

CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE BENCH

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

Dated: 16 NOV 1994

APPLICATION NO: MA 498/94 (in OA 349/94 &

357 to 367/94)

APPLICANTS:- Shri S. Srinivas & 11 ors.
V/S.

RESPONDENTS:- Secy, M/o Communications & 4 ors.

1. Sri M. V. Rao
Adv. Cg. S.c
High Court Bldg
Bangalore - 1

2. Shri H. K. S. Holla
Advocate,
34/3 Ganesh Buildings
11th floor,
5th Main Gandhinagar,
Bangalore - 560009.

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 11th November 1994

Issued on
16/11/94

of
for

16/11/94
DEPUTY REGISTRAR
JUDICIAL BRANCHES.

MA 498/94 (in OA 349/94 & 357 to 367/94)

Shri. S. Srinivasa & 11rs Vs 2 Secy, M/o Talem & 4 rs.

Date

Office Notes

Orders of Tribunal

TVR(MA)

11-11-1994

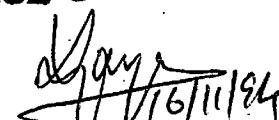
Heard Shri. M. V. Rao,
Addl. Central Govt. Standing
Counsel on M.A. 498/94.
Shri H.K.S. Holla, to whom
a copy of the M.A. has been
made available under
Certificate of posting is not
Present although it is
now 12.45 P.M.

Respondents allowed
extensions of time by 3 months
from 5-11-1994.

Sd-

Member (A)

TRUE COPY


16/11/94

Section Officer
Central Administrative Tribunal
Bangalore Bench
Bangalore



CENTRAL ADMINISTRATIVE TRIBUNAL

BANGALORE BENCH

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

Dated:- 2 AUG 1994

APPLICATION NUMBER: 349/94 and 357 to 367/94.

APPLICANTS:

Sri. S. Srinivasa and 11 Others ^{vs} Secretary, Dept of Telecommunications,
To. New Delhi and Others.

RESPONDENTS:

1. Sri. Harikrishna S. Holla, Advocate, no 34/3, 2nd Floor,
Ganeshha Building, 515 Main, Gandhinagar, Bangalore-9.
2. Sri. M.S. Padmasarajiah, Sr. CGSC,
High Court Bldg, 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 19-07-94

Issued on

3/8/94

18

ofc

S. Shanthi
for DEPUTY REGISTRAR
JUDICIAL BRANCHES.

CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE BENCH

O.A.NO.349/94 & 357 to 367/94

TUESDAY THIS THE NINETEENTH DAY OF JULY 1994

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

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

1. S. Srinivasa,
S/o Shama Rao,
Age 44 years,
Accounts Office,
Civil-Division II,
Bangalore-9.
2. H. Sheshagiri Kamath,
S/o H. Seetharama Kamath,
Age 47 years,
Accounts Officer [D.D.O],
Office of Telecom Dist.
Engineer, Mamcos Building,
Shimoga.
3. S. Nagupoojari,
S/o Chama Poojari,
Age 42 years,
Office of Telecom Dist.,
Engineer, Kolar.
4. T.K. Anantha Krishnan
S/o T.V. Krishna Murthy Iyer,
Age 40 years,
Accounts Officer [Parent Office],
Office of C.P.A.D.,
I.T.I. Bills Dept of Telecom,
Bangalore-16.
5. R.V. Bhatt,
S/o V.R. Bhat,
Accounts Officer,
St. No.71523,
Hubli Telecom Area,
Keshwapur, Hubli.
6. L. Gopala Iyengar,
S/o H.T. Lakshminarasimhachar,
Accounts Office, Office of
Telecom District Engineer, Mandya.
7. G. Mohan Rao,
S/o G. Parameswaraiah,
Age 48 years,
Office of General Manager,
D.K.Telemc District,
Telecom House, Mangalore.

... Applicants



8. Chinnappacharya,
S/o Kalappacharya,
Accounts Officer S.B.P.,
O/o Telecom District,
Mandya.
9. S. Balakumar,
S/o Seetharaman,
St.No.81485,
Accounts Officer,
O/o AG.M. D.K.Telcom Dist.
Mangalore.
10. P.B.Ryavanki,
S/o B.H. Ryavanki,
Accounts Officer, St. No.81466,
Office of Director Telecom
Mangalore Area, Mangalore.
11. Mr Mir Ali Mohamed,
S/o late Haji Mir-Naqui-Ali,
Aged 56 years,
Accounts Officer,
O/o Manager, Bangalore
Telecom Dist. [Work Section],
Bangalore-1.
12. K. Subbaraya Pillai,
S/o K. Krishna Pillai,
Aged about 53 years,
Chief Accounts Officer [Dev.],
Bangalore Telecom District,
Bangalore-560 001.

... 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]

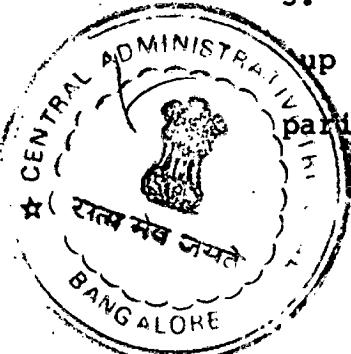
O R D E R

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 benefit~~s~~ 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} up the gauntlet and set the ball in motion for gaining parity with their juniors somewhere in the year 1993



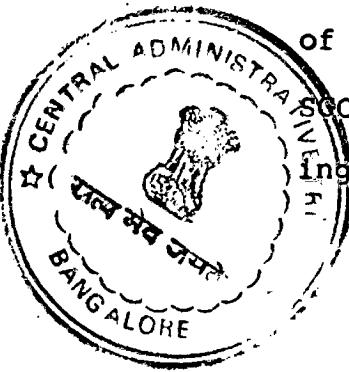
although the favourable treatment to the juniors started some two or three years earlier, presumably after the judgment of the Hyderabad Bench of this Tribunal in 1992[10] ATC 569 LALITHA AND OTHERS V. UNION OF INDIA AND OTHERS.

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,

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 Maharsahtra 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



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 entitlement.

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

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 ~~to~~ 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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sd-

MEMBER [A]

VICE-CHAIRMAN

bsv



TRUE COPY

S. Shashikumar
SECTION OFFICER 218
CENTRAL ADMINISTRATIVE TRIBUNAL
ADDITIONAL BENCH
BANGALORE