BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
BOMBAY BENCH

O.A.926/93,927/93,928/93,929/93,930/93,1019/93,1326/93
1328/93, 5/94, 6/94 and 7/94

1.	K.Ramachandran & Ors.	.. Applicants in O.A.926/93
2.	N.Radhakrishnamurthy	.. O.A.927/93
3.	E.Natarajan & Ors.	.. O.A.928/93
4.	C.N.Uthaman & Ors.	.. O.A.929/93
5.	S.Chandra & Ors.	.. O.A.930/93
6.	P.Venkatrao & anr.	.. O.A.1019/93
7.	M.I.Punnoose	.. O.A.1326/93
8.	K.Sundararao	.. O.A.1328/93
9.	C.N.Venkatakrishnan	o. O.A.5/94
10.	A.S.Devarajan & ors.	.. O.A.6/94
11.	Satyanarayana	.. O.A.7/94

-versus-

Union of India & Ors. .. Respondents

Coram: Hon'ble Shri Justice M.S.Deshpande
Vice-Chairman.

Appearances:

1. Mr.A.I.Bhatkar
Counsel for all the
applicants.

2. Mr.P.M.Pradhan
Counsel for
Respondents No.1,3 and 4.

3. Mr.V.S.Masurkar
Counsel for
Respondent No.2

ORAL JUDGMENT: Date: 19-7-1994
(Per M.S.Deshpande, V.C.)

These eleven applications which involve common questions of law can be conveniently be decided by a common judgment. The facts of O.A.926/93 are illustrative of the points involved in other cases. The 19 applicants in O.A. 926/93 were working as Accounts Officers in the Telecommunication

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Department of Government of India and some of them are now working with the Mahanagar Telephone Nigam Ltd(MTNL) on deputation without any deputation allowance and are borne in single gradation list maintained by the Department of Telecommunication and are posted under various Heads of Circles shown in the statement attached to the application. The applicants were promoted to the post of Accounts Officer on various dates and their pay was fixed at various stages, the particulars of which have been stated in Ex.'2' to the application. One K.Sankaranarayanan was their junior and because he was appointed on adhoc/officiating in the promotional cadre of Accounts Officer his pay was fixed at an higher point when he was regularly appointed as Accounts Officer. There is no dispute about the fact that the feeder cadre is maintained on All India basis. The junior in question got on adhoc promotion on account of occurrence of some vacancies which were filled up locally. The consequence of adhoc promotion granted to K.Sankaranarayanan and the consequential fixation of his pay in the promotional cadre led to his drawing pay higher than that of the applicants. According to the applicants they were entitled to have their pay stepped up under FR 22-C and brought on par with K.Sankaranarayanan and the action of the respondents in not doing so is violative of Article 16 of the Constitution.

2. The respondents No.1,3,4 and 2 filed their separate reply but the contentions are identical. According to them as the applicants did not belong to the same circle where the

junior was working, they could not enjoy the benefit to the extent that the junior enjoyed but it cannot be a ground for the purpose of stepping up of pay of the applicants by comparing themselves with the person though junior in All India Gradation list but working in a different circle.

3. Respondents relied on the letter dated 17-11-86 by which Accounts Officers and Junior Accounts Officer came to be allotted to respective Telecom circles and it was left to the General Manager Telecom Circle to post them within the circle including major and minor telephones Districts wherever vacancies exist in consultation with Internal Financial Advisors. In case of arrangements in short-term vacancies the entire territorial circle including the existing circle is to be considered as a single circle unit for the purpose of making arrangements. The submission was that since each of these circles constituted a separate units for the purpose of making arrangement including appointment to promotion on short term vacancies, the pay given to an officer though junior on the basis of the adhoc appointment cannot be the basis for the applicants to claim that their pay should also be stepped up. The position with regard to stepping up of all the senior drawing less pay than his junior as a result of FR 22-C would arise when: (a) both the junior and senior officers should belong to the same cadre and the posts in which they have been promoted or

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appointed should be identical and in the same cadre; (b) the scales of pay of the lower and higher posts in which they are entitled to draw pay should be identical; (c)the anomaly should be directly as a result of the application of FR 22-C. For example, if even in the lower post the junior officer draws from time to time a higher rate of pay than the senior by virtue of grant of advance increments, the above provisions will not be invoked to step up the pay of the senior officer. There is no dispute about the fact that the Accounts Officer who are promoted belonged to the same cadre before their promotion and are now ~~being~~ in the same promotional cadre. K.Sankaranarayanan whose name has been mentioned in O.A. 926/93 was one of the juniors who got a higher pay on the basis of his earlier adhoc appointment when he came to be promoted on the regular basis.

