

CENTRAL ADMINISTRATIVE TRIBUNAL

BANGALORE BENCH

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Commercial Complex (BDA)
 Indiranagar
 Bangalore - 560 038

Dated : 23 AUG 1988

APPLICATION NO

1019 to 1024

/88(F)

W.P. NO.

Applicant(s)

Shri P.P. Bhaskaran & 5 Ors
 To

1. Shri P.P. Bhaskaran
2. Shri R. Seetharamu
3. Shri V. Vasudevan
4. Shri P. Rajappan
5. Shri T.S. Seshadri
6. Shri Fernandez William

(Sl Nos. 1 to 6 -

Respondent(s)

v/s The Secy, M/o Defence, New Delhi & 3 Ors

9. The Engineer-in-Chief
 Army Headquarters
 Kashmir House
 New Delhi - 110 011
10. The Controller of Defence Accounts
 Kamaraj Road
 Bangalore - 560 001
11. The Commandant
 Headquarters Madras Engineer Group &
 Centre
 Bangalore - 560 042

Foreman
 Office of the Commandant
 Headquarters Madras Engineer Group & Centre,
 Bangalore - 560 042)

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

7. Shri Ranganatha S. Jois
 Advocate
 36, 'Vagdevi'
 Shankarapuram
 Bangalore - 560 004

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

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 11-8-88.

Encl : As above

K. Wolf
 23-8-88

PA. Venkatesh
 DEPUTY REGISTRAR
 (JUDICIAL)

O/C

CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE

DATED THIS THE 11TH DAY OF AUGUST, 1988

Present Hon'ble Shri Justice K.S. Puttaswamy, Vice-Chairman
and
Hon'ble Shri P. Srinivasan, Member (A)

APPLICATION NOS. 1019 TO 1024/1988

1. Shri P.P. Bhaskaran
2. Shri R. Seetharamu
3. Shri V. Vasudevan
4. Shri P. Rajappan
5. Shri T.S. Seshadri
6. Shri Fernandez William

... Applicants.

(All are majors, working as Foreman,
in the O/o the Commandant, Head-
quarters, Madras Engineer Group and
Centre, Bangalore.)

(Shri S. Ranganatha Jois, Advocate)

v.

1. The Union of India represented
by its Secretary, M/o Defence,
Raksha Bhavan, New Delhi.
2. The Engineer-in-Chief,
Army Headquarters,
Kashmir House, New Delhi.
3. The Controller of Defence
Accounts, Kamaraj Road,
Bangalore.
4. The Commandant, Headquarters,
Madras Engineer Group and Centre,
Bangalore.

... Respondents.

(Shri M.S. Padmarajaiah, C.G.S.S.C.)

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
('the Act').



2. These applications are a sequel to an order made by a Division Bench consisting of one of us Justice Shri K.S. Puttaswamy and Shri L.H.A. Rego on 15.10.1986 in A.Nos. 788 to 795 of 1986 (Annexure-A), which were transferred applications received from the High Court of Karnataka under Section 29 of the Act. In that order after setting out the claim of the applicants therein and the case pleaded by the respondents, the Tribunal granted the following reliefs to the applicants.

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

(i) We declare that the applicants are entitled to the revised timescale of pay of Rs.380-640 from 1.1.73 as against the time scale of pay of Rs.330-660 allowed to them from that day.

(ii) We direct the respondents to re-fix the pay of the applicants from 1.1.1973 in the timescale of pay of Rs.380-640 and grant all the increments that accrue thereafter in accordance with the Rules that regulate them.

(iii) We direct the respondents to pay all arrears of salary on such refixation to the applicants with effect from only 22.7.1978 and onwards denying all arrears that had accrued prior to that date.

(iv) We direct respondent no.1 to examine the cases of the applicants for the revision of their scale of pay from 1.1.1986 and pass such orders as the facts and circumstances justify."


In compliance with this order, the competent authority made an order which placed the applicants in a worse position ~~than before~~ than, before they filed the Writ Petition.

3. When such a position resulted from the order made by the competent authority the applicants to extricate

themselves from that position, exercised their option to come over to the new revised scales of pay on a date after 1.1.1973, which they had earlier exercised within the time permitted by the Central Civil Services (Revised Pay Rules) 1973 (1973 Rules) made by the President of India under the proviso to Article 309 of the Constitution to give effect to the recommendations of the Third Pay Commission from 1.1.1973. On 9.9.1987, the Controller of Defence Accounts, Bangalore, Respondent No.4 rejected the later options exercised by the applicants and stuck to his earlier refixation of pay made against them in pursuance of our order in A.Nos. 783 to 795 of 1986. In these applications, the applicants have challenged the said order and have sought for appropriate directions.

4. The respondents have filed their reply resisting these applications.

5. Shri S. Ranganath Jois, learned counsel for the applicants, contended that on the facts and circumstances of the cases, the options exercised by his clients were valid options and prayed that the authority be directed to accept them and permit the applicants to come over to the new scales of pay from a date subsequent to 1.1.1973.



6. Shri M.S. Padmarajaiah, learned Senior Central Government Standing Counsel, appearing for the respondents, sought to support the order of the Controller on the very grounds stated in the order and also on the ground that on the expiry of the time stipulated by the 1973 Rules, it was not open to this Tribunal to accept the options exercised by the applicants and grant them any relief.

7. We have earlier set out the reliefs granted by us in the earlier applications made by the applicants. When we made that order, we never intended that the applicants should, in any way, suffer and be placed in a worse position than they occupied then or thereafter. Our order cannot and did not prohibit the applicants from exercising their options under the 1973 Rules to come over to the new scales of pay from a date subsequent to 1.1.1973. On the very terms of our order, it was open to the applicants to exercise their options under the 1973 Rules. If that was so, then it was open to the authorities to permit the applicants to come over to the new scales of pay from a date subsequent to 1.1.1973. On this view, the order made by the Controller on 9.9.1987 is liable to be quashed and appropriate directions issued to him to accept the options exercised by the applicants.

8. This Tribunal made its order on 15.10.1986. When the further order made by the authorities in pursuance of this order placed them in a worse position, then and then only they could exercise the option, which in law they were entitled to do.

9. Even otherwise, it is most unreasonable for the authorities to insist that the options should have been exercised on or before 15.6.1984. If that view is accepted, then the authorities would be really making our order a meaningless order. We are not prepared to accept such a situation, as acceptance of the same would result in grave injustice to the applicants. On this view also, we consider it proper to direct the authorities to accept the second



option exercised by the applicants and refix their pay scales accordingly. On this view, it is unnecessary to concern ourselves with the first option exercised by the applicants in 1973.

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

(1) We quash order No. P/B/V/6148 CDA dated 9.9.1987 (Annexure-B) of the Controller.

(2) We direct the respondents to accept the option exercised by the applicants to come over to the new scales of pay from a date subsequent to 1.1.1973, and then refix their pay in accordance with our order made in A.Nos. 738 to 795 of 1986 and the options so exercised by them with all such expedition as is possible in the circumstances of the cases and in any event, within a period of three months from the date of receipt of this order by them.

11. 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/-

VICE-CHAIRMAN

TRUE COPY

Sd/-

MEMBER (A)

RECORDED
DEPUTY REGISTRAR (JULY 1987)
CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE