

CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE BENCH

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

Dated:- 1 JUL 1994

APPLICATION NUMBER: 13/94 and 36 to 47/94.

APPLICANTS:

Sri. D. Martin and Others vs. Director, GTRE, Bangalore and
I.O.

RESPONDENTS:

① Dr. M.S.Nagaraja, Advocate, No.11, Second floor,
First cross, Sriyatha Complex, Gandhinagar,
Bangalore-560009.

② The Director,
Gas Turbine Research Establishment,
C.V. Raman Nagar, Bangalore-560093.

③ Sri. M. Vasudeva Rao,
Addl. 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 14/15 June 1994.

Issued on
11/7/94 of
R.

Sc. Shanthar
for DEPUTY REGISTRAR
JUDICIAL BRANCHES. 117

CENTRAL ADMINISTRATIVE TRIBUNAL

BANGALORE BENCH

ORIGINAL APPLICATIONS No.13/94 &
36 to 47/94

TUESDAY, THIS THE 14TH DAY OF JUNE, 1994

SHRI V. RAMAKRISHNAN .. MEMBER (A)

SHRI A.N.VUJJANARADHYA .. MEMBER (J)

1. Sri D. Martin,
S/o R.A. Dase,
No.5, Seppings Road,
4th Cross,
Bangalore-560 001.
2. Sri D.R. Brij,.
S/o Sri Rama Rao Birje,
Sultan Palya,
R.T.Nagar P.O.
Bangalore-560 032.
3. Sri C.S. Balakrishna Raju,
S/o Sri C. Srinivasa Raju,
C2/07, DRDO Township,
C.V. Ramen Nagar,
Bangalore-560 093.
4. Sri C. Narayanan Kutty,
S/o Sri M.K.N. Nair,
21, 116, S.N. Pura,
S.R. Pura, Bangalore.
5. Sri T.M. Domingo,
S/o Sri T.F.X. Domingo,
43, 15th Cross, 100 Feet Road,
IV Phase, J.P. Nagar,
Bangalore-560 078.
6. Sri P. Bhoopalan,
S/o Sri Packri Swamy,
No.3, Kuvempu Road, I Cross,
Udayanagar, Dooravani Nagar P.O.,
Bangalore-560 016.
7. Sri C. Varkey,
S/o Sri Thomas Varkey,
No.30, Suman, Malleshpalyayam Extn.
New Thippasandra Post,
Bangalore - 560075.
8. Sri K. Kadirvalu,
S/o Sri R. Kuppuswamy,
No.26, New Byappanahalli Extn.,
Old Madras Road, Bangalore-560 038.

... Applicants



9. Sri V.R. Chavan,
Aged about 46 years,
S/o. Sri B.C. Venkoba Rao Chavan,
C1/14, D.R.D.O. Township,
C.V.Raman Nagar, Bangalore-560 093.

10. Sri K.M. John,
Aged about 46 years,
S/o Sri Varghese Methai,
6th A Cross, I Main, Vinayakanagar,
Annandra Palya, Bangalore-560 017.

11. Sri Gundu Rao N.,
Aged about 48 years,
S/o B. Narayappa,
21/22, Vaishnavi, I Cross,
Judicial Layout, Sanjaya Nagar,
Bangalore - 560 094.

12. Sri M.S. Shivananda Murthy,
Aged 51 years,
S/o Late Sri M. Siddappa,
No.159, H.M.T. Main Road,
Mathikere, Bangalore - 560 054.

13. Sri Vishakanta,
Aged 50 years,
S/o Sri Ramaiah,
No.35, Metashé Halli,
R.T. Nagar, Bangalore - 560 032.

... Applicants

(By Advocate Dr. M.S. Nagaraja)

Vs.

1. The Director,
Gas Turbine Research Establishment,
Bangalore - 560 093.

2. The Director General,
Research & Development Organisation,
Ministry of Defence, D.M.Q. P.O.,
New Delhi.

3. The Union of India,
represented by the Secretary to
the Ministry of Defence,
Dept. of Defence Research & Development,
New Delhi - 110 011.

... Respondents

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

ORDER

Shri V. Ramakrishnan, Member (A):

The applicants in this case are aggrieved by the fact that

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ORIGINAL APPLICATIONS No.13/94 &
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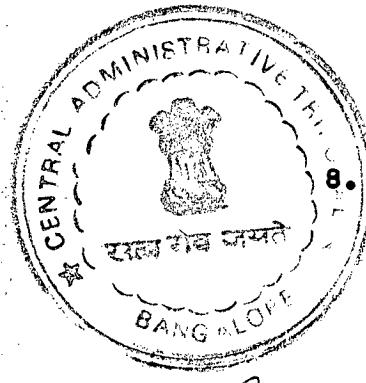
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(By Advocate Dr. M.S. Nagaraja)

Vs.

