

CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE BENCH

Commercial Complex(BDA)
Indiranagar
Bangalore - 560 038

Dated : 2 MAR 1989

APPLICATION NO (S) 59 to 65 / 89(F)

W.P. NO (S) _____

Applicant (s)

Shri K.S. Sundaram & 6 Ors
To

Respondent (s)

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

1. Shri K.S. Sundaram
2. Shri S. Sugumaran
3. Smt Vijayalakshmi Gopalakrishnan
4. Smt Nagenani S. Rao
5. Smt Mary Philomena D Couto
6. Shri P. Murthy
7. Shri M. Radhakrishnan

9. The Deputy Director of
Accounts (Postal)
Karnataka Circle
Bangalore - 560 001
10. The Director General (Posts)
Dak Tar Bhavan
New Delhi - 110 001
11. Shri M.S. Padmarajiah
Central Govt. Stng Counsel
High Court Building
Bangalore - 560 001

(Sl Nos. 1 to 7 -

Senior Accountants
Office of the Deputy Director of
Accounts (Postal)
Karnataka Circle
Bangalore - 560 001)

8. Dr M.S. Nagareja
Advocate
35 (Above Hotel Swagath)
1st Main, Gandhinagar
Bangalore - 560 009

Subject : SENDING COPIES OF ORDER PASSED BY THE BENCH

Please find enclosed herewith a copy of ORDER/~~STAY~~/~~EXERCISE~~ passed by this Tribunal in the above said application(s) on 21-2-89.

B.V. Venkatesh
DEPUTY REGISTRAR
(JUDICIAL)

Encl : As above

9.2.89
K.W. [Signature]
2-3-89

U/C

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE BENCH: BANGALORE

DATED THIS THE 21ST DAY OF FEBRUARY, 1989

APPLICATION NOS 59 TO 65/1989(F)

PRESENT: HON'BLE SHRI JUSTICE K.S. PUTTASWAMY ...VICE-CHAIRMAN

HON'BLE SHRI L.H.A. REGO ...MEMBER (A)

1. Sri K.S. Sundaram,
Aged 39 years,
S/o K.S. Srinivasan,
2. Sri S. Sugumaran,
Aged 37 years,
S/o. Sri. P. Shanmugam,
3. Smt. Vijayalakshmi Gopalakrishnan,
Aged 38 years,
D/o. Shri V.R. Thiruvengadam,
4. Smt. Nagamani S. Rao,
Aged 35 years,
W/o. Shri S.G. Subba Rao,
5. Smt. Mary Philomena D' Couto,
Aged 41 years,
W/o. Shri Adolf D Couto,
6. Shri P. Murthy,
Aged 36 years,
S/o. Sri. Poongodai,
Shri M. Radhakrishnan,
Aged 40 years,
S/o. Shri M. Meenakshisundaram.

... Applicants



(All are working as Senior Accountant,
in the office of the Deputy Director
of Accounts, (Postal) Karnataka Circle,
Bangalore-560 001)

(Dr. M.S. Nagaraja.....Advocate)

Vs.

.....2/-

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

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

...Respondents

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

These applications having come up for
hearing before this Tribunal to-day, Hon'ble Shri
Justice K.S. Puttaswamy, made the following:-

O R D E R

Applicants by Dr. M.S. Nagaraja.

Respondents by Shri M.S. Padmarajaiah.

2. When these cases were taken up for
hearing on 20.2.1989, Shri Padmarajaiah sought for
6 weeks' time to file the reply and then argue them.
Dr. Nagaraja opposing this request urged that the
questions raised in the cases were concluded by a
Division Bench ruling of the Madras Bench of this
Tribunal in Mohan Kumar vs. The Comptroller and
Auditor General of India, New Delhi and others,
A.T.R. 1988(2) C.A.T. 172. On this, we orally
rejected the request of Shri Padmarajaiah for
time to file reply and posted them for final
hearing to to-day and accordingly heard them today.

