

CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE BENCH

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

Dated: 15 FEB 1994

APPLICATION NO(s) 90 of 1993.

APPLICANTS: P.I. Krishnan Namboodri and five Others. RESPONDENTS: Secretary, M/p. Science and Technology, NDelhi and Others.

TO.

1. Dr.M.S.Nagaraja, Advocate, No.11,
Second Floor, First Cross,
Sujatha Complex, Gandhinagar,
Bangalore-560009.
2. The Director, Southern Circle,
Survey of India, Koramangala II Block,
Sarjapur Road, Bangalore-560034.
3. Sri.M.S.Padmarajaiah, Sr.C.G.S.C.,
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 31-01-1994.

gm*

O/C
Issued on 15.2.94

for *SE Shanhar* 15/2
DEPUTY REGISTRAR
JUDICIAL BRANCHES.

CENTRAL ADMINISTRATIVE TRIBUNAL

BANGALORE BENCH

ORIGINAL APPLICATION NO. 90/1993

THIS THE 31ST DAY OF JANUARY, 1994

Shri V. Ramakrishnan

... Member (A)

Shri A.N. Vujjanaradhya

... Member (J)

1. Shri P.I. Krishnan Namboodri
aged 46 years
S/o Late Narayanan Namboodri
Surveyor, Survey of India,
Bangalore.

2. Shri K.S.K. Subramanyam Setty
aged 46 years
S/o Shri S. Kanthaiah Setty
Surveyor, Survey of India,
Bangalore.

3. Shri A.N. Gurjar
aged 49 years
S/o Late N.V. Gurjar
Surveyor, Survey of India,
Bangalore.

4. Shri K. Anantha Kumar
aged 31 years
S/o Shri K.N. Thimmaiah
Surveyor, Survey of India,
Bangalore.

5. Shri Joseph Sebastian
aged 32 years
S/o Shri N.M. Devasia
Surveyor, Survey of India,
Bangalore.

Shri V. Karuppaswamy
aged 31 years
S/o Shri V. Veilu Muthu Asari,
Surveyor, Survey of India,
Bangalore.

... Applicants

(Advocate by Dr. M.S. Nagaraja)

Vs.

....2/-



67

1. Union of India
represented by
Secretary to Government,
Ministry of Science & Technology,
Technology Bhavan,
New Mehrauli Road,
New Delhi - 110016.
 2. Surveyor General of India,
Hathibarkala Estate,
Dehra Dun - 248001,
Uttar Pradesh.
 3. The Director,
Southern Circle,
Survey of India,
Koramangala II Block,
Sarjapur Road,
Bangalore - 560034.
- ... Respondents

(Advocate by Shri M.S. Padmarajaiah,
Senior Standing Counsel for Central Govt.)

O R D E R

Shri V. Ramakrishnan, Member (A) :

The applicants before us are Surveyors working under the Survey of India. They contend that the revised pay scales given to them on the basis of the recommendation of the Fourth Pay Commission is inadequate and that the respondents should be directed to take a decision to grant higher pay scales to the cadre of Surveyors to which they belong.

2. We have heard Dr. M.S. Nagaraja for the applicants and Shri M.S. Padmarajaiah, learned Senior Standing Counsel for the respondents.

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3. The post of Surveyors carried scales of 205 - 280 attached to Surveyor Grade-II and 210 - 425 attached to Surveyor Grade-I prior to revision of pay scales as per Third Pay Commission's recommendations. There was then also a selection grade for Surveyors which was in the scale of Rs. 325 - 475.

The Third Pay Commission recommended the revised scale of Rs. 425 - 700 to the Surveyors (Ordinary Grade) and the scale of Rs. 550 - 900 to the Selection Grade Surveyors. This was accepted by the Government. Subsequently, the matter was referred to the Arbitration Board and based on the award, Government sanctioned the scale of 425 - 750 instead of the scale of 425 - 700 recommended by the Third Pay Commission to the Surveyors (ordinary grade) among others. The selection grade however remained at the level of 550 - 900. When the matter came up before the Fourth Pay Commission, the Commission had recommended the scale of 1400 - 2600 to the Surveyors. Incidentally, the Fourth Pay Commission recommended the abolition of the Selection Grade as in para 23.10 of their Report. This recommendation was accepted by the Government and it was accordingly implemented.

4. The applicants are aggrieved that they had not been given a pay scale higher than that of 1400 - 2600. The main contention in support of the applicants submitted by Dr. M.S. Nagaraja is that there is no mention in the Report of the Pay Commission that the Commission had reckoned the existence of the Selection Grade of 550 -



....4/-

900 which was available to the Surveyors prior to 1.1.1986! The Commission had gone on the basis of pay scale of 425 - 750 which was admissible to the Surveyors (Ordinary Grade). Dr. Nagaraja stated that there are instances when a higher scale than the corresponding ordinary grade of the pre-revised scale have been given in the case of some departments. He particularly referred to the scales granted to the Secretariat Assistants which was raised to 1640 - 2900 as against the corresponding scale of 1400 - 2600. Also in the case of Telecommunication Junior Engineers the pre-revised scales were 425 - 700 (ordinary grade) and 550 - 900 (Selection Grade) and the Pay Commission had recommended revised scale of 1400 - 2300 and 1640 - 2900 respectively. Government however, revised the scale to 1640 - 2900. He also refers to the case of Inspectors of Central Excise etc. in the pre-revised scale of 425 - 800 and 550 - 900 who got the revised scale of 1640 - 2900 without any Selection Grade. Dr. Nagaraja also states that in some other cases where there was a Selection Grade in the pre-revised scale, the Commission had recommended and the Government had accepted revised scales higher than the corresponding scale of the ordinary grade. In the light of this position, he strongly urges that the Fourth Pay Commission had ignored the fact that the selection grade was in existence in the scale of 550 - 900 for Surveyors while recommending the revised scale.

