

CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE BENCH

Second Floor,
Commercial Complex,
Indiranagar,
BANGALORE- 560 038.

Dated: 29 NOV 1994

APPLICATION NO: OA 798 of 1994

APPLICANTS:-

C. John Kurty

v/s.

RESPONDENTS:- Chief Commissioner of Income Tax, B'lur & anor.

T.

1. Sri. Ganesh Rao,
Advocate,
No. 399, 1st floor, 65th cross
5th Block, Rajaji Nagar,
Bangalore - 10.

2. Sri. M. S. Padmajaiah
Sri. C. G. S. C
High Court Bldg,
Bangalore - 1

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

--xx--

Please find enclosed herewith a copy of the ORDER/
~~STAY ORDER/INTERIM ORDER~~ passed by this Tribunal in the above
mentioned application(s) on 25th November 1994

Issued on 29/11/94
Gat

for DEPUTY REGISTRAR
JUDICIAL BRANCHES.

am*

CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE BENCH

O.A. NO.798/94

FRIDAY THIS THE TWENTY FIFTH DAY OF NOVEMBER 1994

Shri A.N.Vujjanaradhya ... Member [J]

C. John Kutty,
Income-tax Officer, Ward 1[8],
Unity Bldgs Annexe,
Mission Road,
Bangalore.

... Applicant

[By Advocate Shri Ganesh Rao]

v.

1. The Chief Commissioner of
Income tax, Karnataka,
Central Revenue Buildings,
Bangalore.1

2. The Secretary,
Central Board of Direct Taxes,
New Delhi.

[By Advocate Shri M.S. Padmarajaiah ...
Senior Standing Counsel for Central Government]

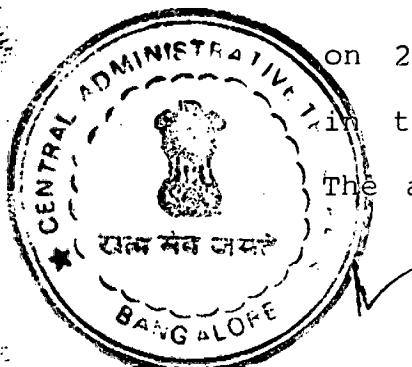
O R D E R

Shri A.N. Vujjanaradhya, Member [J]

1. Aggrieved by the refusal to step up the pay of the applicant at par with that of his junior, the applicant has made this application under Section 19 of the Administrative Tribunals Act, 1985.

2. Briefly stated the case of the applicant is as below:

The applicant joined the department on 15.7.1963 while his junior one Sri B.S. Sathyanarayana, joined on 20.11.1963. Both were promoted as Tax Assistant in the common order and their pay fixed at Rs.455. The applicant had passed the departmental examination



for Inspectors in the year 1971 while the junior had passed in the year 1980. The junior was promoted as Head Clerk on 22.7.1982 whereas the applicant was promoted as Income Tax Inspector on 20.12.1984. The junior was promoted as Inspector on 5.5.1988 on account of which the junior who drawing lesser pay at all stages got two advance increments when he got qualified as Inspector on 22.7.1980 and his pay was Rs.515 while the pay of the applicant was Rs.485. Because of the anomaly the applicant made a representation to step up his pay on par with his junior as per instructions contained in the Circular dated 13.5.1992 which was declined. Hence the application seekig the following reliefs:

- i. Direct the respondents to step up the applicant's pay to Rs.515 in the pre-revised scale of pay as on 22.7.1980, which is equal to the pay drawn by the junior as on that date;
- ii. Direct the respondents to regulate the applicant's pay from 22.7.1980 by fixing it at Rs.515 in the pre-revised scale and to correspondingly step up the pay on the subsequent incremental dates;
- iii. Direct the respondents to draw and disburse the arrears of pay after stepping from w.e.f. 22.7.1980.

3. The respondents oppose the application contending that conditions incorporated in the circular dated 13.5.1992 [Annexure A-4] are not satisfied so far as the applicant is concerned and the junior who was drawing more pay at all levels is indicative of the fact that the applicant is not entitled for the reliefs sought by him. Besides as the applicant has not challenged Annexure A-4 that is the conditions stipulated

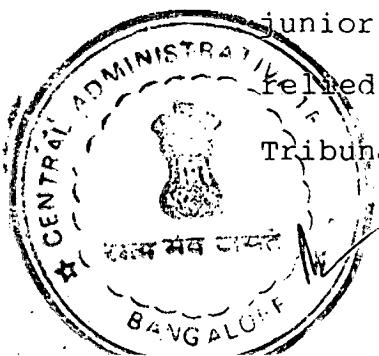
therein, he is not entitled to stepping up of pay sought.

4. I have heard Shri Ganesh Rao, learned counsel for the applicant and Shri M.S. Padmarajaiah, learned Senior Standing Counsel for the respondents.

5. Shri Ganesh Rao referred me to the comparative table of the salary drawn by the applicant as also his junior Sathyanarayana made available at Annexure A-3 and contended that when the junior was getting lesser pay then the applicant, and when the anomaly occurred because of his promotion as Income Tax Inspector, the applicant is entitled to get his pay stepped up as held in the decision of the Ernakula Bench of this tribunal in the case of K. KRISHNA PILLAI. However, it is not disputed that the applicant did not satisfy the conditions stipulated in the Circular dated 13.5.1992. Those conditions are -

- [a] the compared junior should have been qualified fully for the post of Inspector at the time when the senior is promoted directly as Inspector; and
- [b] the junior should have been promoted in the intermediate grades in the intervening period.

The applicant has not challenged this circular at Annexure A-4 and, therefore, the condition stipulated therein are required to be satisfied by the applicant while seeking stepping up of his pay on par with his junior. No doubt the learned counsel has strongly relied on the decision of the Ernakulam Bench of this Tribunal in the case of K. KRISHNA PILLAI, which is



ನ್ಯಾಯ ವಿಧಾನ
ಬ್ಯಾಂಗಳೂರು
ನ್ಯಾಯ ವಿಧಾನ
ಬ್ಯಾಂಗಳೂರು

reported in the Swamy's News and produced by the learned counsel for the applicant. Therein it was observed that in all cases except where reduction is by way of disciplinary proceedings a senior will be entitled to have his pay stepped up to the level of the pay received by his junior due to a fortuitous circumstances. This is a sweeping observation made in the order and there is no reference to any of the conditions governing the stepping up of the pay. Therefore, in my opinion, the decision on which the learned counsel for the applicant has placed reliance cannot be made applicable to the facts of the present case. The applicant has not satisfied with the conditions stipulated in Annexure A-4. Besides the virus of conditions in Annexure A-4 are not challenged. Therefore, the applicant is not entitled to the reliefs sought in this application. Consequently the application fails and the same is hereby dismissed with no order as to costs.



Sd/-

25/11/94

MEMBER [J]

TRUE COPY

29/11/94
Section Officer
Central Administrative Tribunal
Bangalore Bench
Bangalore