is well understood in service law and it is difficult to agree that an Administrative Authority can categorise "Promotees" as "Direct Entrants" just to suit administrative convenience.

The Central Administrative Tribunal, Bangalore Bench vide its order dated 27.4.88 in Applications No.386 to 395/87(F) has further quashed the provisional seniority list of Head Clerks as on 1.1.1980 brought out by Respondent 1 on 17.4.85 and the final seniority list brought out on 4.10.85 and directed Respondents 1 to 3 to redraw the seniority list in accordance



with the principles enunciated in Mohinder Kumar's case by the Chandigarh Bench of Central Administrative Tribunal and the Supreme Court and in Shiva Rao's case by the Hyderabad Bench and to give all consequential benefits if any to the applicants arising therefrom.

As can be seen from the above, we are bound by the Supreme Court judgement which has agreed with the order of the Central Administrative Tribunal, Chandigarh Bench, which has been in turn agreed by the Central Administrative Tribunal, Bangalore Bench in its order dated 27.4.1988, while also agreeing with the order of Central Administrative Tribunal, Hyderabad Bench in Shiva Rao's case.

Hence, it has been decided by the Committee to finalise the seniority list of Upper Division Clerks based on the decisions of Supreme Court judgement, Central Administrative Tribunal, Chandigarh Bench, Central Administrative Tribunal, Hyderabad Bench, and Central Administrative Tribunal, Bangalore Bench in its order dated 27.4.1988, and the seniority list of Upper Division Clerks is accordingly redrawn as on 1.1.1980 and forwarded herewith. The same is however prepared on the basis of the actual dates of promotions to the promotional posts of Upper Division Clerks as furnished by Administration Section. In case of promotions

to the posts of Upper Division Clerks in the Lower Cadre i.e., in Lower Division Clerks cadre as furnished by Administration Section is taken into account while fixing their seniority.

In case of Smt. A. Nirmala, Sri. C.K. Nagendra Prasad, Sri. Narasimha Murthy, Sri. Surender, Smt. Omkaramma, Sri.H. Satish Kumar & Sri Y. Radhakrishna, though the assumption of charge as Upper Division Clerks was later in that batch, the seniority is fixed on the basis of the promotion orders and their relative seniority in lower cadre.

Sd/-

1. S.M. BASAPPA,
APFC(Legal)
6.6.1988

Sd/-

2. P. SRIRANGACHARI,
APFC (Adm)
6.6.1988

Sd/-

3. M. PALANIVELU,
APFC, Pre-Audit Cell "
6.6.1988

Accepting these recommendations, the Commissioner on 22.6.1988 published the SL-II and finalised the same on 6.9.1988 as

SL-III.

16. The view expressed by this Bench in Ashwathanara-Yana Rao's case is opposed to that of the Chandigarh Bench in Mohinder Kumar's case. In resolving this conflict, the



Supreme Court in fact enunciated a rule or a principle of its own that should govern the question. The rule or principle enunciated by the Supreme Court for determining the seniority of officers in the cadre of UDCs is the total length of service in the first of promotion as based on the actual date of promotion. This is the new rule or principle evolved by the Supreme Court in dismissing the special leave petition filed by the authorities against the decision of the Chandigarh Bench in Mohinder Kumar's case. We understand the order of the Supreme Court only in this way and no other. If that is so, then the same becomes the law of the land under Article 141 of the Constitution and is binding on all the Courts, Tribunals and authorities. Every one is now bound to regulate the question only in accordance with the law, so declared by the Supreme Court and no other. This position is not altered by the Supreme Court by declining to interfere with the order of this Bench in Ashwathanarayana Rao's case. On this conclusion which is inevitable, we cannot place any reliance on the earlier understanding of the authorities or the order of this Bench in Ashwathanarayana Rao's case. From this it follows, that all other contentions urged by Sri Bharathi on the drawing up of the seniority list like (i) that the direction of the Chandigarh Bench in Mohinder Kumar's case to comply with para 6 of the order of Government dated 1.1.1962 extracted at para 6 of its order is not disturbed by the Supreme Court and that the principles emanating from confirmations are not disturbed and others do not really survive for our examination and determination. We, therefore, decline

-19-

to examine and discuss them in any detail as that exercise is really unnecessary.

17. We have earlier reproduced the proceedings of the Expert Committee. We are of the view that, that Committee had correctly understood the decision of the Supreme Court and had re-drawn SL-II on 22.6.1988. The final seniority list viz., SL-III drawn on 6.9.1988 only confirms the same. We cannot, therefore, take exception to the principles adopted by the Commissioner in drawing up the impugned final seniority list i.e. SL-III.

18. We have carefully examined the rankings assigned to the applicants in SL-II and maintained in SL-III published on 6.9.1988. While the applicants were regularly promoted from 11.10.1979, all of them have been assigned ranks on the basis of their ad hoc promotion to the cadre of UDCs which is really to their advantage. When that is so, they cannot have any grievance on their rankings. We find no illegality or infirmity in the rankings assigned to the applicants. On this view, the validity of rankings assigned to others does not call for our examination. We therefore, decline to examine them.



TRUE COPY

19. 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.

