

CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE BENCH

Commercial Complex (BDA)
Indiranagar
Bangalore - 560 038

Dated :

23 APR 1993

APPLICATION NO (S) 359 to 367 / 1990.

W.P. NO (S)

Applicant (s) R.D.Thiagerejan & 8 Ors. Respondent (s) Director, LRDE & Ors.

- To
1. Sh.R.D.Thiagerejan,
No.17,Thulesirmadar
Mutt Road, Fraser Town,
Bangalore-5...(Applicant in No.359/90).
 2. Sh.K.Balaraman,
No.269,10th Cross,
N.R.Colony,
Bangalore-19...(Applicant in No.360/90).
 3. Sh.T.Raghavendra Rao,
No.1389, IV Cross,
3rd Main, 1st Stage,
II Phase, Chendrelayout,
Bangalore-40...(Applicant in No.361/90).
 4. Sh.M.C.Muthu,
No.9-D, Street,
Cleveland Town,
Coles Road, Cross,,
Bangalore-5...(Applicant in No.362/90).
 5. Sh.B.Sekhareppa,
No.6, Siddarema Nilaya,
13th 'B' Main, BSK-I Stage,
II Block, Hanumanthnagar,
Bangalore-50...(Applicant in No.363/90).
 6. Sh.Venkoba Rao,
No.236/1-3, II Floor,
8th Main Road,
Palace Guttehalli,
Bangalore-3...(Applicant in No.364/90).
 7. Sh.R.Subrameni,
No.11, 58th Division,
15th 'B' Street,
Shivaji Road Cross,
Shivajinagar, B'lore-51...(Applicant in No.365/90).

Subject : FORWARDING COPIES OF THE ORDER PASSED BY THE BENCH

Please find enclosed herewith a copy of the ORDER/STAY/
INTERIM ORDER passed by this Tribunal in the above said
application (s) on 06-04-93.

continued to
page no.27-

For DEPUTY REGISTRAR
(JUDICIAL)

CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE BENCH

Commercial Complex (BDA)
Indiranagar
Bangalore - 560 038

-:Page No.2:-

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APPLICATION NO (S) 359 to 367 / 1990.

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Applicant (s)

Respondent (s)

- | | |
|--|--|
| To 8. Sh.C.K.Shivaji Rao,
No.41,Vivekananda Road,
II Block,Thiagarajenagar,
Bangalore-28...(Applicant in No.366/90). | 16. Sh.M.W.Kenaka Raj,
Supervisor Gr-II,
LRDE, Bangalore-93. |
| 9. Sh.D.Paul,
No.76, II Cross, Saraswathipuram,
Ulsoor, Jogupalya, Bangalore-8...(Applicant in No.367/90). | |
| 10. Dr.M.S.Nagaraja,
Advocate, No.11K,
II Floor, Icrose,
Sujatha Complex,
Gandhinagar,
Bangalore-9. | 17. Sh.M.S.Padmaraajeish,
Central Govt.Stng.Counsel,
High Court Building,
Bangalore-1. |
| 11. Director,
Electronics Radar Development
Establishment(LRDE),
C.V.Ramen Nagar, Bangalore-93. | 18. Sh.Krishna Dixit,
Advocate, No.532,
63rd Cross, Fifth Block,
Bashyam Circle,
Rajajinagar,
Bangalore-10. |
| 12. Scientific Adviser to
Govt.of India, Research &
Development, M/o.Defence,
New Delhi. | |
| 13. Secretary,
M/o Defence,
R&D, New Delhi. | |
| 14. Sh.A.Manumanthaiah,
Supervisor Grade-II,
O/O.Director, LRDE,
Electronic Radar Development
Establishment, Bangalore-93. | |
| 15. Sh.M.K.Baig, Supervisor Gr-II,
LRDE, Bangalore-93. | |

Subject : FORWARDING COPIES OF THE ORDER PASSED BY THE BENCH

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For 
DEPUTY REGISTRAR
(JUDICIAL)

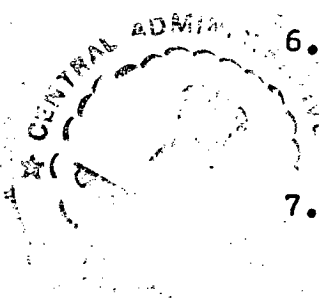
BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE BENCH, BANGALORE

DATED THIS DAY THE 6TH OF APRIL, 1993

Present: Hon'ble Justice Mr.P.K. Shyamsundar Vice-Chairman
Hon'ble Mr.V. Ramakrishnan Member (A)