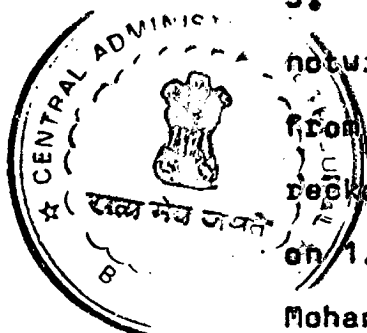
3. As on 31-12-1983/1.1.1986 the
applicants were working as Junior Accountants

in the then pre-revised time-scale of pay of Rs. 330-560. When so working, they were all in receipt of Rs. 35/- per mensem as Special Pay. In addition to this, all the applicants except one Smt. Mary Philomena D'Couto, applicant in Application No.63/1989 were also in receipt of Qualification Pay of Rs. 15/- per month. All of them have opted to come over to the corresponding new revised scales of pay sanctioned thereto by Government on the recommendations of the 4th Central Pay Commission and according to Central Civil Service (Revised Pay) Rules 1986 (1986 Rules). On that their pay has been fixed on 1.1.1986 without reckoning the Special Pay and Qualification Pay they were drawing on that day. The applicants now claim only for reckoning them in their pay fixation as on 1.1.1986.

4. The respondents have resisted these applications on more than one ground, which will be noticed and dealt by us in due course.

5. Dr. Nagaraja contends that notwithstanding the abolition of Special Pay from 1.1.1986 that component should also be reckoned in fixing the pay of the applicants as on 1.1.1986, as ruled by the Madras Bench in Mohan Kumar's case.

6. Shri Padmarajaiah strongly opposes

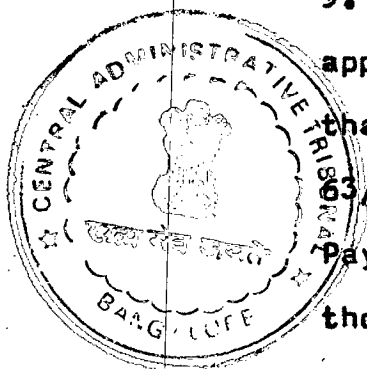


this claim on more than one ground.

7. The claims of the applicants for implementation of the revised pay scales with effect from 1.1.1986 instead of from 1.4.1987 had been separately upheld by this Tribunal and these orders made by us in those cases had been challenged by the respondents before the Supreme Court, where they are still pending. On this Shri Padmarajaiah urges that these cases should only be heard and decided by us only after the Supreme Court renders its decision on those cases.

8. We are of the view that our decision on the claim for implementation of the revised pay scales with effect from 1.1.1986 instead of from 1.4.1987, has really no relevance in deciding the claims in these applications. We therefore find it unnecessary to await the decision of the Supreme Court in the other cases as urged by Shri Padmarajaiah.

9. As on 31.12.1985/1.1.1986, the applicants were in receipt of Special Pay and that except the applicant in Application No. 63/89 the others were also receipt of Qualification Pay and that in fixing their pay as on 1.1.1986, those elements had not been reckoned is not in dispute. The applicants without disputing that they are not entitled to for special pay from



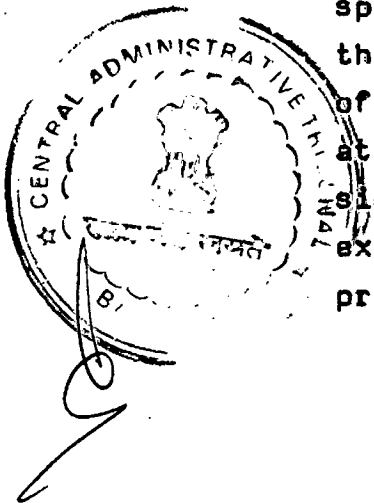
1.1.1985, claim that the same should only be reckoned in fixing their revised pay as on 1.1.1986. In Mohan Kumar's case this very precise question came up for consideration before the Madras Bench. On a detailed examination of the same, the Madras Bench speaking through Shri C. Venkataraman, Administrative Member expressed thus:

"6. The case on hand will fall under (B) above, because the employee was getting a special pay in the pre-revised scale and no special pay is allowed in the revised scale. The rule reads as under :

(B) in the case of employees who are in receipt of special pay in addition to pay in the existing scale and where the existing scale with special pay has been replaced by a scale of pay without any special pay, they shall be fixed in the revised scale in accordance with the provisions of clause (A) above except that in such cases "existing emoluments" shall include-

- (a) the basic pay in the existing scale ;
- (b) existing amount of special pay ;

CCS (Revised Pay) Rules, 1986, has not defined special pay; nor has it been stated anywhere that special pay granted for arduous nature of duties should be excluded for arriving at existing emoluments. Accordingly, exclusion of special pay for arriving at an existing emoluments in violative of the provisions of the statutory rules.



