

CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE BENCH

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

Dated:- 2 AUG 1994

APPLICATION NUMBER: 271/94 and 368 to 389/94.

APPLICANTS:

Sri. A.M. Narasimha Rao and 22 Others v/s. Secretary, Deptt of
Telecommunications, Delhi & Others
To.

RESPONDENTS:

1. Sri. Hari Krishna S. Holla,
Advocate, No 34/3, 2nd Floor,
Ganesh Building,
515 Main, Gandhinagar, Bangalore-9.
2. Sri. M. S. Padmarajiah,
Sr. C. G. S. c, High Court Bldg,
Bangalore-560009.

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

3/8/94

R

of

S. Sonawat
P.D. DEPUTY REGISTRAR 2/8
JUDICIAL BRANCHES.

CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE BENCH

O.A.NO.271/94 & 368 to 389/94

TUESDAY THIS THE NINETEENTH DAY OF JULY 1994

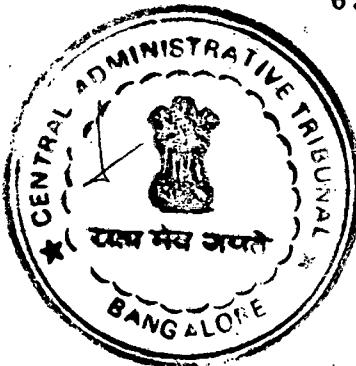
Shri Justice P.K. Shyamasundar ... Vice-Chairman

Shri T.V. Ramanan ... Member (A)

1. A.M. Narasimha Rao,
S/o Late Manjunatha Rao,
Aged 42 years,

Accounts Officer (IC),
Office of the Chief G.M.,
Karnataka Circle,
Bangalore-560 009.
2. S. Meenakshi Sundaram,
S/o late Subramanya Iyer,
Age 39 years,
Accounts Officer,
Office of Executive Engineer,
Telecom Civil Division,
Bangalore-560 001.
3. P. Shanmugam,
S/o late Periyanna Chetty,
Age 40 years,
Accounts Officer (TRS S.B.P.)
Office of the Chief G.M.,
Karnataka Circle,
Bangalore-560 009.
4. A.N. Lokhanathan,
S/o N.V. Natesh Achary,
Age 47 years,
Accounts Officer (IC),
Office of the Chief G.M.,
Karnataka Circle,
Bangalore-560 009.
5. P. Shanmugam,
S/o late A. Perumal,
Age 44 years,
Accounts Officer (IC),
Office of the Chief G.M.,
Karnataka Circle,
Bangalore-560 009.
6. M. Sudhakar,
S/o late Manjunatha Rao,
Age 42 years,
Accounts Officer (IC),
Office of the Chief G.M.,
Karnataka Circle,
Bangalore-560 009.

... Applicants



7. M.P. Rama Mohan,
S/o Late M.R. Rameshwara,
Age 53 years,
Accounts Officer A.C.T.F.
Office of General Manager,
Bangalore Telecom District,
Bangalore-9.
8. M.K. Bekkinekeri,
Accounts Officer[Comp],
Bangalore Telecom District,
Vijayanagar Exchange Bldg.,
Bangalore-79.
9. Rajashekara,
Accounts Officer ,
Office of the Chief G.M.,
Karnataka Circle,
Bangalore-560 009.
10. B.V. Ramana Rao,
Accounts Officer ,
Office of the GM, Bangalore
Telecom Circle,
Bangalore-560 009.
11. V. Bommaya, S/o Vellaiah Gaundar,
Accounts Officer[Cash],
Office of General Manager,
Bangalore Telecom District,
Bangalore.
12. M.N. Shankar,
S/o M.K. Naranappa,
Age 45 years,
Accounts Officer,
Office of General Manager,[West],
Bangalore Telecom District,
Bangalore.
13. K. Brahmaiah,
S/o K. Balaiah,
Age 41 years,
St. No.81292, Accounts Officer
[SBP & Works-1],
Bangalore Telecom District,
New Telecom Building,
Bangalore.
14. P. Joseph,
S/o Pushpanathan,
Age 47 years,
St.No.81153, Accounts
Officer [TA 11],
K.C.G.M. Telecom,
Karnataka Circle, Bangalore.