APPLICATION NOS.359 TO 367/1990

1. Shri R.D. Thiagarajan,
No.17, Thulasirmadar Mutt Road,
Fraser Town,
Bangalore - 560 005
Applicant
(in A.No.359/90)
2. Shri K. Balaraman,
No.269, 10th Cross, N.R. Colony,
Bangalore - 560 019
Applicant
(in A.No.360/90)
3. Shri T. Raghavendra Rao,
No.1389, IV Cross, 3rd Main,
1st Stage, II Phase,
Chandra Layout,
Bangalore - 560 040
Applicant
(in A.No.361/90)
4. Shri M.C. Muthu,
No.9-D Street, Clievland Town,
Coles Road Cross,
Bangalore - 560 005
Applicant
(in A.No.362/90)
5. Shri B. Sekharappa,
No.6, Siddarama Nilaya,
13th 'B' Main, BSK Ist Stage,
II Block, Hanumanthanagar,
Bangalore - 560 050
Applicant
(in A.No.363/90)
6. Shri Venkoba Rao,
No.236/1-3, II Floor, 8th Main Road,
Palace Guttahalli,
Bangalore - 560 003
Applicant
(in A.No.364/90)
7. Shri R. Subramani,
No.11, 58th Division,
15th B Street,
Shivaji Road Cross,
Shivajinagar,
Bangalore - 560 051
Applicant
(in A.No.365/90)
8. Shri C.K. Shivaji Rao,
No.41, Vivekananda Road,
II Block, Thyagarajanagar,
Bangalore - 560 028
Applicant
(in A.No.366/90)



9. Shri D. Paul,
No.76, II Cross,
Saraswathipuram,
Ulsoor, Jogupalyam,
Bangalore - 560 008

Applicant
(in A.No.367/90)

(Dr.M.S. Nagaraja- Advocate)

v.

1. The Director,
Electronics Radar Development
Establishment, (LRDE) Dr.C.V.
Raman Nagar,
Defence Research & Development
Organisation, Bangalore - 560 093
2. The Scientific Adviser to
Government of India,
Research & Development,
Ministry of Defence,
New Delhi
3. The Union of India,
represented by the
Secretary to Govt. of India,
Ministry of Defence,
Department of Defence,
Research and Development,
New Delhi
4. Shri A. Hanumanthaiah,
Supervisor Gr.II,
Office of the Director(LRDE),
Electronic Radar Development
Establishment, Dr.C.V. Ramanagar,
Bangalore - 560 093
5. Shri M.K. Baig,
Supervisor Gr.II,
Office of the Director(LRDE),
Electronic Radar Development
Establishment,
Dr.C.V. Raman Nagar,
Bangalore - 560 093
6. Shri M.W. Kanaka Raj,
Supervisor Gr.II,
Office of the Director(LRDE),
Electronic Radar Development
Establishment, Dr.C.V. Raman Nagar,
Bangalore - 560 093

Respondents

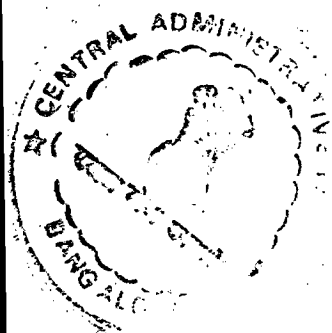
(Shri M.S. Padmarajaiah - Advocate)
for R-1 to 3
(Shri.Krishna Dixit- Advocate for R-4 to 6)

These applications have come up before

this Tribunal for orders. Hon'ble Mr.V.
Ramakrishnan, Member(A) made the following:

ORDER

The applicants joined service in the Electronics Radar Development Establishment, Bangalore on different dates during the period from 1958 to 1968 and in course of time and by virtue of their seniority, they were promoted as Precision Mechanics. As per the Recruitment Rules(RR for short) then in force, they were promoted as Chargeman Gr.II w.e.f. 30.7.80 (except Shri Venkoba Rao promoted on 20.5.81). These persons were in the industrial cadre. The posts of Precision Mechanics are in the industrial line and their counterparts in the non-industrial or technical lines were designated as Technical Supervisor Gr.II prior to 1977. On the recommendations of the Third Pay Commission, the scale of pay of Technical Supervisor Gr.II was revised to Rs.380-560 w.e.f. 1.1.73. Subsequently, during 1979, orders were issued to further revise the pay scale of Technical Supervisor Gr.II to the level of Rs.425-700 and they were re-designated as Chargeman Gr.II. The earlier position was that the channel of promotion to both the technical cadre namely Technical Supervisor Gr.II and the industrial cadre namely Precision Mechanics and others belonging to industrial staff in Group 'A' was to the level of Chargeman Gr.II by having a quota of 75% for the non-industrial staff who have



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put in 3 years of service in the grade and who have passed the appropriate test. This was changed in 1979 when orders were issued to revise the scale of Technical Supervisor Gr.II from Rs.380-560 to Rs.425-700. The RR were also amended in November, 1979 by SRO 356/79 under which the Technical Supervisors Gr.II who were re-designated as Chargeman Gr.II were given promotion opportunities to the post of Chargeman Gr.I after completion of three years service. Government orders were also issued in 1979 allowing the scale of Rs.425-700 w.e.f. 1.3.79 to the existing Supervisor Technical Gr.II who were re-designated as Chargeman Gr.II. They were also assigned seniority as Chargeman Gr.II enblock junior to Chargeman Gr.II who were already promoted as such and were in position as on 1.3.77.

