

CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE BENCH

Second Floor,
Commercial Complex,
Indiranagar,
BANGALORE - 560 030.

Dated: **4 APR 1995**

APPLICATION NO. 911and1026 to 1046 of 1994.

APPLICANTS: **Sri.B.Budiha,** and twenty one others.,
V/S.

RESPONDENTS: **The Director General of Works, Central
Public Works Deptt. New Delhi.**

To

1. **Sri.Upendra Achar, K.**
Advocate, No.11, Third Floor,
Swastik Complex, S.C.Road,
Bangalore-560 020.
2. **Sri.M.S.Padmarajaiah,**
Sr. Central Govt. Stng. Counsel,
High Court Bldg, Bangalore-1.

Subject:- Forwarding copies of the Orders passed by the
Central Administrative Tribunal, Bangalore-38.

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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 28-03-1995.

Issued on
5/4/95


DEPUTY REGISTRAR
JUDICIAL BRANCHES.



P.I. Sanjeevaraya
Junior Engineer,
GPCA CPWD,
II Block Koramangala
Bangalore

Applicant
(in C.A.No.1031/94)

2. The applicants herein who are Junior Engineers in CPWD have prayed for a direction to the Department that they should be given the same benefit which was extended to the applicants in O.A.No.856/91 of Madras Bench of the Tribunal which was disposed of on 19.3.93. In pursuance of a Government decision, junior engineers in the scale of pay of Rs.1400-2300 were placed in the higher grade of Rs.1640-2900 on completion of five years of service subject to vigilance clearance and rejection of unfit. The applicants were accordingly given the higher scale. The present grievance of the applicants arises on account of the fact that the Department had issued an O.M. dated 27.3.91 where they said that pay should be fixed under FR 22(a)(ii) and not under FR 22C (present FR 22 (1)(a)(1)) as directed earlier. A number of persons whose pay was earlier fixed under FR 22C had to face the prospect of recovery of over-payment resulting from the changed stand of the Department.

3. When the matter was agitated before the Madras Bench in O.A. referred to supra, the Tribunal disposed of the application with the following direction:

1. The portion 2(b) of LM dated 27.3.91, issued by the respondents cancelling the OM dated 18.5.1989 and 4.5.1990 insofar as it enables the respondents to recover the arrears from the applicants is hereby set aside only in respect of the applicants.

2. The respondents are not entitled to recover arrears already drawn by the applicants between 1.1.86 to 27.3.91 in pursuance of the order dated 15.7.92.
3. The applicants are not entitled to any other relief in this application.
4. There will be no order as to costs."

The applicants herein have sought the same relief.

4. We have heard both sides. We also enquired from the Department as to the actual position in regard to the pay fixation. The Department has now submitted ^gthat statement which is taken K2 on record indicating the applicants under the following categories:

"A. Name of the applicant whose pay is fixed under FR 22 C and now sought revised under FR 22(ii)

1. Shri T. Manoharan
2. Shri A.H. Vaidhya
3. Shri B.S. Nadgir

B. Name of the applicant in whose case the pay has been fixed under FR 22C in June 90 and later revised as FR 22(a)(ii) arrears not so far recovered but letter/order for recovery is issued

1. Shri S. Gopala Krishnan
2. Shri P.K. Balan
3. Shri P. Vasudevan
4. Shri M.A. Santha Murthy
5. Shri H.S. Krishna Murthy
6. Shri T.N. Govinda Pillai

C. Name of the applicant in whose case the pay has been fixed under FR 22(c) in June 90 and later revised as FR 22(a)(ii) but no action for recovery of excess payment is taken

1. Shri C.B. Budhihal
2. Shri T. Thomas
3. Shri C.M. John
4. Shri G.P. Nagarajappa
5. Shri P.G. Ayyappan
6. Shri A. Krupakaran
7. Shri Mohammed Imam
8. Shri M.R.A. Rao



D. Name of the applicant whose case the pay has been fixed under FR 22(A)(ii) itself

1. Shri T. Gurumurthiah
2. Shri B.I. Sanjeevaraya
3. Shri K.V.V. Krishna
4. Shri M.S. Subbukrishna
5. Shri Sathyanarayana Prasad

5. So far as officials under category 'D' are concerned namely S/Shri T. Gurumurthiah, B.I. Sajeearaya, K.V.V. Krishna, M.S. Subbukrishna and Sathyanarayana Prasad, it is stated that their pay has been fixed even initially under FR 22^I(a)(ii) itself and not under FR 22-C and therefore the question of recovery of any over-payment does not arise in their cases as they had not been paid any excess. As such, no further direction needs to be given in respect of these applicants.

6. As regards applicants falling under category 'A' namely S/Shri T. Manoharan, A.H. Vaidhya and B.S. Nadgir, the Department has already issued orders seeking to recover the excess payment in terms of the provisions contained in para 2(b) of the OM dated 27.3.91. As regards the applicants under category 'B' namely S/Shri S. Gopala Krishnan, P.K. Balan, P. Vasudevan, M.A. Santha Murthy, H.S. Krishna Murthy and I.N. Govinda Pillai, we are informed that the department has decided to effect recovery of the excess payment but the final order for such recovery is under issue.

7. In respect of applicants under category 'A' and 'B' referred to in the preceding para,



following the decision of the Madras Bench in O.A. referred to supra, we direct that the respondents should not recover the arrears already drawn by them between 1.1.1986 to 27.3.1991 in pursuance of the order dated 15.7.1991.

