

CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE BENCH

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

Dated: 2 FEB 1994

APPLICATION NO(s) 542 of 1993.

APPLICANTS: **H.A. Gafuraj**

v/s. RESPONDENTS: **Secretary, Deptt. of Telecom,
New Delhi & Others.**

TO.

Received by
A
2/2/94

1. Sri.M.B.Nargund, Advocate,
No.799, Third Main, 4th Block,
Rajajinagar, Bangalore-10.
2. The Chief General Manager,
Karnataka Telecom Circle,
No.1, Old Madras Road,
Ulsoor, Bangalore-560 008.
3. Sri.M.Vasudeva Rao,
Central Govt. Stng. Counsel,
High Court Bldg, Bangalore-1.

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 20-01-1994.

O/C

for *R. Srinivas*
DEPUTY REGISTRAR
JUDICIAL BRANCHES. 2/2/94

gm*

CENTRAL ADMINISTRATIVE TRIBUNAL

BANGALORE BENCH

ORIGINAL APPLICATION No.542/93.

THURSDAY, THIS THE 20TH DAY OF JANUARY, 1994

SHRI JUSTICE P.K. SHYAMSUNDAR .. VICE CHAIRMAN

SHRI V. RAMAKRISHNAN .. MEMBER (A)

H.A. Gururaj,
S/o. H.S.A. Murthy,
44 years,
Sr. P.A. to General Manager (East),
Bangalore Telecom Dist.,
Bangalore. ... Applicant

(By Advocate Shri M.B. Nargund)

Vs.

1. Union of India represented
by its Secretary,
Telecommunication Department,
Sanchar Bhawan,
New Delhi.
2. The Chairman,
Telecommunication,
Sanchar Bhawan,
New Delhi.
3. The Chief General Manager (Telephones),
Karnataka Circle,
Gandhinagar, Bangalore-9. ... Respondents

(By Advocate Shri M. Vasudeva Rao)
Central Govt. Standing Counsel.

O R D E R

Shri Justice P.K. Shyamsundar, Vice Chairman.

Heard. We admit this application although there is some delay in the filing of the same. The applicant has also sought for condonation of delay and has by means of a separate application filed for that purpose supported by an affidavit points out interalia that for more than one year following the quashing of the order on the basis of which he seeks further relief he had been continuously

knocking at the doors of the administration by making repeated representations month after month and only when it became apparent to him, his representations meant nothing more than knocking on a stone wall he became wise and thereafter came to this Tribunal seeking that direction be given to the department asking them to consolidate his promotion made from an earlier date in a tangible fashion by giving him the monetary benefits that flows from an order back tracking his promotion to an earlier date admittedly on the ground that department was responsible for not giving the applicant a promotion when it was really due. Upon such circumstances, we think it appropriate to condone the delay whatever delay there is in filing this application by treating the same as having been filed in time, dispose off this application on its merits as follows:

2. Admittedly, the applicant who was due for promotion for Gr.I Stenographer in the Telecom Department way back in the year 1988 itself did not get his promotion until the impugned order of promotion made at Annexure-A6 dated 25.9.1991. It is on that day he was promoted to Gr.I notionally with effect from 1.7.1988, interalia denying the emoluments to which he was entitled to though curiously monetary benefits were claimed.

The order:

*Department of Telecommunications
Office of the General Manager, Telecom
Bangalore Telecom District, Bangalore.

AP/L8/GRP A&B/PAY FIX/91-92/11 Dt.Bg. the 25.9.91

Sub: Promotion & Postings in the Grade
of Senior Personal Assistant in
Grp B Gazetted-Fixation of pay-
regarding.

As per the orders contained in Telecom Commission
Memo No.372-18/89-STGI II dated 16.4.90 read with Telecom

Commission letter of even No. dated 3.12.90, Sri H.A. Gururaj, Gr.II stenographer has been promoted to the Grade of GCS GrpB gazetted notionally w.e.f. 1.7.88. Sri H.A. Gururaj has assumed charge as Senior PA w.e.f. 3.5.91 as per the charge report furnished by him. Consequent of the above the pay of the officer is regulated as below.

