

CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE BENCH

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

Dated:- 27 APR 1994

APPLICATION NUMBER: 10/94 and 674 to 735/94

APPLICANTS:

RESPONDENTS:

R. Sarvanam & others vs. Chief Post Master General
To. Karnataka Circle
Bangalore.

- 1) Shri R. Hari, Advocate
No. 4, Cambridge Road I Cross.
Ulsoor, Bangalore-560 008.
- 2) The Chief Post Master General.
Karnataka Circle, Palace Road,
Bangalore
- 3) Shri M.S. Padmarajaiah,
Senior Standing Counsel for
Central Govt. High Court Buildings,
Bangalore-1.

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 13-4-94

Issued on
27/4/94
R.

ofc

for DEPUTY REGISTRAR
JUDICIAL BRANCHES. 27/4

CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE BENCH, BANGALORE

ORIGINAL APPLICATION NO.10/94 & 674 TO 735/94

WEDNESDAY THIS THE THIRTEENTH DAY OF APRIL, 1994

MR. JUSTICE P.K. SHYAMSUNDAR VICE CHAIRMAN

MR. T.V. RAMANAN

MEMBER (A)

1. R. Saravanam
2. G. Keshavan
3. K. Arumugham
4. K.N. Perumal
5. Subba Rao
6. Md. Akbar Sheriff
7. B. Vasudevamurthy
8. S. Ramalingam
9. C.A. Srinivasamurthy
10. A.M. Rama Rao
11. R. Shanmugham
12. D. Sanjeevaiah
13. Narayanaswamy
14. Nagabhushana Rao
15. N. Rudrappa
16. L. Dhangroji Rao
17. S. Sreenivasan,
18. B.G. Nadoni,
19. M. Narasimhamurthy
20. T. Narasimhamurthy
21. S.R. Satwaji Rao
22. S. Balasundram
23. C.P. Ramachandra
24. S.T. Nagaraja
25. T.V. Chigateri
26. S. Ramasesha
27. T.S. Srikantaiah
28. B. Varahamurthy
29. K.A. Vaze
30. H.N. Jayaram
31. M.K. Gopalakrishnan
32. Munivenkatappa
33. M. Murugeraiah



34. Israel
35. N.P. Subba Setty
36. B.S. Sadasivaiah
37. R. Rangaiah
38. Adaikala Dass
39. Muniyappan
40. V. Ramachandrappa
41. S.K. Ramanna
42. A.G. Ramalingam
43. R. Lakshminarasimhan
44. B.S. Balasubramaniam
45. K. Narayanamurthy Rao
46. K. Savari Dass
47. V. Ramakrishna
48. C.P. Ramasanjivamurthy
49. A.R. Dorairaj
50. S. Venkatachalaiah
51. D.T. Doraiswamy Iyengar
52. M.R. Ambaji Rao
53. K. Basappa
54. B.G. Gopalakrishnan
55. M.S. Ramamurthy
56. S. Muniswamy
57. A. Balachandran
58. F. Devaraj
59. K.G. Srinivasan
60. N. Gopalakrishna Rao
61. M. Ramaiah
62. M. Rajagopal
63. B. Hanumantha Rao

Applicants

(All these applicants are working
as Short Duty Clerks in General
Post Office, Bangalore - 560 001)

(By Advocate Shri R. Hari)

v.

1. The Chief Post Master General
Karnataka Circle, Palace Road,
Bangalore

Respondent

(By learned Standing Counsel)
Shri M.S. Padmarajaiah

ORDER

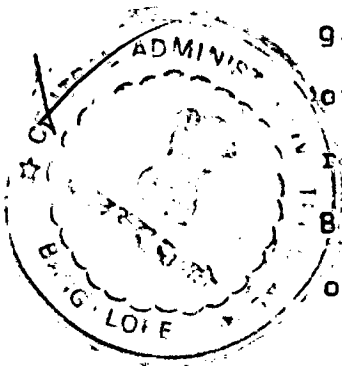
MR. JUSTICE P.K. SHYAMSUNDAR, VICE CHAIRMAN

Heard the learned counsel for the applicant. We have a set of applications by more than 60 and odd pensioners of Postal Department who had the good fortune of being employed after retirement and therefore they receive pensionary benefits along with consequential benefits as well.

Apparently, to relieve the pressure on the Department with particular reference to sorting of mail, a scheme was introduced for giving re-employment to retired postal department officials by engaging them as Mail Sorting Assistants on hourly wages basis @ Rs.4.40 and employed as Mail Sorters, but designated as Short Duty Clerks.

Learned Counsel for the respondent tells us that though they are called Short Duty Clerks, they do the work of mail sorting. It would appear that in the same category there is another species of mail sorters who are paid Rs.8.80 per hour.

What the applicants ask is that they should be treated on par with the other mail sorters and paid Rs.8.80 per hour. In denying such higher wages, it is contended that the applicants have been denied equal treatment before law and they seek direction from this Tribunal directing the department to give them also Rs.8.80 per hour as in the case of other mail sorters. In this connection, strong reliance is placed on a judgment of the Madras Bench of this Tribunal in C.A.No.1028/91 disposed of on 24.4.92 wherein it is pointed out that



disparity in pay fixation between the same category of mail sorters had to be dispensed with and all Mail Sorters be paid similar wages.