8. As regards the applicants falling under category 'C' namely S/Shri C.B. Budhihal, T. Thomas, C.M. John, G.P. Nagarajappa, P.G. Ayyappan, A. Krupakaran, Mohammed Imam and M.E.A. Rao, the Department has neither issued any order seeking to recover excess payment nor they have taken a decision in that regard. In view of this, presently these applicants have no cause of action. We, however, expect the Department to follow the same principle which has been laid down in respect of other applicants falling under categories 'A' and 'B'.

9. With the above directions/observations, the application is finally disposed of with no order as to costs.



TRUE COPY

Section Officer
Central Administrative Tribunal
Bangalore Bench
Bangalore

MEMBER (J)

MEMBER (A)

CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE BENCH, BANGALORE

ORIGINAL APPLICATION NOS. 911 & 1026 TO 1046/1994

TUESDAY THIS THE TWENTY EIGHTH DAY OF MAR 1995

MR. V. RAMAKRISHNAN

MEMBER (A)

MR. A. N. VUJJA NARADHAYA

MEMBER (J)

1. B. Budihal
Junior Engineer,
O/o S.E.B.C.C. CPWD,
GPA 17th Main,
II Block, Koramangala
Bangalore
Applicant
(in O.A.911/94)
2. Thomas T.
Junior Engineer,
Office of the SEBCC, CPWD
GPA, 17th Main,
II Block, Koramangala
Bangalore
Applicant
(in OA 1026/94)
3. S. Gopalkrishnan
Junior Engineer,
Office of the Executive Engineer
BIDI CPWD, BCSDI,
GPA Building,
Koramangala
Bangalore - 560 034
Applicant
(in O.A.1027/94)
4. C.M. John
A.S.W.,
O/o SEBCC CPWD,
GPA 17th Cross,
II Block, Kormangala
Bangalore - 34
Applicant
(in O.A.No.1028/94)
5. T. Manoharan
A.S.W.
O/c SEBC CPWD,
GPA, 17th Main
Koramangala,
Bangalore - 560 034
Applicant
(in O.A.No.1029/94)
6. T. Gurumurthiah
A.E. B.C.S.D.,
2/III CPWD
GPA Koramangala
Bangalore - 560 034
Applicant
(in O.A.No.1030/94)
- B. I. Sanjeevaraya
Junior Engineer,
GPA CPWD,
II Block Koramangala
Bangalore
Applicant
(in O.A.No.1031/94)



8. G.P. Nagarajappa
Assistant Engineer,
Income Tax Valuation Cell,
28, Infentry Road,
Shivajinagar,
Bangalore - 560 001
Applicant
(in OA 1032/94)
9. P.K. Balan
Junior Engineer
Income Tax Valuation Cell,
28, Infentry Road,
Shivajinagar,
Bangalore - 560 001
Applicant
(in OA 1033/94)
10. M.A. Shantamurthy
Junior Engineer,
Income Tax Valuation Cell,
28, Infentry Road,
Shivajinagar,
Bangalore - 560 001
Applicant
(in OA 1034/94)
11. P. Vasudevan
A.E.
O/o Appropriate Authority
Income Tax, 5th Floor,
Annex. Building, Queens Road
Bangalore - 560 052
Applicant
(in OA 1035/94)
12. H.S. Krishna Murthy,
J.E.,
161, 4th Main,
Basaveshwaranagar
Bangalore - 560 079
Applicant
(in OA 1036/94)
13. P.G. Ayyappan
A.E. S/o P.A. Govindan
Kuvempunagar,
Mysore
Applicant
(in L.A.1037/94)
14. K.V.V. Krishna
A.E.
D.No.556, 20th Cross, 4th Main
Vidyaranayapura
Mysore
Applicant
(in C.A.1038/94)
15. M.S. Subbakrishna
J.E.
No.104, 19th Cross, I Main
Jayanagar, Mysore
Applicant
(in C.A.No.1039/94)
16. A. Krupakaran, J.E.
HED, 1-CPWD
Kuvempunagar,
Mysore
Applicant
(in C.A.1040/94)
17. Satynarayana Prasad
M.C.D.I. CPWD
Kuvempunagara,
Mysore
Applicant
(in C.A.No.1041/94)

18. Mohamed Imam,
A.E.
B.EE CPWD GPOA II Block,
Koramangala,
Bangalore - 34

Applicant
(in OA 1042/94)

19. M.R.A. Rao,
A.E.
BEE CPWD, CPOA II Block,
Jayanagar,
Bangalore - 82

Applicant
(in OA No.1043/94)

20. A.H. Vaidya,
A.E.
468, 45th Cross, 8th Block,
Jayanagar,
Bangalore - 82

Applicant
(in OA No.1044/94)

21. B.S. Nadigar
J.E.
O/o A.S. Vaidya,
468, 45th Cross, 8th Block,
Jayanagar,
Bangalore - 82

Applicant
(in OA No.1045/94)

22. T.N.Govinda Pillai
J.E.
I.Tax Valuation Cell
28, Infantry Road,
Shivajinagar,
Bangalore - 1.

Applicant
(in OA No.1046/94)

(By Advocate Shri Upendra Achar)

v.

The Union of India
represented by the
Director General of Works,
Nirman Bhavan,
Central Public Works Department
New Delhi - 110 011

Respondent

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

O R D E R

MR.V. RAMAKRISHNAN, MEMBER (A)

We have heard Shri Upendra Achar, learned
counsel for the applicant and Shri M.S. Padmarajaiah,
learned Standing Counsel for the respondent Department.



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