

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

GULESTAN BLDG.NO.6,PRESCOT RD,4TH FLR,

MUMBAI - 400 001.

ORIGINAL APPLICATION NOS:793/96 with
1206/96, 461/94, 194/97, 195/97,
348/97 and 334/97.

DATED THIS 6th DAY OF JUNE, 97.

CORAM: Hon'ble Shri B.S.Hegde, Member (J).

Hon'ble Shri M.R.Kolhatkar, Member (A).

I. 1) V.D.Prabhune,
H.No.1420-B,
Sadashiv Peth,
Block No.17,
Prabhu Shriram Apptt.,
Pune - 411 030.

2) R.D.Nerlekar,
A/9, Sheetal Apartments,
Modern Colony,
Paud Road,
Pune - 411 038.

3) M.M.Gandhi,
530/A-2, Narayan Peth,
Pune - 411 030.

4) M.K.Pathak,
1307, Sadashiv Peth,
Near Shivaji Mandir,
Pune - 411 030.

5) M.G.Desai,
'AMOD', 2-A,
Shikshak Nagar,
Paud Road,
Pune - 411 038.

6) Mrs.K.M.Dani,
711, Sadashiv Peth,
Khalkar Talim Chowk,
Kumathekar Road,
Pune - 411 030.

(Applicants in OA-793/96)

By Advocate Shri S.P.Saxena.

II.1. Shankar Dinkar Inamdar,
36, Shankarpura Peth,
Mahajan Wada,
Taluka : Junnar,
District : Pune - 410 502.

2. Laxman Narayan Varade,
71/1, Kamal Housing Colony,
Navalenagar, Gulmohar Road,
Ahmednagar - 414 001.

(Applicants in OA-1206/96)

By Advocate Shri S.P.Saxena.

- III.1. Keezhalipurath Kely Nair,
Indian inhabitant, residing at
B/4, Flat, IInd Floor,
Motiniwas Co-op. Hsg. Socy. Ltd.,
Ambadi Road, Vasai Road, P.O.,
Vasai (W), Dist. Thane-401202.
Maharashtra.
2. N. Ramanna Shetty, of Bombay,
Indian inhabitant, residing at
Ashirwad Building (Be-Nazir),
17/6-Haridevibai Society,
Gumpha Road, Jogeshwari East,
Bombay - 400 060.
Bombay - 400 060.
3. Karuvakkal Chandran Nair,
residing at No.1-Basweswar Co-op. Hsg.
Socy. Ltd, Mathre Nagar, Rajaji Path,
Dombivili (East)- 421 201.
District Thane, Maharashtra.
4. Ramachandra Gajanan Kulkarni,
residing at Sector-VII,
RHT/H.10, Vashi,
New Bombay, District. Thane,
Maharashtra.
5. Jappu Shankar,
residing at
F/1, Balakrishna Co-op. Hsg.
Socy. Ltd., 3rd Floor,
Opp. Seven Bungalows Bus Depot,
Andheri (W), Bombay - 400-058.
Bombay - 400-058.
6. Smt. Sheela D. Jaywant,
w/o. Late Shri Digamber Narayan, Jaywant,
residing at No.9,
Sheetal Society,
Opp. Ashok Baug, Panvel-410 207.
Raigad District, Maharashtra.
7. Gopal Krishna Auchat,
residing at Mathura Cottage,
Tadwadi (Opp. South Post Office),
Ambernath - 421 501.
District Thane, Maharashtra.
8. Smt. Manorama Bade,
W/o. Late Shri Rajaram Ganesh Bade,
C/o. Mr. Kishore B. Bade,
Tarapur Atomic Power Station,
Type-II/20/3, BOISAR - 401504.
District Thane, Maharashtra. (Applicants in OA.461/94)

By Advocate Shri Y.R. Singh.

- IV.1. K.V. Vasudevan,
residing at : 17/2, Konark Nagar,
Viman Nagar, Pune - 411 014.
Viman Nagar, Pune - 411 014.
2. T.K. Nair,
Residing at: Hyma Niwas,
Survey No. 235 A, Plot No. B-6,
Puru Co-op. Hsg. Socy. Ltd,
Lohagaon, Pune-411 032. (Applicants in OA.194/97)

By Advocate Shri S.P. Saxena

V. 1. P.K.Nair,
125, Rasta Peth,
Pune - 411 011. (Applicant in OA.195/97)

By Advocate Shri S.P.Saxena.