Dr. Nagaraja also refers to the decision given by the Principal Bench in OA No. 1538/87 by the Central Secretariat Assistants vs. Union of India decided in May 1989

57

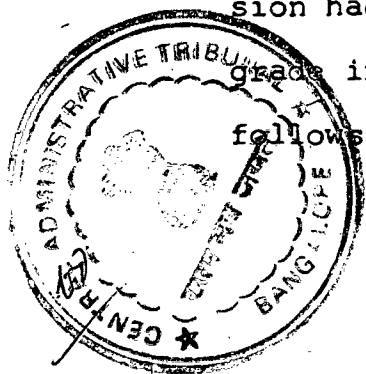
where the Tribunal had come to the conclusion that prima facie, there was anomaly which needed to be rectified by the Anomalies Committee. In this connection, he refers to para 48 of the judgement which reads as follows:

"In this case, we have come to the conclusion that, prima facie, there is an anomaly which can be properly considered by the Respondents as it requires detailed examination. We would normally have quashed the impugned letters dated 1/2 April, 1987 (Annexure-D) and 16th June, 1987 (Annexure-E) but refrain ourselves from doing so only because the persons to whom these letters have been addressed have not been impleaded in this case. Nevertheless, we direct the Respondents to consider this anomaly."

He, therefore, submits that the present dispute is also a fit case for us to hold that there is an anomaly which should be referred to the Anomalies Committee.

5. The learned standing counsel, however, opposes the application and says that adequate justification has not been brought out to grant the higher pay scales to the applicants. According to him, it is not a fit case to be placed before the Anomalies Committee.

6. It is not possible for us at this stage, to say whether the Fourth Pay Commission had reckoned the fact that the Surveyors had a selection grade in the pre-revised scale, while making their recommendations. It is, however, a fact that in para 10.367 which deals with the revision of pay scales to Surveyors etc., the Commission had not referred to the existence of the selection grade in the ^{pre-revised} previous scale. Para 10.367 reads as follows:



"The scales of pay of Division I employees in the ordinary grade of Surveyor, Survey Assistant, Draftsman, Scientific Assistant and Geodetic Computer has recently been revised from Rs. 425 - 700 to Rs. 425 - 750. It has been suggested that there are two other comparable categories, namely, engraver and technical assistant (Map-reproduction) in the scale of Rs. 425 - 700 which should also be given the same scale. We agree and recommend that these two categories of posts may be given the scale of Rs. 1400 - 2600."

7. As regards reference to the Anomalies Committee, the details regarding the setting up of such committee and its ambit of operation are contained in the Government of India, Department of Personnel & Training O.M. No. 19/2/87-JCA dated the 25th January, 1988. It is relevant to refer to the definition of anomaly as brought out in the circular which reads as follows:

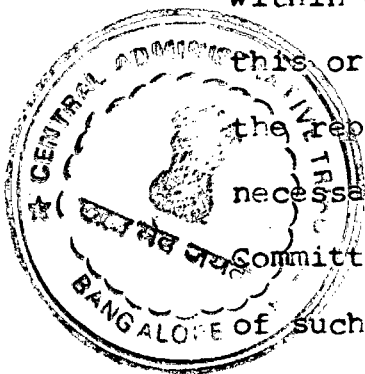
"Setting up of Anomalies Committee to settle the anomalies arising out of the implementation of the IV C.P.C. recommendations. - The undersigned is directed to say that in terms of an agreement with the Staff Side of the National Council, it has been decided that appropriate Anomalies Committees should be set up, consisting of representatives of the Official Side and the Staff Side to settle the anomalies arising out of the implementation of the Fourth Pay Commission's recommendations, subject to the following conditions, namely:-

1. Definition of anomaly. - The anomalies which could be discussed in the Anomalies Committees (both National and Departmental) are those which arise out of fixation of pay in the revised scale, date of increment, exercise of option, fixation of pay of employees who elect the revised scales from the date later than the prescribed date of 1.1.1986, stagnation increment, junior/ senior problems, cases of loss in existing emoluments after re-fixation, etc.

Requests for modifications of the scales of pay recommended by the Pay Commission and accepted by Government on grounds of anomalies based on inter-job and inter-departmental comparisons would normally be outside the purview of the Anomalies Committees. However, exceptional cases of this nature may be brought before the Anomalies Committees. The Anomalies Committee would examine such cases and refer them to the Ministry of Finance for disposal."

Dr. Nagaraja' argues that this is an exceptional case which would merit reference to the Anomalies Committee even though the request is for upgradation of scale of pay, for the reasons he has spelt out.

8. From the arguments advanced by Dr. Nagaraja, as also the fact that there is no reference in the Fourth Pay Commission Report to the selection grade in the pre-revised scale for Surveyors, it would seem that the matter needs to be gone into further so that the Government can come to a well-reasoned decision as to the justification or otherwise for upgrading the scale of the Surveyors keeping in view of the factors already referred to. If the applicants are so advised, they may submit a detailed representation, bringing out the justification for upgradation of the scale and also the exceptional nature of the case which would merit reference to the Anomalies Committee. If such a representation is made within one month from the date of receipt of a copy of this order, the Government will take a final decision on the representation for upgradation of the pay scale (if necessary, after referring the matter to the Anomalies Committee) within eight months from the date of receipt of such representation. With the above observation, the matter is finally disposed off with no order as to costs.



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(A.N. Vujjanaradhya)
Member (J)

SECTION OFFICER
ADMINISTRATIVE TRIBUNAL
ADDITIONAL BENCH
BANGALORE

TCV

(V. Ramakrishnan)
Member (A)