

CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE BENCH

Second Floor,
Commercial Complex,
Indiranagar,
Bangalore-38.

Dated: 21 MAR 1994

APPLICATION NO(s) 9208/924 to 930/93

APPLICANTS: B. Ananthakumar and Seven others vs. Chairmen, Railway Board, N. Delhi and others
TO.

1. Sri. M. Vasudara Rao,
Advocate No. 2/2,
Bride Street, Langford town,
Bangalore-560025.
2. Divisional Accounts Officer,
Southern Railway.
MYSORE
3. Sri. N. S. Prasad,
Advocate, 242,
Fifth Main,
Gandhinagar,
Bangalore-560009.

SUBJECT:- Forwarding of copies of the Orders passed by
the Central Administrative Tribunal, Bangalore.

-xxx-

Please find enclosed herewith a copy of the
ORDER/STAY ORDER/INTERIM ORDER/, Passed by this Tribunal
in the above mentioned application(s) on 02-03-94.

Issued
21/3/94

o/c

for DEPUTY REGISTRAR
JUDICIAL BRANCHES. 21/3

CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE BENCH

O.A. No.920 & 924 to 930/93

WEDNESDAY THIS THE SECOND DAY OF MARCH 1994

Shri Justice P.K. Shyamsundar ...Vice-Chairman

Shri T.V. Ramanan ... Member [A]

1. B. Anantha Kumar,
S/o B. Bommarasa Pandit,
Aged 62 years,
Retired Accounts Assistant,
Resident of NO.15C,
Thyagaraja Road, III cross,
K.R. Mohalla, Mysore.
2. Mrs. C. Nagarathnamma,
W/o late Kundanisathyam,
Aged 60 years,
Retd. [Sub-Head] Accounts Assistants,
Resident of No.435/1, Ashirwad,
Chamaraja Double Road,
Mysore.
3. S. Janardhana Rao,
S/o late S. Subba Rao,
Aged 60 years,
Retd. Stock Verifier,
Resident of No.193/A, Railway Colony,
Metagalli Extension,
mysore.
4. Syed Safeer Ahmed,
S/o Syed Abdul Rvoof,
Aged 59 years,
Retd. Senior Section Officer A/cs,
R/o No.6, 8th Cross, Shivaji Road,
N.R.Mohalla, Mysore.
5. N.S.Ananda Rao,
S/o late N. Subba Rao,
Aged about 64 years,
Retd Sub-Head,
Residing at No.1248, Krishnamurthypuram,
Mysore.
6. M.V. Venkataramaiah,
S/o M.V. Subbaiah,
Aged 65 years,
Retd. Sub-Head,
R/o No.1777,
Mission Hospital Road,
Mandimohalla,
Mysore.
7. S. Nagendraraju,
S/o S. Shankararaju,
Aged 65 years,
Retd.Sub-Head,
R/o, 1777, Mission Hospital Road,
Mandimohall, Mysore.

... Applicants



8. M. Dasarathan,
S/o sri Manikam,
Aged 60 years,
Retd. Sr. Assistant,
3207/16, Lakshan Mohalla,
Mohammad Sait Block,
Mysore.

... Applicants

[By Advocate Shri M. Vasudeva Rao]

v.

1. The Divisional Accounts Officer,
Southern Railway, Mysore.
2. The Financial adviser of
Chief Accounts Officer,
Southern Railway,
Park Town, Madras.
3. Union of India represented
by the Chairman,
Railway Board, Rail Bhavan,
New Delhi.

... Respondents

[By Advocate Shri N.S. Prasad, Counsel for Railways]

O R D E R

Shri Justice P.K. Shyamsundar, Vice-Chairman:

1. Heard. Admit. These are series of applications by personnel of the Railways who have all since retired but have had, if we may say so, the misfortune of being subjected to some kind of compulsory exaction by the Railways asking each of them to pay back a consideration they received as Special Pay in what seems to us very small sums ranging from Rs.35-70 while they were in service. The action of the Railways, in this behalf, came up before the Madras Bench of the Tribunal in a series of applications in A No.717/90, 874/90 and 767/90 which were all disposed off on 6.9.1991 by allowing those applications and striking down the action taken to recover the special pay paid to those appli-

cants while in service. We had occasion to consider subsequently applications in OA No.93, 307 to 313/93 decided on 27.5.1993 and on that occasion Shri M. Vasudeva Rao, appearing for the applicants herein had appeared therein and urged us to rely on Madras Bench judgment and to give a quietus to the entire thing.

But, however, deferring to the submissions of learned Standing Counsel for Railways Shri N.S. Prasad, on that occasion, who pointed out that Madras Bench decision is being taken to the Supreme Court which had not yet been admitted and proceedings initiated before the Madras Bench had also not been stayed.

In that situation we did not totally rely on the Madras Bench decision but instead thought it proper to dispose of those applications on the ground that civil consequences were being thrust on the applicants without any enquiry and therefore directed the administration to hear the applicants before passing any order. We also directed that the representations, if any, made by the applicants should be considered before passing further orders. That formality now appears to have been gone through but has not resulted in any happy end to the controversy in so far as the applicants are concerned because the Railway Administration has once again reimposed the order directing recovery of the special pay given to the applicants while in service.

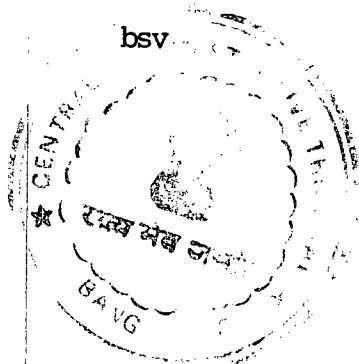
✓ The series of orders made by the Railway Administration in this behalf are found at Annexure A-3 to A-9 and A-12. It seems to us in this situation we should take the assistance from a Full Bench decision of the Tribunal in MOHAN LAL MADAN AND ANOTHER V. UNION OF INDIA AND OTHERS [1993]25 ATC 814. In that case the Full Bench laid down that in matters akin to what we have before us now, the Supreme Court not having stayed the judgment

of the Tribunal it is open to the Tribunal to give effect to the impugned judgment subject to the direction that the parties be made aware of the fact that in case the decision of the Supreme Court goes against them, they would be liable to disgorge whatever benefits they had received so far. We think it proper and very appropriate to follow the judgment of the Full Bench aforesaid and make an order quashing the impugned recoveries made at Annexures A-3 to 9 and A-12 making it clear that in case the decision of the Madras Bench now pending before the Supreme Court in SLP No.CC 16725/92 went in favour of the Railway Administration, the applicants herein will be liable to refund all the benefits received viz special pay. We also make it clear that if the Supreme Court reverses the judgment of the Madras Bench the Railway Administration will be entitled to initiate recovery proceedings. With these observations this application is disposed off. No costs.

Sd-

MEMBER [A]

bsv



Sd-

VICE-CHAIRMAN

TRUE COPY

R. Chandra

SECTION OFFICER

21/3
CENTRAL BOARD OF SECONDARY EDUCATION
NEW DELHI