Date of effect	Gr.II Steno 1400-40-1800- EB-50-2300	Gr.I Steno 2000-60-2300- EB-75-3200	DNI	Remarks
1.7.88	1850	2000	1.12.88	Officialised as Sr.P.A.
1.12.88		2060		at the stage
1.12.89		2120		of Rs.2000
1.12.90		2180		from 4.12.87 to 2.6.88 and 6.6.88 to 30.6.88.

The officer is entitled to the monetary benefit accruing out of the above pay fixation only w.e.f. 3.5.91 the date of assumption of charge.

Sd/-

Accounts Officer Bg Telecom Dist.

Copy to : 1. Sri H.A. Gururaj, Sr.p.A. 2. P.E. Section"

As could be seen at the end of the order, while granting promotion to him on an earlier date on 1.7.1988, he was denied the monetary benefit arising from such retrospective promotion by granting him monetary benefits arising by limiting the pay fixation as mentioned in the order, with effect from 3.5.1991 being the date of assumption of the higher office.

3. This order itself has come to be passed as could be seen from Annexure-A2 dated 16.4.1990 suo-moto by the department on its own, after it became aware that a mistake was committed in the compilation of the seniority list as a result of which those who were senior were down graded and the juniors brought up. On realising the ^{le-go} mistake, steps were taken to rectify the seniority list by placing all the personnel in an appropriate position giving interalia a direction that those juniors who were

wrongly promoted by treating them as seniors had to be reverted. Pursuant to the same, some three years from the date on which the applicant was due for consideration for promotion, was actually considered and promoted on 20.11.91 under Annexure-A6 and given the higher pay from 3.5.1991. If he had been actually promoted in his own turn when the occasion arose in the year 1988, he would have actually had ^{the} benefit of the higher salary and emoluments from that date.

4. It seems to us that in a case like this, it was not appropriate and just for the department to have denied the rightful claim of the applicant for higher salary from the date on which the department itself realised that he should have been promoted. The department has been fair enough to admit its own shortcomings in compiling the seniority list and taking steps to rectify the same under Annexure-A2 to which reference has been made. Even while he was holding the lower post and drawing a lower salary he was a Stenographer and after promotion he is Stenographer Gr.I which involves same proficiency. May be, if as Stenographer Gr.I, he becomes attached to a higher officer. But, all that is no justification to deny the higher salary. At any rate, it could not be denied on the ground that he did not work so as to justify the receipt of a higher salary. But, if the work he was doing before promotion is one and the same as work involved in his higher post it would then be no justification to deny him the higher salary from the date on which he had been actually promoted, although, notionally. Therefore, it appears to us that the denial of drawal of higher salary with effect from 1.7.1988, is clearly unjustified and on the contrary he would be eligible to draw higher salary with effect from 1.7.1988, the cut off date on the basis of which his promotion to higher Gr.I Stenographer has been regulated.

5. We, therefore, direct the department to draw and pay all the arrears due to him in the higher pay scale with effect from 1.7.1988 to 3.5.1991 from which date he has been authorised to draw the higher salary. The necessary computation and payment of arrears should be done within three months from the date of receipt of a copy of this order. No order as to costs.

6. Send a copy of this order to the respondent department for information and necessary action. Before we made this order, the learned standing counsel for the respondent department asked for an adjournment on the ground that he had not received instructions from the department and therefore wanted time. We thought it appropriate not to accede to his request for an adjournment and therefore reject the same.

Sd-
(V. RAMAKRISHNAN)
MEMBER (A)

Sd-
(P.K. SHYAMSUNDAR)
VICE CHAIRMAN

TRUE COPY

psp.

8/c
2/2/94
SECTION OFFICER
CENTRAL ADMINISTRATIVE TRIBUNAL
ADDITIONAL BENCH
BANGALORE