- "7. Regarding the second point, there is hardly any merit in the submission made by the respondents, because the applicant has not claimed that he should be allowed after fixation of his pay properly in the revised pay scale, a special pay in addition. All that he desired is a fixation of pay in the revised scale applying correctly Rule 7(1) (B) of the CCS (Revised Pay) Rules.
8. As regards the 3rd and 4th points, we observe that the respondents are relying on a clarification issued by the Ministry of Finance on 18-2-1987 and O.M. issued on 13th March 1987. These clarifications cannot go beyond what is stated in the statutory Revised Pay Rules. We had occasion to examine this proposition as a general principle while dealing with O.A. 333 of 1986 (P.R. Kannan v. Department of Atomic Energy, New Delhi and others) reported in Writ Law Reporter 1987 (CAT) 14. Therein we had held that a clarification given by the Ministry of Finance to a Presidential Order dated 25-3-1982 went beyond what was contemplated in the said Presidential Order, because it enlarged the scope of that order which was specific and limited only to payment of H.R.A. and compensatory allowance. Yet another order issued by the Government in the Ministry of Works & Housing on 24-5-1983 could also be construed as an order of the President specially classifying as 'Pay', certain other emoluments which really had to be done for regulating the deduction of the licence fee for Government accommodation. Accordingly, we restrained



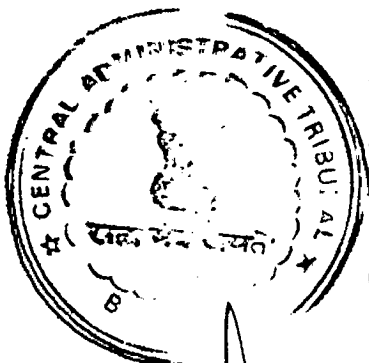
the respondents from recovering licence fee from the applicants therein on the merged portion of D.A. with basic pay.

9. In the light of the above, we cannot accept the contention of the learned counsel for the respondents that the basis of a clarification issued by the Ministry of Finance, 'exclusion of special pay drawn in the pre-revised scale is permissible for arriving at 'existing emoluments'. Therefore, the applicant succeeds and the impugned Circular dated 29-9-1986 issued by the first respondent is set aside. We further direct the second respondent to fix the initial pay of the applicant in the revised scale applicable to Senior Accountants after taking into consideration the special pay of Rs. 35/- drawn by him in the pre-revised scale as part of existing emoluments for fixing the initial pay in the revised scale.

The application is allowed as above."

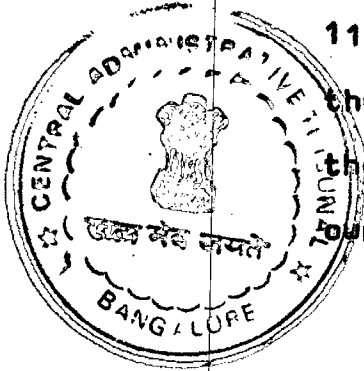
These principles squarely govern the question that arises in these cases. We are of the view that the promotions of the applicants if any to the posts of Senior Accountants after 1.1.1986 makes no difference in the application of these principles.

10. In the light of our above discussion, —
We direct the respondents to reckon the Special Pay and Qualification Pay, if any the applicants were drawing as on 31-12-1985/1.1.1986 in fixing their pay as on 1.1.1986 in the revised



-: 8 :-

scales of pay in the posts they held as on that day within 3 months from the date of receipt of our order.



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
21-2-1989

Sd/-
MEMBER (A) / 21-2-1989

SB.

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R. Venkatesh
DEPUTY REGISTRAR (JDL)
CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE

CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE BENCH

Commercial Complex (BDA)
Indiranagar
Bangalore - 560 038

Dated : 5 JAN 1990

IA II IN APPLICATION NO (S) 52 to 58 / 89
C.P. (CIVIL) IN APPLICATION NOS. 59 to 65/89(F)
W.P. NO (S) _____

Applicant (s)

Shri K.S. Sundaram & 6 Ors

To

1. Shri K.S. Sundaram
2. Shri S. Sugumaran
3. Smt Vijayalakshmi Gopalakrishnan
4. Smt Nagamani S. Rao
5. Smt Mary Philomena D' Couto
6. Shri P. Murthy
7. Shri M. Radhakrishnan

(Sl Nos. 1 to 7 -

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

8. Dr M.S. Nageraja
Advocate
35 (Above Hotel Swagath)
1st Main, Gandhinagar
Bangalore - 560 009

Respondent (s)

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

9. The Deputy Director of Accounts
(Postal)
Karnataka Circle
G.P.O. Building
Bangalore - 560 001
10. The Director General (Postal Wing)
Dak Tar Bhavan
New Delhi - 110 001
11. Shri M.S. Padmarajiah
Central Govt. Stng 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 2-1-90.