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Bangalore - 560 093.

2. The Director General,
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Ministry of Defence, D.H.Q. P.O.,
New Delhi.

3. The Union of India,
represented by the Secretary to
the Ministry of Defence,
Dept. of Defence Research & Development,
New Delhi - 110 011. ... Respondents

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

ORDER

Shri V. Ramakrishnan, Member (A):

The applicants in this case are aggrieved by the fact that

they are being given less pay on their appointment as Chargemen Gr.II than that of their junior Shri Radhakrishnan. They have prayed for stepping up of their pay on par with Shri Radhakrishnan.

2. The facts of the case are as follows:

The applicants had joined the Gas Turbine Research Establishment of the D.R.D.O., Bangalore, as Tradesmen on various dates. From the level of Tradesmen A in the pre-revised scale of Rs.380-560/- they were appointed as Mastercraftsmen in the pre-revised scale of Rs.425-640/- and have since been appointed as Chargemen Gr.II with effect from 14.12.1990. They are aggrieved by the fact that their junior Shri Radhakrishnan has been given higher pay at the level of Chargemen Gr.II even though he is admittedly junior to them both at the level of Tradesmen A and also as Mastercraftsmen. The cadre of Mastercraftsmen was in the nature of ex-cadre posts as initially this cadre did not envisage any promotional opportunities. The department also had issued instructions that Tradesmen A/Highly Skilled Grade II (H.S.Gr.II) appointed to the grade of Mastercraftsmen shall continue to be borne on the seniority of Tradesmen A/H.S.Gr.I and their seniority will remain unaffected by their appointment to the grade of Mastercraftsmen nor will there be any separate seniority list of Mastercraftsmen vide the letter dated 19.11.1984 from the R&D Headquarters. Considering that the cadre of Mastercraftsmen was a dead end, the department went into the matter and decided to redesignate the post of Mastercraftsmen to that of Chargeman Gr.II for opening up further promotional opportunities. The sanction of the Govt. for such redesignation was issued by the Ministry of Defence vide their letter dated 13.2.1991 (enclosed as Annexure-A1 to the reply statement). This letter says this redesignation shall take effect from 14.12.1990 except in the case of those Mastercraftsmen who are junior to some others in the level of Tradesman A who have not been appointed as Mastercraftsmen. In that



case, the redesignation of such Mastercraftsmen who were junior in the seniority roll of Tradesman A as on 14.12.1990 shall take effect from the date their immediate senior Tradesman A is promoted to the post of Chargeman Gr.II. The applicants who were functioning as Mastercraftsmen were redesignated as Chargeman Gr.II with effect from 14.12.1990. In accordance with the instructions contained in the letter dated 14.12.1990 referred to supra, their pay was fixed in terms of F.R. 22(e)(2). In other words, they continued to draw the same pay which they were drawing as Mastercraftsmen. The applicants contend that Shri Radhakrishnan who also was functioning as Mastercraftsman and who was considered for appointment as Chargeman Gr.II on 17.12.1990 has got his pay fixed in terms of F.R.22(e)(1). Shri Radhakrishnan's pay as on 16.12.1990 as Mastercraftsman was Rs.1760/- and in view of his option, his pay on appointment as Chargeman Gr.II as on 17.12.1990 was fixed at Rs.1800/- and he was given on 1.5.91, (the date of increment ^{in the lower post} as Mastercraftsman) the pay of Rs.1900/-. All the applicants were drawing Rs.1800/- as Mastercraftsmen in December, 1990, and their pay got fixed as on 14.12.1990 at the same stage and on the date of their next increment which ranged from April, 1991 to October, 1991, their pay was raised to Rs.1850/-. The applicants contend that if Shri Radhakrishnan could be given the benefit of pay fixation under FR 22(e)(1) from the level of Mastercraftsman on his appointment as Chargeman Gr.II, it will be discriminatory to deny them the same benefit. They have, therefore, prayed that their pay should be stepped up to be on par with that of Shri Radhakrishnan.

3. We have heard Dr. M.S. Nagareja for the applicants and Shri M.V. Rao, for the respondents. We have also gone through the proceedings of the D.P.C. meeting held on 17.12.1990 and the Review D.P.C. meeting held on 26.3.1991 as also the service book of Shri Radhakrishnan.

4. From the proceedings of the D.P.C. meeting held on 17.12.1990, it is seen that the D.P.C. had recommended for "Promotion" as Chargeman II in respect of applicants 1 to 5 besides Shri Radhakrishnan. In the Review D.P.C. meeting held on 26.3.1991, the promotion of applicants 1 to 5 were cancelled for the reason that appointment as Chargeman II from the level of Mastercraftsman is not in the nature of promotion, but is only a redesignation as per Ministry of Defence letter dated 13.2.1991 referred to supra. However, the applicants' 1 to 5 appointment as Chargeman II was left undisturbed. Applicants 6 to 13 who were Mastercraftsmen got themselves redesignated as Chargeman II even though the first D.P.C. held on 17.12.1990 did not consider their cases for promotion as Chargeman II.