APRIL 6/10/88
SECTION OFFICER
CENTRAL ADMINISTRATIVE TRIBUNAL
ADDITIONAL BENCH
BANGALORE

Sd/-

VICE-CHAIRMAN

np/Mrv.

Sd/-

MEMBER-A

CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE BENCH

Commercial Complex(BDA)
Indiranagar
Bangalore - 560 038

Dated : 8 DEC 1988

To

1. Shri Sanjeev Malhotra
All India Law Journal
Hakikat Nagar, Mal Road
New Delhi - 110 009
2. Administrative Tribunal Reporter
Post Box No. 1518
Delhi - 110 006
3. The Editor
Administrative Tribunal Cases
C/o Eastern Book Co.
34, Lal Bagh
Lucknow - 226 001
4. The Editor
Administrative Tribunal Law Times
5335, Jawahar Nagar
(Kolhapur Road)
Delhi - 110 007
5. M/s All India Reporter
Congressnagar
Nagpur

Sir,

I am directed to forward herewith a copy of the under mentioned order passed by a Bench of this Tribunal comprising of Hon'ble Mr. Justice K.S. Puttaswamy Vice-Chairman/~~Member (A)~~ and Hon'ble Mr. L.H.A. Rego Member (A) with a request for publication of the order in the journals.

Order dated 27-10-88 passed in A.Nos 1028 to 1030 & 1644/88(F).

Issued
K. Malhotra
8.12.88
Yours faithfully,

PS
(For DEPUTY REGISTRAR (J))

9c

Copy with enclosures forwarded for information to:

1. The Registrar, Central Administrative Tribunal, Principal Bench, Faridkot House, Copernicus Marg, New Delhi - 110 001.
2. The Registrar, Central Administrative Tribunal, Tamil Nadu Text Book Society Building, D.P.I. Compounds, Nungambakkam, Madras - 600 006.
3. The Registrar, Central Administrative Tribunal, C.G.O. Complex, 234/4, A.J.C. Bose Road, Nizam Palace, Calcutta - 700 020.
4. The Registrar, Central Administrative Tribunal, CGO Complex (CBD), 1st Floor, Near Konkon Bhavan, New Bombay - 400 614.
5. The Registrar, Central Administrative Tribunal, 23-A, Post Bag No. 013, Thorn Hill Road, Allahabad - 211 001.
6. The Registrar, Central Administrative Tribunal, S.C.O. 102/103, Sector 34-A, Chandigarh.
7. The Registrar, Central Administrative Tribunal, Rajgarh Road, Off Shillong Road, Guwahati - 781 005.
8. The Registrar, Central Administrative Tribunal, Kandamkulathil Towers, 5th & 6th Floors, Opp. Maharaja College, M.G. Road, Ernakulam, Cochin - 682 001.
9. The Registrar, Central Administrative Tribunal, CARAVS Complex, 15 Civil Lines, Jabalpur (MP).
10. The Registrar, Central Administrative Tribunal, 88-A B.M. Enterprises, Shri Krishna Nagar, Patna - 1 (Bihar).
11. The Registrar, Central Administrative Tribunal, C/o Rajasthan High Court, Jodhpur (Rajasthan).
12. The Registrar, Central Administrative Tribunal, New Insurance Building Complex, 6th Floor, Tilak Road, Hyderabad.
13. The Registrar, Central Administrative Tribunal, Navrangpura, Near Sardar Patel Colony, Usmanapura, Ahmedabad (Gujarat).
14. The Registrar, Central Administrative Tribunal, Dolamundai, Cuttak - 753 001 (Orissa).

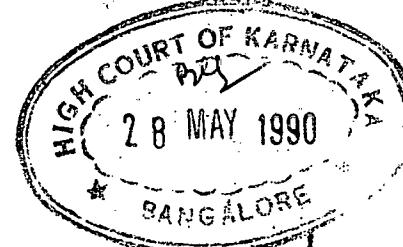
Copy with enclosures also to :

1. Court Officer (Court I)
2. Court Officer (Court II)

(800xx500xx500xx500xx)
for DEPUTY REGISTRAR (J)

get issued
K. N. Lal
8-12-88

9/2



Section IV-A

D. No. 1917 89 Sec-IV-A

SUPREME COURT OF INDIA
NEW DELHI

Dated 18th May, 1990

From: The Additional Registrar
Supreme Court of India.

To

The Registrar

Central Administrative
Tribunal Bangalore.

PETITION FOR SPECIAL LEAVE TO APPEAL (CIVIL) NOS. 4874-76/1990
(Petition under Article 136 of the Constitution of India,
for Special Leave to Appeal to the Supreme Court from the
~~Judgment and Order dated 27th Oct 1988 of the High~~
~~Court of Central Administrative Tribunal~~
~~Bangalore in A.P.P.U. No. 1028, & 1030 & 1644/88~~
respectively)

Shri M.S. Venugopal Rao ..Petitioner.
908 -

-Versus-

The Regional Provident Fund, Respondents.
Comm. & Co.

Sir,

I am to inform you that the Petitions 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

noted above and that the same ~~was~~ were dismissed/~~disposed of~~
by this Court on the 19th day

of March, 1989

Yours faithfully,

for ADDITIONAL REGISTRAR.
JES

pls sent to High Court

(26)

AS