

CENTRAL ADMINISTRATIVE TRIBUNAL

BANGALORE BENCH

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

Dated: - 2. 1994

APPLICATION NUMBER: 1006/93 and 285 to 299/94

APPLICANTS:

Sri. K. Sree Rama Murthy and 15 Others / Secretary, Deptt of Telecommunications
To. New Delhi and Others.

RESPONDENTS:

1. Sri. Harikrishna S. Holla, Advocate,
no. 34/3, 2nd floor, Ganesh Building,
5th Main, Gandhinagar, Bangalore-560009.
2. Sri. M. S. Padmarajaiah,
Sr. C. G. S. C. High Court Bldg,
Bangalore 560001.

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

Please find enclosed herewith a copy of the ORDER/
~~STAY ORDER/INTERIM ORDER/~~, passed by this Tribunal in the above
mentioned application(s) on 19-07-94

Issued on

31/8/94

Re:

of

S. Shaukat 298
for DEPUTY REGISTRAR
JUDICIAL BRANCHES.

CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE BENCH

O.A.NO.1006/93 AND 285 TO 299/94

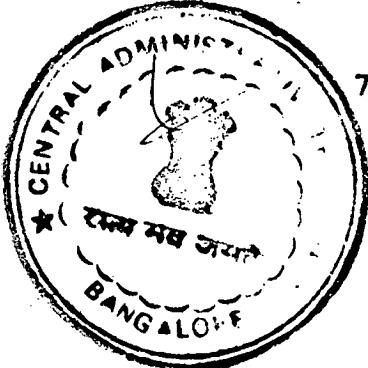
TUESDAY THIS THE NINETEENTH DAY OF JULY 1994

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

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

1. K. Sree Rama Murthy,
S/o late K. Lakshmaiah,
Aged 45 years,
Senior Accounts Officer [TA],
Office of the CGMT,
Karnataka Circle,
Bangalore-9.
2. B.G. Kanavi,
S/o Late G.B. Kanavi,
Aged 48 years,
Senior Accounts officer [TR],
Office of TDM, Hubli Telecom
District, Hubli.
3. Shankar Hasyagar,
S/o late Venkataramana,
Age 49 years,
Senior Accounts Officer,
Office of Director Telecom
Bangalore Area,
Bangalore.
4. M. Govinda Rajan,
S/o late P. Muniswamy Naidu,
Age 58 years,
Senior Accounts Officer,
Office of CMBTD, Bangalore.
5. K. Damodar Bhat,
S/o late K. Madhava Bhat,
Age 47 years,
Senior Accounts Officer [IC],
Office of CGMT, Karnataka
Circle, Bangalore.
6. H.C. Nagaraja,
Age 54 years,
Senior Accounts officer,
Office of TDM, Mysore
Telecom District, Mysore.
7. G. Narasimha Murthy,
S/o late G. Ramasastri,
Age 53 years,
Accounts Officer, O/o B.M.
Bangalore Telecom District,
Bangalore.

... Applicants



8. Mohan M. Naik,
S/o late M.D. Naik,
Age 46 years,
Senior Accounts Officer,
Office of GMT,
Hubli Area, Hubli.
9. D.G. Kurlageri,
S/o late G.V. Kurlageri,
Age 48 years,
Senior Accounts Officer [Cash],
Office of TDM, Hubli Telecom
Area, Hubli.
10. M.A.K. Kanti Math,
S/o late Andanayya,
Age 60 years,
Accounts Officer,
O/o Executive Engineer,
Telecom Civil Division,
Hubli.
11. P.K. Prasad,
S/o late Saranna Goud
Aged 48 years,
Senior Accounts Officer [TR],
Office of TDE Davanagere,
Telecom District, Davanagere.
12. P. Ramanatha,
S/o late P. Marthappa Shenoy,
Age 52 years,
Senior Accounts Officer [IC],
Office of CGMT, Karnataka
Circle, Bangalore-9.
13. K.V. Pai,
S/o late K.P. Pai,
Aged 50 years,
Senior Accounts Officer,
Office of CGMT,
Karnataka Circle, Bangalore.
14. R.S. Rama Sastry,
S/o R.S. Subba Sastry,
Aged about 52 years,
Accounts Officer,
O/o Director Maintenance,
25, Infantry Road,
STSR, Bangalore.
15. M. Chandrasekhar,
S/o late M.R. Sastry,
Senior Accounts Officer [FA],
Office of CGMT, Karnataka
Circle, Bangalore-9.

 ... Applicants

16. N.R. Janakiraman,
S/o late M.D. Naik,
Aged 49 years,
Accounts Officer,
O/o Executive Engineer,
Telecom Civil Division,
Hubli.

... Applicants

[By Advocate Shri H.K.S. Holla]

v.