2. As regards the industrial category of Precision Mechanics, their pay scale was revised to Rs.380-560 w.e.f. 1.1.73 as per the recommendations of the Third Pay Commission. Subsequently, on 13.4.81, the pay scale of the Precision Mechanics in the Defence Research & Development Organisation who were in position as on 31st December, 1972, and who were still working as Precision Mechanics was revised to Rs.425-700 w.e.f. 1.3.77 and the financial effect was allowed w.e.f. 1st December, 1980. During 1984, some of the Precision Mechanics who were promoted as such after 1.1.73 moved the Andhra Pradesh High Court which case was subsequently

transferred to Hyderabad Bench of C.A.T. seeking grant of the higher scale of Rs.425-700 to them also so as to bring them at par with those on the roll as on 31.12.72. The C.A.T. Hyderabad Bench by its order dated 10.11.86 allowed the applications and all such Precision Mechanics who were promoted as such after 31.12.72 and prior to 3.6.80 were entitled to the higher pay scale of Rs.425-700. Relying on this order, some of the applicants in Bangalore approached the Bangalore Bench of C.A.T. to extend the benefits as given by the Hyderabad Bench to others who were similarly situated. As the Department accepted this contention, C.A.T. Bangalore Bench dismissed the application as having become unnecessary by its order dated 7.8.89. Consequently, the applicants in these cases were granted the higher scale of Rs.425-700 w.e.f. 1.3.77 and financial effect from 1st December, 1980.

3. In the meanwhile, in 1981 the RR for Chargeman Gr.I were further amended by SRO 246/81 dated 29.8.81 published in the Gazette dated 12.9.81 making the Precision Mechanics in the pay scale of Rs.425-700 with three years regular service in the grade eligible for promotion to the level of Chargeman Gr.I and they were brought at par with Chargeman Gr.II (non-industrial posts) in the matter of promotion opportunities. After the judgment of the C.A.T. Hyderabad Bench in 1986 and Bangalore Bench in 1989, the Department



arranged for a meeting of the Review Departmental Promotion Committee which was held on 11.9.89.

As a result of this action, the applicants and other similarly situated individuals were promoted retrospectively as Chargeman Gr.I w.e.f. 15.9.81, Assistant Foreman w.e.f. 15.3.82 and Foreman w.e.f. 15.3.85.

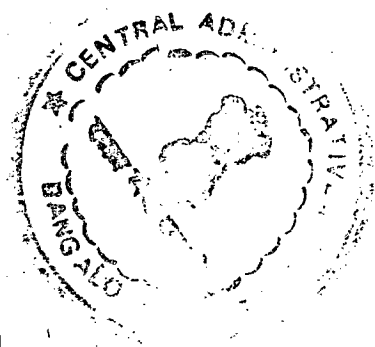
4. The applicants' contention is that they should be deemed to have become Chargeman Gr.II w.e.f. 1.3.77, the date from which the higher pay scale of Rs.425-700 was extended to them and their seniority in the cadre of Chargeman Gr.II should have been reckoned from that date. They further claim that they should have been promoted as Chargeman Gr.I on completion of three years from that date namely 15.3.80 (the normal date of DPC meeting) and Assistant Foreman w.e.f. 15.9.80 and as Foreman w.e.f. 15.9.83.

5. The official respondents have disputed their stand that the applicants should be deemed to be Chargeman Gr.II w.e.f. 1.3.77 merely because they were retrospectively given the scale of Rs.425-700 which is identical to that of Chargeman Gr.II w.e.f. 1.3.77. They have also denied the contention of the applicants that the duties and responsibilities of Precision Mechanics and Technical Supervisor Gr.II (which was subsequently re-designated as Chargeman Gr.II) are of equal importance and that the posts are inter-changeable. They have asserted that the Precision Mechanics cannot be deemed to be promoted as Chargeman Gr.I

immediately after 3 years from 1.3.77 in the absence of any rules or specific orders.

6. We had the benefit of hearing the submissions of the learned counsel for the applicants as well as the respondents who argued in considerable detail. The amendment to the RR on 6.12.79 and 29.8.81 has resulted in a situation where the posts of Chargeman Gr.I will be filled up by Technical Supervisor Gr.II (who were re-designated as Chargeman Gr.II) and who were in the technical or non-industrial lines and by Precision Mechanics who were in the industrial line. As there is no quota for the non-industrial and industrial cadre for promotion to the level of Chargeman Gr.I, there has to be a combined seniority list of persons both in the non-industrial and industrial categories who would be eligible for promotion as Chargeman Gr.I. This position is accepted by the respondents also.

