

CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE BENCH

Second Floor,
Commercial Complex,
Indiranagar,
BANGALORE - 560 032.

Dated: **7 APR 1995**

APPLICATION NO. 463 of 1993.

APPLICANTS: A.Chiristopher and three others.,
V/S.

RESPONDENTS: The Chief Engineer, Southern Railways,
Madras and three others.

To

1. Sri.S.Ranganatha Jois, Advocate,
No.36, 'Vagdevi', Shankarapark,
Shankarapuram, Bangalore-4.
2. Sri.A.N.Venugopala Gowda, Advocate,
No.8/2, Upstairs, R.V.Road,
Bangalore-560 004.
3. Sri.G.V.Shantharaju, Senior Counsel for
Sri.A.N.Venugopala Gowda, Advocate,
No.8/2, First Floor, R.V.Road,
Bangalore-560 004.

Subject:- Forwarding copies of the Orders passed by the
Central Administrative Tribunal, Bangalore-38.

-----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 30-03-1995.

Issued on
7/4/95
[Signature]

[Signature]

[Signature]
DEPUTY REGISTRAR
JUDICIAL BRANCHES.

CENTRAL ADMINISTRATIVE TRIBUNAL: BANGALORE BENCH: BANGALORE

ORIGINAL APPLICATION NUMBER 463 OF 1993

THURSDAY, THIS THE 30TH DAY OF MARCH, 1995.

Mr. Justice P.K. Shyamsundar,

.. Vice Chairman.

Mr. T.V. Ramanan,

.. Member (A)

1. A. Christopher,
Major, General Secretary,
Permanent Way Inspectors Association,
No. 3, Ansari Nagar, Madurai-10.
2. V. Elnis Patricks,
Major, Permanent Way Inspector,
Southern Railway, Bangalore.
3. P. Vinayan,
Permanent Way Inspector, Major,
Arasikere Railway Station,
Hassan District.
4. R. Vijayakumar,
Major,
Permanent Way Inspector, Southern
Railway, Bangalore.

.. Applicants.

(By Advocate Shri S. Ranganatha Jois)

v.

1. The Chief Engineer,
Southern Railway, Madras-3.
2. The Chief Personnel Officer,
Southern Railway, Madras-3.
3. The Chairman & Secretary,
Ministry of Railways,
Rail Bhavan, New Delhi-1.
4. The Union of India,
represented by its Ministry
of Railways, Rail Bhavan,
Rafi Marg, New Delhi-1.

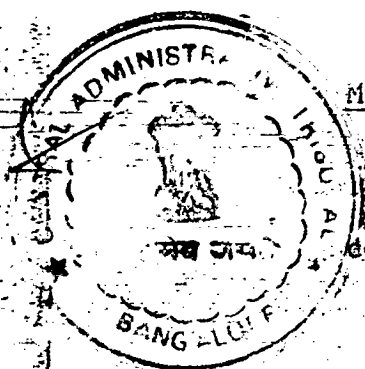
.. Respondents.

(By Shri G.V. Shantharaju, Senior Counsel &
Sri A.N. Venugopala Gowda, Standing Counsel)

ORDER

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

Admit. We have heard Sri S. Ranganatha Jois, learned
counsel for the applicant and Sri A.N. Venugopala Gowda, learned



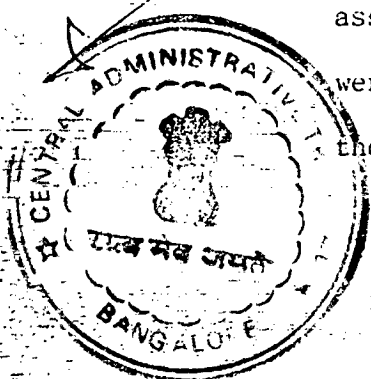
counsel led by Sri G.V. Shantharaju, learned senior counsel appearing for the railway administration.