1. Ministry of Communications
through Secretary,
Dept. of Telecommunications,
Sanchar Bhavan,
New Delhi-110 001.

2. Dept. of Telecommunications
through Member [Finance],
Sanchar Bhavan,
New Delhi-110 001.

3. Dept of Personnel & Training
through Secretary,
Govt. of India,
North Block,
New Delhi-110 001.

4. Dept of Telecommunications,
through Asst. Director General [TE]
Sanchar Bhavan,
New Delhi.

5. The Chief General Manager,
Telecom, Bangalore.

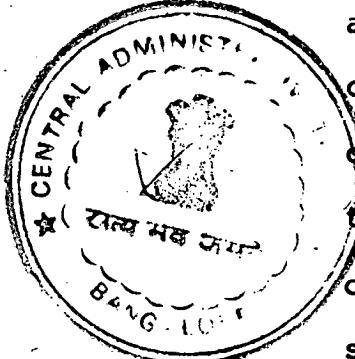
... Respondents

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

O R D E R

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

1. Heard. Admit. The applicants herein are Accounts Officers ['AO' for short] in Telecom Department and are presently working in Karnataka Circle. The applicants draw their pay in the present cadre in the scale of Rs.2375-75-3200-EB-100-3500. In the said pay scale they claim entitlement to a higher monetary benefits on the ground that many of their juniors in the cadre, some of whom have been referred to in the application,



are drawing higher salary in the same cadre from earlier dates. Naturally this has resulted in considerable heart burning and hence these applications seeking for a declaration of their entitlement to fixation of higher emoluments so as to be on par with their juniors.

2. It is pointed out that denial of higher pay packet to them admittedly senior to many others was patently unjustified and has remained unremedied despite representations made to the department in this behalf.

3. It is common ground that the applicants ~~fixed~~ picked up the gauntlet and set the ball in motion for gaining parity with their juniors somewhere in the year 1993 although the favourable treatment to the juniors started some two or three years earlier, presumably after the judgment of the Hyderabad Bench of this Tribunal in 1992[10] ATC 569 LALITHA AND OTHERS V. UNION OF INDIA AND OTHERS.

4. Surprisingly when they moved the Government relying upon the judgment of the Hyderabad Bench supra they were endorsed that such treatment could not be afforded to them because the Department of Personnel and Training which had been consulted in this regard had clarified that the benefits of the judgment cannot be extended to other similarly placed Government servants. The above statement is excerpted from the Government letter at Annexure B-1 dated 31.5.1993.

Assailing the said endorsement these applicants have instituted proceedings for quashing the above endorsement and soliciting further relief of directing the Government to step up the pay of the applicants on par with those of their juniors.

5. The Government has put forward a counter statement in which it is not denied that some of the juniors of the applicants got the benefit of a higher pay scale in the cadre of AO but it is contended that the higher pay packet to the juniors was the result of some local arrangement through ad hoc promotions, etc., and, therefore, the advantage of such fortuitous benefits cannot be relied upon to their advantage. It is pointed out that the accretion of benefits being localised has been in vogue for quite sometime and, therefore, the applicants cannot make an issue out of it now. It is further argued that these applications are hit by limitation and laches. The anomalous situation creeping in with juniors taking away more pay than the seniors in the same cadre is not merely not denied but it is treated as a necessary exception. We are told that this kind of practice is going on for a long time and that an exception to the same is being raised somewhat belatedly and in consequence the suffering seniors should continue to suffer because of their own lethargy in not being astute enough not to have asked for what was definitely their entitment.

6. We find no reason or logic in this argument much

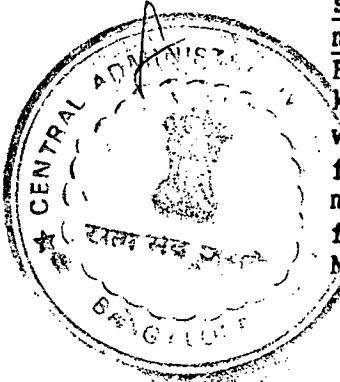


less any grace, the argument coming as it does from the almighty Union Government. We need hardly refer to the principle enshrined in the Constitution that 'likes should be treated alike' and the state should not practice any discrimination. This is the sum and substance of Article 14 of the Constitution. For people enlisted into an All India cadre with liability to serve anywhere in India the State should least of all deny any advantage or benefit that had been extended to other persons in the same cadre.