7. The applicants have also drawn our attention to the orders of the Hyderabad Bench dated 12.5.89 in T.A.No.160/86 (Writ Petition No.7372/83). This is a transferred application where some persons belonging to non-industrial or technical category namely Chargeman Gr.II had protested against the preparation of common seniority list of Chargeman Gr.II and Precision Mechanics and also to the promotion of some Precision Mechanics to the level of Chargeman Gr.I on the basis of such seniority list. Such

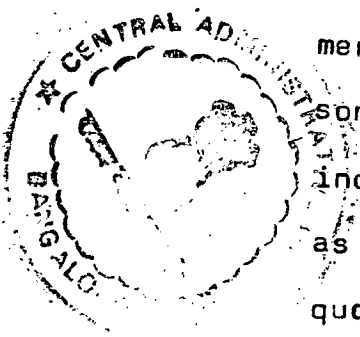


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combined seniority list was prepared reckoning the date of entry in the category of Precision Mechanics and date of entry into the category of Technical Supervisor Gr.II as the basis for fixing inter se seniority. The Hyderabad Bench found that there was no infirmity in preparing the common seniority list on the basis of entry into the respective grades. Dr. Nagaraja for the applicants in the present case has contended that extending the logic of the judgment of the Hyderabad Bench, the seniority of Precision Mechanics should have been reckoned with effect from the date of entry into that cadre and they should rank as senior to those who joined as Technical Supervisors Gr.II on a subsequent date and who were re-designated as Chargeman Gr.II.

8. Be that as it may, we are concerned with the applicants who, even in the absence of a combined seniority list have been promoted to the level of Chargeman Gr.I w.e.f. 15.9.81 and also to the higher levels thereafter. So far as the applicants are concerned, their eligibility to be promoted as Chafgeman Gr.I directly arose after amendment of the RR which were affected by SRO 246/81 dated 29.8.81. It is no doubt true that after such amendment published in the Gazette dated 12.9.81 when Precision Mechanics were made eligible for promotion as Chargeman Gr.I along with the non-industrial category of redesignated Chargeman Gr.II

there is need for preparation of a combined seniority list in the absence of separate quotas for the technical and industrial categories. However, prior to 12.9.81 in the absence of any eligibility of Precision Mechanics to be considered for promotion directly as Chargeman Gr.I and as they constitute a separate stream distinct from the technical category, the need for a combined seniority list of these two categories did not exist. The review DPC held in 1989 had given the applicants retrospective promotion as Chargeman Gr.I at the earliest opportunity after promulgation of SRO 246 dated 29.8.81 published in the Gazette dated 12.9.81 namely the 15th day of September, 1981. The contention of the applicants that they should be treated exactly at par with Technical Supervisor Gr.II who were re-designated as Chargeman Gr.II cannot be sustained for the reasons that these are two different streams and the RR were also amended on different dates. It is also pertinent to mention that even the previous RR provided for some differentiation in the treatment of non-industrial staff who were given a quota of 75% as against the industrial staff with only 25% quota for promotion to the level of Chargeman Gr.II as it existed then. As the eligibility of the candidates for promotion to the grade of Chargeman Gr.I arose only after promulgation of SRO 246/81 dated 29th August, 1981 published in the Gazette on 12.9.81, it is not possible to



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subscribe to their stand that they should have got the promotion as Chargeman Gr.I w.e.f. 15.3.80 i.e. 3 years immediately after their pay scale was retrospectively revised w.e.f. 1.3.77.

9. After we had heard the case and reserved the same for orders to be pronounced on 17.3.93, the learned counsel for the applicant filed a Misc. Petition No.93/93 inviting attention to a circular issued by the Ministry of Defence, DRDO Personnel Circular No.35/1993 dated 16.2.93 on the subject of re-designation of Technical Supervisor Gr.II. There is a reference in that circular to a decision of the Bombay Bench of the Tribunal. The petition seeks to place on record the circular. When the matter was heard again on 1.4.93, a copy of the decision of the Bombay Bench was not made available and we are also not told as to how the same would be relevant for disposal of the present application. In the circumstances, we do not propose to take into account the circular referred to supra.

11. In the light of our views as aforesaid,

SECTION OFFICER we do not see any merit in the application which
CENTRAL ADMINISTRATIVE TRIBUNAL
ADD. DEPENDS accordingly dismissed. No costs.

SIGNATURE

Sd-

MEMBER (A)

Sd-

VICE CHAIRMAN



TRUE COPY

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22/4/93