5. The post of Mastercraftsmen is in the revised scale of Rs.1400-40-1800-E8-50-2300/- which is identical to that of Chargeman Gr.II. As such, the instructions contained in the letter dated 13.2.1993 that the pay of such Mastercraftsmen who are now redesignated as Chargeman II should be fixed in terms of FR 22(a)(2) is quite logical. We are however somewhat ~~misplaced~~ at the fact that Shri Radhakrishnan who was also a Mastercraftsman has got his pay refixed under FR 22(a)(1) on his appointment as Chargeman II. The department had not applied the provisions of FR 22(a)(1) in terms of the presumptive pay of Radhakrishnan at the level of Tradesman A, but had taken into account the pay drawn by him as Mastercraftsman and dealt his case as one of promotion as Chargeman II. The justification given by the department for this differential treatment is that Shri Radhakrishnan who belongs to S.C. was promoted as Chargeman II with effect from 17.12.1990, against a reserved vacancy of Chargeman II, even though he was comparatively junior in the level of Tradesman A,



The department further argues that his placement as Chargeman II was treated as promotion and he was given the pay fixation benefits under FR 22(a)(1). To our query as to how appointment to an identical scale, which has been taken as redesignation for others can be taken as promotion in the case of Shri Radhakrishnan, the respondents argument is that it is based on the Tribunal's orders dated 6.3.1992 in D.A.No.750/91 in the case of Sabapathy & Ors. They state that in accordance with the principles laid down in the judgment, Shri Radhakrishnan's appointment as Chargeman II was taken as promotion from the level of Mastercraftsman instead of from the level of Tradeeman A and accordingly his pay fixation was done under FR 22(a)(1) taking into account the pay drawn by him as Chargeman II.

6.. We have gone through the decision of the Tribunal in D.A. No.750/91 referred to *supra*. In that case, the department had initially extended the benefit of FR 22(a)(1) to the applicants therein on their appointment as Chargeman II from the level of Mastercraftsman but subsequently withdrew the benefit and sought to recover what was paid to them in excess. The Tribunal in para 11 of the order had observed as follows:

"We do not think it fair or appropriate that discovering alleged mistakes the respondents should seek to recover the amounts from these employees. Therefore the case of the applicants stands on a strong footing. We find there are good reasons to quash the impugned order and similar orders issued in respect of the other applicants, and also quash to the extent necessary the orders of the departmental authority in order No.RD/Pers/10/87258/GTRE dated 4.9.91 which is the basis of the impugned order. The impugned orders are accordingly quashed and there shall be no recovery from the pay of the applicants which had been granted to them from time to time based on the orders issued by the Department."

From the above, it will be clear that the relief was primarily to stop any recovery of excess payment on account of erroneous fixation. The Tribunal had not given any specific direction

that pay on appointment as Chargeman II from the level of Master-craftsmen should invariably be fixed under FR 22(a)(1). It will not, therefore, support the department's contention that they are justified in following different principles of pay fixation in the case of Shri Radhakrishnan as compared to the applicants.

7. If the appointment as Chargeman Gr.II does not involve assumption of duties and responsibilities of greater importance as compared to Mastercraftsmen, pay has to be fixed under FR 22(a)(2). If it involves such assumption, FR 22(a)(1) will come into operation. The contention that appointment as Chargeman Gr.II from the level of Mastercraftsmen is a promotion only for Shri Radhakrishnan, whereas for the applicants, it is only a case of re-designation cannot be sustained. In the facts and circumstances of the case, we see no cogent reasons for treating Shri Radhakrishnan differently as compared to the applicants. We, therefore, direct that the department should re-examine the matter and should follow a uniform principle of pay fixation on appointment as Chargeman Gr.II both for the applicants and for Shri Radhakrishnan, if they take into account the pay drawn by them as Mastercraftsmen for fixing their pay as Chargeman Gr.II. The department should also take necessary consequential steps flowing from their decision on such re-examination. The whole exercise referred to above, has to be completed within six months from the receipt of a copy of this order.

8. With the above observation, we dispose of this matter finally with no order as to costs.

TRUE COPY


S. Shanmav
SECTION OFFICER 117
CENTRAL ADMINISTRATIVE TRIBUNAL
ADDITIONAL BENCH
BANGALORE

14/18/77
(A. N. VUJJANARADHYA)
MEMBER (J)

SD
6/1/77
(V. RAMAKRISHNAN)
MEMBER (A)