7. The cadre of the AO being one and the same except for pay difference marked by drawal of increments on the basis of longer length of service, otherwise pay should be in total parity with one another. Merely because somebody working in Karnataka or Gujarat as the case may be gets some fortuitous local promotion as a result of which he gets a higher pay scale the other person working elsewhere, say, in Maharashtra or Assam where such promotional chances may be for a variety of reasons, are bleak should not, however, entail the onset of this kind of disparity we are noticing in this case. It is to remedy such a situation that FR 22C is pressed into service. It is a rule which is an old one and we find it is operated some time to the benefit of somebody but not operated at all when it is well warranted and as most apparent and obvious in a given case. These are cases in which FR 22C should have been applied and the senior given

the benefit of higher pay scale but not merely that is not done in the present case but it is sought to be denied on technicalities such as delay, laches, all of which do not warrant any attention at all. Due to the circumstance of one man being placed in a particular State or Circle, the other being placed in a different State or different circle, what befalls ~~for~~ one is generally not known to the other situated at a distance and communication inter-se being not good very often results in people suffering injustice and inequity without any complaint. But then Government should not take advantage of that situation. This is an aspect which is highlighted in the case of INDERPAL YADAV V. UNION OF INDIA reported in 1985 SCC [L&S] 527. We invite the attention to the following observation found at page 530 which reads--

"There is another area where discrimination is likely to rear its ugly head. These workmen come from the lowest grade of railway service. They can ill afford to rush to Court. Their Federations have hardly been of any assistance. They had individually to collect money and rush to court which in case of some may be beyond their reach. Therefore, some of the retrenched workmen failed to knock at the doors of the court of justice because these doors do not open unless huge expenses are incurred. Choice in such a situation, even without crystal gazing is between incurring expenses for a litigation with uncertain outcome and hunger from day to day. It is a Hobson's choice. Therefore, those would could not come to the court need not be at a comparative disadvantage to those who rushed in here. If they are otherwise similarly situated, they are entitled to similar treatment, if not by anyone else at the hands of this court. Burdened by all these relevant considerations and keeping in view all the aspects of the matter, we would modify part 5.1[a][i] by modifying the date from January 1, 1984 to January 1, 1981. With this modification and consequent rescheduling in absorption from that date onward, the scheme framed by Railway Ministry is accepted and a direction is given that



it must be implemented by recasting the stages consistent with the change in the date as herein directed.

6. To avoid violation of Article 14, the scientific and equitable way of implementing the scheme is for the Railway Administration to prepare, a list of project casual labour with reference to each division of each railway and then start absorbing those with the longest service. If in the process any adjustments are necessary, the same must be done. ..." [emphasis supplied]

We respectfully follow the observations referred to supra and on the basis thereof reject the contention based on delay and laches as pointed out earlier. Otherwise there is no other objection ~~is~~ taken to deny relief to the applicants. In view of the foregoing the applicants are entitled to stepping up of the pay in the cadre of AO on par with their immediate juniors who stand named in the application. Accordingly we direct the respondents to step up the pay of the applicants at par with their juniors. The financial benefits are, however, restricted to three years prior to the date of filing of the application. This direction shall be carried out within a period of three months from the date of receipt of a copy of this order. No costs.



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MEMBER (A)

VICE-CHAIRMAN

S. Shrivastava

SECTION OFFICER

CENTRAL ADMINISTRATIVE TRIBUNAL

ADDITIONAL BENCH

BANGALORE

298

CENTRAL ADMINISTRATIVE TRIBUNAL

BANGALORE BENCH

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

Dated: 16 NOV 1994

APPLICATION NO: MA 497/94 (in OA 1086/93

APPLICANTS:-

v/s.

Seey, M/o Communication & Posts
& 285 to 299/94.)

RESPONDENTS:- Sri. K. Sree Ramu Murthy

To

1. Sri M. V. Rao,
Adv. C. G. Sc.
High Court Bldg
Bangalore-1
2. Sri H. K. S. Halle
Advocate
34/3, Ganesh Bldg,
11th floor, 5th Main,
Gandhinagar,
Bangalore - 560 007.

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

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~~STAY ORDER/INTERIM ORDER~~ Please find enclosed herewith a copy of the ORDER/
passed by this Tribunal in the above
mentioned application(s) on 11/11/1994

Issued on

16/11/94 R

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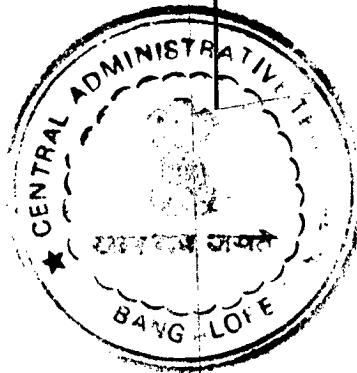
for DEPUTY REGISTRAR
JUDICIAL BRANCHES.

In the Central Administrative Tribunal
Bangalore Bench
Bangalore

MA No:- 497/94
In Original Application No. 1006/93 & 285-299/ of 1994.

ORDER SHEET (contd)

Date	Office Notes	Orders of Tribunal
		<p>MA No:- 497/94 11-11-94 Heard Shri M.V.Rao On M.A. 497/94. Shri H.K.S. Malla to whom a copy of the M.P. has been made available under Certificate of Positioin is not present although it is now 12.45 pm. Respondent allowed extension of time by 3 months from 5.11.94.</p>



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16/11/94
Section Officer
Central Administrative Tribunal
Bangalore Bench
Bangalore