4. On behalf of the applicants reliance was placed on a decision of the Division Bench of this Tribunal at Ernakulam,O.A.1150/93 decided on 29-10-93, wherein it was observed that "the fact that Shri Sankaranarayanan is junior to applicants and that he is drawing a higher pay is not disputed. On the contrary, it is admitted in para 1 of the reply FR 22-C and the DG P&T's instruction, Ministry of Finance O.M. No.F2(10)-E.III(A)/62 dated 20-6-1985 contemplate that the pay of a senior shall be stepped up to the level of the pay of his junior, drawing a higher pay. This is intended to obviate an anomaly that may not be wholesome in service. Reasons,

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there may be many, for the disparity. For example, an adhoc promotion earned earlier or special pay drawn by the junior, may bring about this situation. But in all cases(except cases of disciplinary proceedings) where the senior draws a lesser pay, he is entitled to have his pay stepped up to the level of the pay of his junior subject to condition that the senior and junior are in the same,same cadre and same unit. All these conditions are satisfied in the case on hand. This is the view taken in Smt.N.Lalitha and others v. Union of India and others,(1992)19 ATC 569 and Anil Chandra Das v. Union of India (1988)7 ATC 224. Counsel for respondents could not point out any reason, much less any good reason or ground, for which the disparity could be justified." The Division Bench decision would cover the present case.

5. Learned counsel for the respondents urged that what was necessary was that senior and junior should belong to the same unit and this unit was formed by the letter dated 17-11-86, to which a reference has already been made. It may,however, be noted that the unit was only for the purpose of making short term promotions and short term appointments and it could not be identified with the term cadre used in FR 22-C which would be the basis on which the pay shall have to be stepped up. The unit for making short term appointments cannot be confused with the cadre which is to be considered for stepping up of the pay. The reference to unit in the division bench decision would not be of any assistance to the respondents here. In N.Lalitha's case the

direction to the respondents was to fix the pay of the applicants 3,4,6,7,8,9 and 10 on par with the pay of their immediate juniors in the cadre of UDCs, w.e.f. 22-9-1988. The submission was that the applicants cannot seek the relief in the present case for stepping up of their pay ~~though~~ so that they are brought on par with that of K.Sankaranarayanan and hence N.Lalitha's case has no relevance. It is difficult to infer only from the mention in the operative portion of N.Lalitha's case that the pay could xxx be brought on parity with the next junior. Such a position is not contemplated by the rules. It is obvious that the applicants who are enmasse senior to K.Sankaranarayanan in O.A.926/93 would be entitled to the same benefit which K.Sankaranarayanan got.

6. Though the benefit granted to K.Sankaranarayanan would be the basis for granting stepping up to the applicants, the applicants would not be entitled to monetary relief for a period exceeding one year preceding the filing of the O.A. 926/93 i.e. 6-9-93. The monetary benefit shall have to be limited to the period from 6-9-92 only.

7. I,therefore, direct that the pay of the applicants in O.A. 926/93 shall be brought on par with K.Sankaranarayanan and they will be entitled to arrears to the period of one year ~~and~~ preceding the filing of O.A.926/93

(b) O.A.927/93

The pay of the applicants will be brought on par with Shri B.M.Rawal and the arrears shall be restricted to the period prior to one year of filing of the application i.e. 6-9-92 onwards.

(c) O.A.928/93

The pay of the applicants will be brought on par with Shri G.Ranganathan and the arrears shall be restricted to the period of one year prior to the filing of the application i.e. 6-9-92 onwards.

(d) O.A.929/93

The pay of the applicants will be brought on par with Shri B. Balasubramaniam and the arrears shall be restricted to the period of one year prior to the filing of the application i.e. 6-9-92 onwards.

(e) O.A.930-93

The pay of the applicants will be brought on par with Shri J.N.Mishra and the arrears shall be restricted to the period of one year prior to the filing of the application i.e. 6-9-92 onwards.

(f) O.A.1019/93

The pay of the applicants will be brought on par with Shri K. Sankaranarayanan and the arrears shall be restricted to the period of one year prior to the filing of the application i.e. 21-9-92onwards.

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(g) O.A.1326/93

The pay of the applicant will be brought on par with Shri K. Sankaranarayanan and the arrears shall be restricted to the period of one year prior to the filing of the application i.e. 23-12-92 onwards.

(h) O.A.1328/93

The pay of the applicant will be brought on par with Shri G.Ranganathan and the arrears shallbe restricted to the period of one year prior to the filing of the application i.e. 23-12-92 onwards.

(i) O.A.05/94

The pay of the applicants will be brought on par with Shri G.Natarajan and the arrears shall be restricted to the period of one year prior to the filing of the application i.e. 21-12-92 onwards.

(j) O.A. 06/94

The pay of the applicants will be brought on par with Shri K.S.Raghavan and the arrears shallbe restricted to the period of one year prior to the filing of the application i.e. 29-12-92 onwards.

(k) O.A. 07/94

The pay of the applicants will be brought on par with Shri M.S.S. Subramaniyam and the arrears shall be restricted to the period of one year prior to the filing of the application i.e. 21-12-92 onwards.

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8. The respondents are directed to make the payment as directed above within four months from the date of receipt of a copy of this order.

(M.S.DESHPANDE)
Vice-Chairman

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