Encl : As above

R. Venkatesh
DEPUTY REGISTRAR
(JUDICIAL)

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

K.S. Sundaram & 5 Ors

Cp (civil) v/s The Deputy Director of Accounts (Postal),
52 to 58/89 Bangalore & anr
Order Sheet (contd) M.S. Padmarajaiah

Dr M.S. Nagaraja

Date	Office Notes	Orders of Tribunal
		<p><u>LHARM(A)</u> 2.1.90</p> <p>Applicant by Dr. Nagaraja. Respondents by Shri Padmarajaiah. This matter has been listed as a Contempt Petition bearing No.52 to 58 of 1989 which were heard by a DB on 10.7.89 when the contempt proceedings were dropped. The present IA-II for extension of time is, therefore, with reference to OA 59 to 65/1989 wherein the respondents have prayed for extension of time of four months from 31.12.89 to comply with the order of this Tribunal on the ground that the Hon'ble Supreme Court has issued notice on 20.11.89 on the SLP as well as in regard to grant of stay. Shri Padmarajaiah urges grant of extension of time ^{as above} to comply with the order of this Tribunal. Dr. Nagaraja submits that it would be reasonable to grant extension of time upto 28.2.90. As nearly a year would elapse ^{as} on 28.2.90, and extension of time was granted to the respondents for six months, I deem it proper to grant extension of time to comply with the order of this Tribunal by 28.2.90.</p> <p align="right"><i>Sd/-</i> 2.1.90 MEMBER (A)</p>



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[Signature]
(JUDGE)
CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE

Commercial Complex(BDA)
Indiranagar
Bangalore - 560 038

Dated : 17 JUL 1989

CONTEMPT

PETITION (CIVIL) NO (S) 52 to 58 / 89
IN APPLICATION NOS. 59 to 65/89(F)
W.P. NO (S)

Applicant (s)Respondent (s)

Shri K.S. Sundaram & 6 Ors

V/s

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

To

1. Shri K.S. Sundaram
2. Shri S. Sugumaran
3. Smt Vijayalakshmi Gopalakrishnan
4. Smt Nagamani S. Rao
5. Smt Mary Philomena D^e Couto
6. Shri P. Murthy
7. Shri M. Radhakrishnan

9. The Deputy Director of Accounts (Postal)
Karnataka Circle
Bangalore - 560 001
10. The Director General (Postal Wing)
Dak Ter Bhavan
New Delhi - 110 001
11. Shri M.S. Padmarajaiah
Central Govt. Stng Counsel
High Court Building
Bangalore - 560 001

(Sl Nos. 1 to 7 -

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

8. Dr M.S. Nagaraja
Advocate
35 (Above Hotel Swagath)
1st Main, Gandhinagar
Bangalore - 560 009)

Subject : SENDING COPIES OF ORDER PASSED BY THE BENCH

Please find enclosed herewith a copy of ORDER/~~STAY~~/~~INTERIM ORDER~~
C.P. (Civil)
passed by this Tribunal in the above said application(s) on 10-7-89.

DEPUTY REGISTRAR
(JUDICIAL)

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE BENCH, BANGALORE.

DATED THIS THE TENTH DAY OF JULY 1989.

Present: Hon'ble Shri Justice K.S.PUTTASWAMY .. VICE CHAIRMAN

Hon'ble Shri L.H.A.REGO .. MEMBER(A)

CONTEMPT PETITION (CIVIL) No.52 to 58/1989
in A.No.59 to 65/89.

1. K.S.Sundaram,

2.S.Sugumaran,

3.Smt.Vijayalakshmi
Gopalakrishnan,

4.Smt.Nagamani S.Rao

5.Smt.Mary Philomena D'Couto,

6.P.Murthy,

7.M.Radhakrishnan,

.. Applicants.

(all are working as Senior Accountants
in O/o Deputy Director of Accounts,
(Postal) Karnataka, B'lore 1.)

(Dr.M.S.Nagaraja .. Advocate)

vs.

1.The Deputy Director of Accounts(Postal)
Karnataka Circle,
Bangalore 560 001.