Applicants

15. R. Venugopal Rao,
S/o Raja Rao,
Age 47 years,
Accounts Officer,
O/o Director of Telecom,
Transmission Project,
Bangalore-20.
16. S.H. Vyasa Rao,
S/o S. Hanumantha Rao,
Aged about 54 years,
A.O.R.[S], O/o Area Manager [s],
127/3, B.T. Road,
Bangalore-19.
17. B. Jagannath,
S/o B. Akkari Naidu,
Aged about 49 years,
Accounts Officer, C.T.O.,
Bangalore-560 001.
18. B. Sannaveerappa,
S/o Ranganna,
Aged 48 years,†
Accounts Officer,
Telecom District,
Karnataka Circle, Bangalore.
19. B. Sivaramappa,
S/o B. Gangappa,
Aged about 46 years,
Accounts Officer [T.R.],
O/o Area Manager, Central†
Bangalore Telecom District,
Bangalore-9.
20. K.S. Kammar,
Accounts Officer,
O/o Executive Engineer,
Telecom Electrical Division,
Hubli-580 020.
21. K. Rajarama Holla,
S/o M. Venkappayya Holla,
Aged about 44 years,
Accounts Officer,
O/o G.M. Telecom, Old Kent Road,
Mangalore-575 001.
22. H. Prabhakara Rao,
S/o H.P. Janardhana Rao,
Aged 46 years,
Accounts Officer,
O/o G.M. Telecom,
D.K. Telecom District,
Old Kent Road, Mangalore.

... Applicants



23. S.P. Chikkaveera Shetty,
S/o D.S. Puttarudra Shetty,
Aged about 50 years,
Accounts Officer,
Telecom Department,
Karnataka Circle,
Bangalore-560 009.

... Applicants

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

vs.

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 place 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 doores 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 out come 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.



TRUE COPY

[Signature]
SECTION OFFICER 28
CENTRAL ADMINISTRATIVE TRIBUNAL
ADDITIONAL BENCH
BSV
BANGALORE

Sd-

MEMBER [A]

Sd-

VICE-CHAIRMAN

CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE BENCH

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

Dated: 16 NOV 1994

APPLICATION NO: MA 504/94 & 505/94

APPLICANTS:-

v/s.

(in OA 271/94 & 368 to 389/94)
Sey, M/o Communications, N. Delhi & 4 yrs.

RESPONDENTS:- A.M. Narasimha Rao & 22 yrs.

To

1. Sri. M. V. Rao
Adv. C.G.S.C.
High Court Bldg
Bangalore- 1.
2. Shri. H. K. S. Hosse
Advocate
34/3, Ganesh Bldg,
1st floor,
5th Main, Gandhi Nagar,
Bangalore- 560 005.

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

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Please find enclosed herewith a copy of the ORDER/
~~STAY ORDER/INTERIM ORDER/~~ passed by this Tribunal in the above
mentioned application(s) on 16 November 1994
Issued on
16/11/94

copy
of for DEPUTY REGISTRAR
JUDICIAL BRANCHES.

gm*

In the Central Administrative Tribunal
Bangalore Bench

Bangalore

MA 504 194 for c.d

MA 505 194 for extension of time

Application No. 271/94 dated 368-389/94.

ORDER SHEET (contd)

Date	Office Notes	Orders of Tribunal
		<p>TVR(MA) 11.11.94</p> <p>Heard Shri M.V. Rao on M.A. No. 505/94. Shri H. K.S. Holla, to whom a copy of the M.P. has been made available under Certificate of Posting is not present. although it is 12.45 pm. Respondents allowed extension of time by 3 months from 5.11.94. M.P. 504/94 filed for condonation of delay in filing M.P. 505/94 is allowed.</p> <p>Sdr M(A)</p> <p>TRUE COPY S. Jay Section Officer / S4 Central Administrative Tribunal Bangalore Bench Bangalore</p>