2. This application is opposed by the Department who have filed a written statement in which it is maintained that the wage packet of Rs.4.40 per hour is fixed taking into account that people coming from the category of retired officials are appointed as Mail Sorters and therefore get the extra benefit of Rs.4.40 per hour in addition to the pension they get inclusive of DA etc. etc. It is pointed out that in regard to the other category of Mail Sorters, who are in-service people and not retired officials, their wages are fixed at a higher rate of Rs.8.80 per hour. Therefore, the Department says there is a valid distinction between re-employed pensioners of the postal department and reserved trainee pool who are particularly trained for this job and are awaiting permanent absorption. Clearly the above distinction is well-marked and well-founded. A retired official has no claim for re-employment and when re-employment is offered, it is offered on particular terms which takes into account the pensionary benefits which he enjoys and in relation thereto, his present wages are fixed. Apart from the fact that these applicants cannot make a grievance of being not placed in the same track as the regular trained personnel who are yet to find their feet in the department on a permanent basis and who are yet to become permanent employee

of the department whereas these applicants have already served their stint in the department, earn a pension and are again given an opportunity to earn more in addition to their pension clearly give rise to two different classes and, therefore, one cannot claim parity with other. In that view of the matter, we think the argument that payment of different wages to section of persons doing the same work is violative of Articles 14 and 16 of the Constitution has no substance. The above argument fails and is rejected. In this connection, reference is made to a decision of the Madras Bench of the Tribunal in C.A.No.1028/91 disposed of on 24.4.1992 and relied on by the learned counsel for the applicants in support of the contention that an argument similar to the one raised herein was put forward before the Madras Bench of the Tribunal. While that appears to be so, we do not think that we can subscribe to the views of the Madras Bench since it fails to take adequate notice to the distinction between the re-employed pensioners and a new entrant to the department, the distinction we think is held to be telling enough to divide them into two different streams for the purpose of paying different wages. Therefore, we think the decision of the Madras Bench which appears to have missed the essential distinction is per-incuriam.

3. For the above reasons, these applications fail and are dismissed finally with no order as to costs. We, however, think that if the applicants are aggrieved by the Government's decision, it is

still open to them not to work for the Department.

Sd-
[Signature]
(T.V. RAMANAN)
MEMBER (A)

Sd-
(P.K. SHYAMSUNDAR)
VICE CHAIRMAN

TRUE COPY

[Signature]
SECTION OFFICER
CENTRAL ADMINISTRATIVE TRIBUNAL
ADDITIONAL BENCH
BANGALORE
27/4

CENTRAL ADMINISTRATIVE TRIBUNAL

BANGALORE BENCH

REVIEW APPLICATION No.35/1994 IN

ORIGINAL APPLICATION Nos.10 & 674 & 735/94

FRIDAY, THIS THE 17TH DAY OF MARCH, 1994

SHRI JUSTICE P.K. SHYAMSUNDAR .. VICE CHAIRMAN

SHRI T.V. RAMANAN .. MEMBER (A)

Sri R. Saravanam,
aged 62 years,
Short Duty Clerk,
General Post Office,
Bangalore - 560 001 and 62 others

Review Applicants

(By Advocates Shri R. Hari and
Dr. M.S. Nagaraja)

Vs.

The Chief Post Master General,
Karnataka Circle, Bangalore.

Respondent

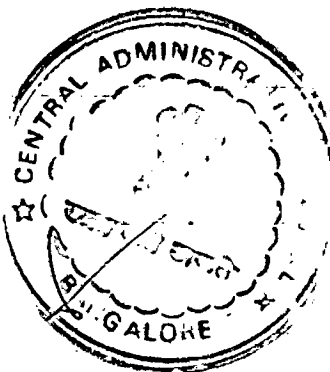
(By Advocate Shri M.S. Padmarejaiah,
Senior Central Govt. Stg. Counsel).

O R D E R

Shri Justice P.K. Shyamsundar, Vice Chairman:

We have heard these applications in which we have made already an order rejecting the Review Applications. But, since a connected matter was pending, we thought we should in all fairness keep them brought up again to see whether they can still be regulated in the light of our views rendered while disposing off the Original Application by which, this Review application arose.

2. From the findings recorded therein, it treats the applicants in the O.A., who are also the review applicants, ^{as} not entitled to the same hourly wage rates as the non pensioners ^{were} entitled to. In the light of that finding, which is recorded after considering the pros and cons of the issue and also taking into account, the



judgment of the Madras Bench of the Tribunal in O.A. No.869/1988, we now find no reason to depart from the order we have already made dismissing the review applications.

3. We see there is a miscellaneous application filed by the review applicants with a plea for referring the matter to a full bench. We do not think it appropriate to refer this matter to a Full bench for the reason that in Madras, the order of that Bench has been implemented and we are told that to be contrary. Our views in the O.A. were really given credence to and the department has passed appropriate orders which, of-course, is not favourable to the applicants. But, that development, we do not think develops such a debacle which requires to be cleared off by a Full Bench. We have considered the decision of the Madras Bench and have dissented from that view holding the same to be per incuriam and we see no occasion for referring the matter to a Full Bench. Prayer for referring the matter to a Full Bench is rejected.

Sc-
(T.V. RAMANAN)
MEMBER (A)

Sc-
(P.K.SHYAMSUNDAR)
VICE CHAIRMAN



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Shyam
10/4/95
Section Officer
Central Administrative Tribunal
Bangalore Bench
Bangalore