2. The Director General(Postal Wing),
Dak Thar Bhavan, New Delhi 110 001.

(Shri M.S.Padmarajiah .. Advocate)

This application has come up today before
this Tribunal for Orders. Hon'ble Vice Chairman made the
following:

ORDER

Petitioners by Dr.M.S.Nagaraja.

Respondents by Shri M.S.Padmarajiah.

2. In these petitions made under Section 17
of the Administrative Tribunals Act of 1985 and the

..2/-




Contempt of Courts Act of 1971, the petitioners have moved this Tribunal to punish the respondents for not implementing our Order made in their favour on 21.2.1989 in Application Nos. 59 to 65/89.

3. In A.Nos.59 to 65/89, we directed the respondents in these words:

" In the light of our above discussion, We direct the respondents to reckon the Special Pay and Qualification Pay, if any the applicants were drawing as on 31.12.1985/ 1.1.1986 in fixing their pay as on 1.1.1986 in the revised scales of pay in the posts they held as on that day within 3 months from the date of receipt of our order."

In terms of this order, the respondents have reckoned the Special Pay allowed to the applicants and had withheld only Qualification Pay on the ground that they had sought for a review of our order only to that extent in Review Applications Nos. 29 to 35/1989, which we have this day dismissed by a separate Order. From this it follows that the respondents are bound to reckon the Qualification Pay in its entirety also as directed by us in our earlier order. We are of the view that to do the same, it is reasonable for us to grant time till 30.9.1989. We accordingly grant time to the respondents till 30.9.1989 to implement our order on Qualification Pay also due to the petitioners. But in the meanwhile, we drop these Contempt of Court



proceedings against the respondents with no order
as to costs.

Sd _____

VICE CHAIRMAN

Sd _____

MEMBER (A)

16.7.989



TRUE COPY

[Signature]
DEPUTY REGISTRAR (JDL)
CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE

CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE BENCH

Commercial Complex(BDA)
Indiranagar
Bangalore - 560 038

Dated :

18 JUL 1989

REVIEW APPLICATION NO (S) 29 to 35 / 89
IN APPLICATION NOS. 59 to 65/89(F)
W.P. NO (S) _____

Applicant (s)

Respondent (s)

The Deputy Director of Accounts
(Postal), Karnataka Circle
To Bangalore & enr

V/s

Shri K.S. Sundaram & 6 Ors

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

2. The Director General (Postal Wing)
Dak-Tar Bhavan
New Delhi - 110 001

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

4. Shri K.S. Sundaram

5. Shri S. Sugumaran

6. Smt Vijayalakshmi Gopalakrishnan

7. Smt Nagamani S. Rao

8. Smt Mary Philomena D' Couto

9. Shri P. Murthy

10. Shri M. Radhakrishnan

(Sl Nos. 4 to 10 -

11. Dr M.S. Nagaraja
Advocate
35 (Above Hotel Swagath)
1st Main, Gandhinagar
Bangalore - 560 009

Senior Accountants
Office of the Deputy Director
of Accounts (Postal)
Karnataka Circle, Bangalore - 560 001)

Subject : SENDING COPIES OF ORDER PASSED BY THE BENCH

Please find enclosed herewith a copy of ORDER/~~STAY~~/INTERIM ORDER
Review
passed by this Tribunal in the above said application(s) on 10-7-89.

DEPUTY REGISTRAR
(JUDICIAL)

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE BENCH, BANGALORE

DATED THIS THE TENTH DAY OF JULY, 1989

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

REVIEW APPLICATION NOS. 29 to 35/1989

1. The Dy. Director of Accounts
(Postal),
Karnataka Circle,
Bangalore-560 001.
 2. The Director General (Postal Wing)
Dak-Thar Bhavan,
New Delhi-110 001. .. Applicants
- (Sh.M.S. Padmarajaiah .. Advocate)

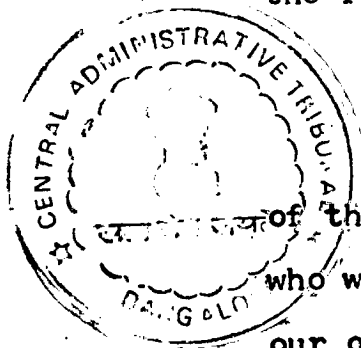
Vs.