2. The grievance herein is that an order made by one of the Benches of this Tribunal in which conclusive directions had been given which should have ordinarily led to the hiking of the career prospects of the applicants apropos salary and emoluments but nonetheless not resulted in attaining the desired target. Later there was a contempt petition asking for action being taken for non-implementation of the Court's direction which however did not pay any dividend. That contempt petition was disposed of holding that there was an impressive verba compliance with the directions of the Tribunal. In the meanwhile, the railway administration had taken recourse to preferring an appeal to the Supreme Court from the earlier order of the Tribunal, but that Special Leave Petition was rejected. Mr. Venugopala Gowda says that during the course of the rejection order their Lordships had opined that it was more appropriate for the administration to have gone back to the Tribunal with a review petition, pursuant to which a review petition also came to be filed before this Tribunal which was later dismissed as not pressed in the light of the order made in the contempt petition holding that there was substantial compliance or such compliance which could not be faulted at all.

3. The most important thing to notice is that the Tribunal while dismissing the contempt petition gave liberty to the employees to raise a fresh proceeding if they were not satisfied with the implementation of the court's order. As a sequel to the direction, the instant application has arisen. Herein also

the railway administration seeks to absolve itself of all deficiencies attributed to it by the applicants and in addition Shri Shantharaju, learned Senior Counsel submits that whatever might have happened in the past, we have now the 5th pay commission which is vigoursly investigating into the question of the pay and emoluments of all the employees of the Central Government including the Railway employees and that the applicants having already made necessary representations in that behalf, it is quite possible there would be a new dispensation by the pay commission that should expectedly answer the prayers of the applicants. A Full Bench decision of this Tribunal from the Calcutta Forum was read to us wherein a similar view had been taken in that the applicants therein being also railways employees were asked to await the recommendations of the 5th pay commission and implementation thereof with the result it is urged that we should not go into any factual controversy and leave the same to be sorted out by the pay commission.

4. Although we are not quite happy ^{with} the way the order of this Tribunal in the O.A. was implemented, it would not be wrong on our part to say that it was merely a case of ^{offering} ~~feeling~~ lip sympathy in their order. But, anyhow, this very Tribunal having accepted the factum of implementation, we do not wish to rake up a controversy which according to this Tribunal had already stood concluded. We see, as a matter of fact, there is force in the submission of the employees that the applicants who are holding Permanent Way Inspectors Grade-III should not have been assimilated to a position occupied by employees whose work they were supervising. On this bare fact-situation, one would have thought that they should have had a higher pay than what their



own subordinates got. But, then whatever justification on the part of the railway administration, now that we find the whole thing is before the 5th pay commission which is empowered and given the power to investigate that anomaly, we think it appropriate to leave these matters for consideration by the pay commission to which the applicants have already had access ~~to~~ and we are quite sure they will also press their claims vigorously before the pay commission.

5. It is then pointed out that whatever be the fall out from the pay commission recommendations granting it were to be in favour of the applicants, any material benefit therefrom will flow only from a prospective date which would not satisfy and answer the claim of the applicants who want the betterment of their emoluments should go back to an anterior date. We see justification and force in that submission. In the circumstances, we hold that if the pay commission were to recommend grant of a higher pay slot to the Permanent Way Inspectors vis-a-vis the pay scales to be allowed to the Permanent Way Mistries and Direct Track Maintenance Mistries then as a logical corollary, the railway administration should accept the Permanent Way Inspectors to be a superior cadre and accord them an intermediary pay scales or if that is not possible to allow them a suitable special pay with effect from 1-3-1986 extending to the date on which the new revised pay scales would come into operation on the basis of the Government's decision on the recommendations made by the 5th Central Pay Commission. All the Permanent Way Inspectors Grade-III who were in position as such ~~earlier~~ ^{on} to 1-1-1986 to the date on which they were promoted or retired etc. etc. shall be given all the benefits for the aforesaid duration. With these observations and directions

this application stands disposed off. No costs.

Sd/-
MEMBER(A)

Sd/-
VICE-CHAIRMAN.

np/



TRUE COPY

[Signature]
07/4/95
Section Officer
Central Administrative Tribunal
Bangalore Bench
Bangalore