1. Sh.K.S. Sundaram
 2. Sh.S. Sugumaran
 3. Smt. Vijayalakshmi Gopalakrishnan
 4. Smt. Nagamani S. Rao
 5. Smt. Mary Philomena D'Couto
 6. Sh. P. Murthy
 7. Sh. M. Radhakrishnan .. Respondents
- (Dr. M. S. Nagaraja .. Advocate)

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

O R D E R

In these applications made under Section 22(3)(f)
of the Administrative Tribunals Act of 1985, the applicants
who were the respondents, have sought for a review of
our order made on 21-2-1989 in Applications Nos. 59 to 65
filed by the respondents herein as applicants.



2. In Applications Nos.59 to 65/1989, the respondents who are Junior Accountants(JAs) claimed that Special Pay of Rs.35/- and Qualification Pay of Rs.15/- per month drawn by them, should also be reckoned for determining pay admissible to them as on 1-1-1986 from which date there was general revision of pay scales on the recommendations of the IV Central Pay Commission, pursuant to which the Central Civil Services Pay Rules of 1986 were formulated by the President of India under the proviso to Article 309 of the Constitution. On 21-2-1989, we heard and allowed them.

3. In these Applications for review made on 27-6-1989, the applicants have confined their claim to our order granting relief on Qualification Pay only. In making these applications, there is a delay of 95 days. In I.A.No.I the applicants have sought for condoning the delay. I.A.No.I is opposed by the respondents.

4. Shri M.S.Padmarajaiah, learned Senior Central Government Standing Counsel appearing for the applicants contends that the facts and circumstances stated in I.A.No.I constitute a sufficient ground to condone the delay in making these applications.

5. Dr.M.S.Nagaraja, learned Counsel for the respondents contends to the contrary.

6. We have carefully perused the affidavit filed by Shri N.D.Bhakta, Assistant Post Master General, Bangalore in support of I.A.No.I. We are of the view that the facts and circumstances stated by Shri Bhakta constitute a sufficient ground to condone the delay. We, therefore, allow I.A.No.I and condone the delay in making these applications.

7. Shri Padmarajaiah contends that Qualification Pay of Rs.15/- per mensem allowed to the respondents prior to 1-1-1986 was not pay and cannot be reckoned for determining the equivalent stage in the revised scale of pay as on 1-1-1986 and the directions to reckon the same constitute a patent error to justify a review of an order under Section 22(3)(f) of the Administrative Tribunals Act 1985 read with Order 47, Rule 1 of Civil Procedure Code.

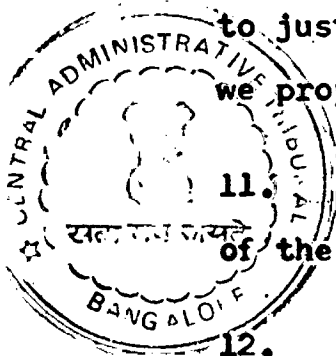
8. Dr.Nagaraja contends that this contention now urged cannot constitute a patent error to justify review, as ruled by the Orissa High Court in AIR 1975 ORISSA page 64 (Union of India Vs. Sudhir Kumar).

9. While we disallowed adjournment sought by the respondents to file their reply, we did not refuse to hear their case. We heard the cases fully and then only made our order.

10. We notice from our order that this contention was not argued by the respondents. If this question had been raised and urged before us, then we would have noticed the same and expressed our view on the same one way or the other. When there was thus a failure in this regard at the hearing, as ruled in Sudhir Kumar's case, it cannot be said there is a patent error in our order to justify a review. But notwithstanding this conclusion, we propose to examine the case on merits also.

11. The term "Qualification Pay" does not occur in any of the statutory rules framed by the President of India.

12. we are told that Qualification Pay was allowed for those passing a departmental examination called as the "confirmatory examination" prescribed by Government for the concerned cadre. There is no dispute that the same was treated as 'pay' with the prefix "Qualification".



If that is so, then it is somewhat odd to disallow the same in determining the equivalent stage of pay as on 1-1-1986.

13. We are also of the view that the terms 'Pay' 'Special Pay' defined in Rule 9(21) 9(45) of Fundamental Rules go to support our conclusion, that 'Qualification Pay' should also be reckoned as pay. On this also, the claim of the respondents for reckoning 'Qualification Pay' in determining the equivalent stage of their pay as on 1-1-1986 is wellfounded.

14. In Application No.788/88 in P.S.V.Chari Vs. Director of Posts, Hon'ble Shri P.Srinivasan had occasion to examine as to whether 'Qualification Pay' should be reckoned or not in determining the higher scale of pay to a civil servant on his promotion. On an in-depth examination of the same Hon'ble Shri P.Srinivasan was of the view that the same should be reckoned while determining the initial pay on promotion. We notice that this judgement has not been interfered with by the Supreme Court in the Special Leave Petition filed by the authorities in that case.

16. We are of the view that everyone of the reasons on which Hon'ble Shri P.Srinivasan reached his conclusion in Chari's case, is good for holding that 'Qualification Pay', should be reckoned while determining the equivalent stage of pay as on 1-1-1986. We cannot distinguish Chari's case on any grounds urged by Shri Padmarajaiah.

17. In the 1986 rules, there is no specific reference to 'Qualification Pay'. But that omission, does not make any difference to hold that 'Qualification Pay' should be reckoned for the purpose of determining the equivalent stage of pay as on 1-1-1986.

18. On the foregoing discussion, we find no merit in the ground now urged before us by the applicants.

19. In the light of our above discussion, we hold that these review applications are liable to be dismissed. We, therefore, dismiss these Review Applications. But in the circumstances of the cases, we direct the parties to bear their own costs.

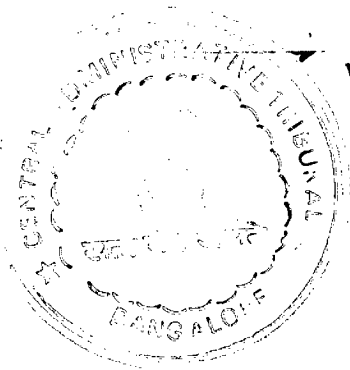
Sd —

VICE-CHAIRMAN 10/7/77

Sd —

MEMBER(A) 10.7.77

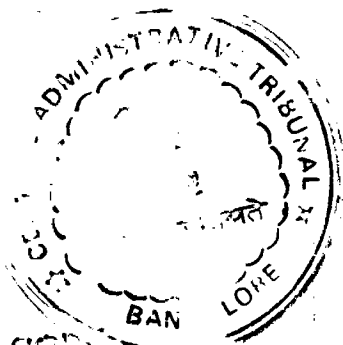
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R. V. Venkatesh
DEPUTY CHIEF JUSTICE (JDL)
CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE

DEPUTY REGISTRAR

Date	Office Notes	Orders of Tribunal
		<p><u>KSPVC/PSM(A)</u> 20.10.1989</p> <p>Applicant by Shri I.A. Shariff. Respondents by Shri M.S.P.</p> <p><u>ORDERS ON I.A. NO.I - APPLICATION FOR EXTENSION OF TIME</u></p> <p>In this I.A., the respondents have sought for extension of time by another 3 months for complying with our directions in Application Nos. 59 to 65/1989 for which we had granted time till 30.9.1989. Shri Padmarajaiah prays for extension of time as sought in I.A. No.I .</p> <p>Shri I.A. Shariff, learned counsel for the applicant does not rightly oppose the time sought by the respondents. Even otherwise, we are of the view that the time sought for by the respondents should be granted.</p> <p>In the light of our above discussions, we allow I.A. No.I. and extend the time for complying with our directions in Application Nos. 59 to 65/1989 till 31.12.1989.</p>



TRUE COPY

[Signature]
SECRETARY, ADMINISTRATIVE TRIBUNAL
BANGALORE

Sd/-

VC

Sd/-

M(A)

Commercial Complex (BDA)
Indiranagar
Bangalore - 560 038

Dated : 5 JUL 1990

CONTEMPT
PETITION (CIVIL) ~~XXXXXXXX~~ NO (S) 28 to 34
IN APPLICATION NOS. 59 to 65/89(F) / 90
W.P. NO (S)

Applicant (s)

Shri K.S. Sundaram & 6 Ors
To

1. Shri K.S. Sundaram
 2. Shri S. Sugumaran
 3. Smt Vijayalakshmi Gopalakrishnan
 4. Smt Nagamani S. Rao
 5. Smt Mary Philomena D'Couto
 6. Shri P. Murthy
 7. Shri M. Radhakrishnan
- (Sl Nos. 1 to 7 -

Senior Accountants
Office of the Deputy Director of
Accounts (Postal)
Karnataka Circle
G.P.O. Building
Bangalore - 560 001)

Respondent (s)


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

8. Dr M.S. Nagareja
Advocate
35 (Above Hotel Swagath)
1st Main, Gandhinagar
Bangalore - 560 009
9. The Deputy Director of Accounts (Postal)
Karnataka Circle
G.P.O. Building
Bangalore - 560 001
10. The Director General (Postal Wing)
Dak Tar Bhavan
New Delhi - 110 001
11. Shri M.S. Padmarajaiah
Central Govt. Stng 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~~
C.P. (Civil)
passed by this Tribunal in the above said Application (s) on 28-6-90

Encl : As above


for DEPUTY REGISTRAR
(JUDICIAL)

CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE

DATED THIS THE 28TH DAY OF JUNE, 1990.

Present: Hon'ble Shri P. Srinivasan, Member (A)
and
Hon'ble Shri N.R. Chandran, Member (J)

CONTEMPT PETITION (CIVIL) No.28 TO 34/1990

1. Shri K.S. Sundaram,
Aged 37 years,
S/o Shri K.S. Srinivasan.
2. Shri S. Sugumaran,
Aged 37 years,
S/o Shri P. Shanmugam.
3. Smt. Vijayalakshmi Gopalakrishnan,
Aged 38 years,
D/o Shri T.R. Thiruvengadam.
4. Smt. Nagamani S. Rao,
Aged 35 years,
W/o Shri S.G. Subba Rao.
5. Smt. Mary Philomena D'Couto,
Aged 41 years,
W/o S.G. Adlf 'D' Couto.
6. Shri P. Murthy,
Aged 36 years,
S/o Shri Poongadai.
7. Shri M. Radhakrishnan,
Aged 40 years,
S/o Shri M. Meenashisundaram.

.... Applicants.

(All the applicants are working as Sr.
Accountants in the D/o the Deputy
Director of Accounts (Postal), Karnataka
Bangalore-1.)

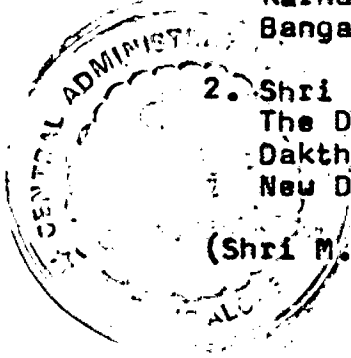
(Dr. M.S. Nagaraja, Advocate)

v.

1. Shri N. Subramanian,
The Dy. Director of Accounts (Postal),
Karnataka Circle,
Bangalore-1.
2. Shri R.K. Syed,
The Director General (Postal Wing),
Dakhtar Bhavan,
New Delhi-1.

.... Respondents.

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



These applications having come up for hearing to-day, Shri P. Srinivasan, Hon'ble Member (A) made the following:

O R D E R

By this petition, the applicants in Original Application Nos. 59 to 65/1989 complain that order dated 21.2.1989 passed by this Tribunal disposing of the said original applications has not so far been implemented by the respondents therein. When these contempt petitions came before a Bench of this Tribunal on 17.5.1990, the 2 respondents, namely, Shri N. Subramanian, Deputy Director of Accounts (Postal), Karnataka Circle, Bangalore and Shri R.K. Syed, Director General (Postal Wing), New Delhi, were ordered to appear^M before this Tribunal on 21.6.1990. On 21.6.90 there was no Division Bench. However, Shri N. Subramanian appeared in Court before the single Member Bench sitting on that date and submitted that the order of this Tribunal^M and had been implemented and at the same time the respondents had also obtained a stay from the Supreme Court of the order of this Tribunal. It was also explained that Shri R.K. Syed had retired from service and had not been able to appear before the court for unforeseen reasons. The single Member adjourned and posted the case to today.

2. Dr. M.S. Nagaraja appears for the petitioners. Shri M.S. Padmarajaiah appears for the respondents. Shri N. Subramanian, Deputy Director of Accounts (Postal), Bangalore is also present in Court. Shri Padmarajaiah explains that the order of this Tribunal dated 21.2.1989 has been implemented by the respondents although simultaneously a stay of the operation of the order has also been obtained from the Supreme Court on

P. Srinivasan

18.6.1990. Shri Padmarajaiah files a copy of the order of the Supreme Court in this connection.

3. In view of the above, the proceedings in Contempt are hereby dropped and notice issued to the respondents in this regard is discharged. Parties to bear their own costs.

Sd-

MEMBER (A)

Sd-

MEMBER (J)

mr/Mrv.

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AP 5/7/90
SECTION OFFICER
CENTRAL ADMINISTRATIVE TRIBUNAL
ADDITIONAL BENCH
BANGALORE