VI.1. N.Raman,
27, Shreyas Society,
B/H, Mira Society,
Shankerseth Road, Gultedkoi,
Pune - 411 037. (Applicant in OA.348/97)

By Advocate Shri S.P.Saxena

VII.1. N.R.Murthy,
245, Somwar Peth,
Pune - 411 011. (Applicant in OA.334/97)

By Advocate Shri S.P.Saxena.

V/s.

1. The Union of India,
Through The Secretary,
Ministry of Defence,
DHO PO, New Delhi - 110 011.
2. The Engineer-in-Chief,
Army Headquarters,
Kashmir House,
New Delhi - 110 011.
3. The Chief Engineer,
Southern Command,
Pune - 411 001. (Respondents in OAs.793/96,
1206/96, 461/94, 194/97,
195/97, 348/97 and 334/97).

(By Advocate Shri R.K.Shetty)

1. The Chief Engineer,
Poona Zone,
Pune - 411 001. (Respondent in OA No.334/97).
2. The Commandant,
College of Military Engineering,
DAPCOI, Pune - 411 031. (Respondent in OA No.334/97).
3. The Commandant,
National Defence Academy,
Khadakwasla,
Pune - 411 023. (Respondent in OA No.195/97).

By Advocate Shri R.K.Shetty.

I O R D E R I

I Per Shri B.S.Hegde, Member(J) I

The issue involved in all these OAs are similar and
the applicants are praying for the following relief:-

by virtue of which, those who are similarly situated to that of the applicant have been given the benefits and the same be done within a period of six months from the date of receipt of this order.

3. In a subsequent order, it is made very clear that the applicant stands in the same footing to that of others referred to in their letter dated 8/6/94 and therefore, the benefits cannot be denied to him, and as such directed the respondents to make payments within three months from the date of communication of this order. It was further stated, that by virtue of Supreme Court's order, dated 4/11/1987 in Civil Appeal No. 4201/85 that even if the person is dead, the amount due to him shall be paid to his legal representatives and it is uncharitable on the part of the respondents to ~~refuse the payment.~~ Therefore, in the light of the above ~~observations,~~ the respondents are directed to make the calculations and treating the applicants as U.D.C. with effect from 1947 onwards.

4. The applicants case is similar to others, as was directed by the Tribunal in all respects and in accordance with the letter of respondents dated 8/6/94 and therefore, they are entitled to same benefits. There is no dispute regarding averments and the facts stated therein.

5. In the light of the above, since most of the applicants are retired from service and the payment due to them has not been disbursed though entitled. In support of his contention, the Learned Counsel for Applicant Shri S.P. Saxena furnished the details of the applicants which are given below:-

6. Most of the applicants have superannuated from service as early as 1980's. They are nearly reaching 75 years of age and it will be very harsh on the part of the respondents, if the payment due to them is not paid at an early date. Moreover, it is incumbent on the part of the department to make out a list of persons who are similarly situated irrespective of the fact whether they approach the Tribunal or not should be given the same benefit. It is not necessary that the persons who have not approached the Tribunal should be denied the benefit. They are entitled to get the same benefit as others.

7. While allowing the O.As., we dispose of the above applications with the following directions :

: O R D E R :

Since the applicants have retired from service, the monetary benefits regarding difference in pay and allowance is restricted to 3 years prior to the filing of the O.As. The respondents are to re-classify the applicants as the Upper Division Clerks w.e.f. 01.01.1947 and calculate the difference of arrears of pay as per Supreme Court directions and to review the case of promotion, re-fixation, seniority, re-calculation of pension and gratuity, etc. in accordance with their order dated 08.06.1994 and make payment to the respective applicants within a period of three months from the date of receipt of this order. For the sake of repetition, these who are similarly situated

and who have not approached the Tribunal,
the Respondents are hereby directed to make
necessary disbursement in accordance with
their letter dated 08.06.1994.

There will be no order as to costs.

(M. R. KOLHATKAR)
MEMBER (A).

(B. S. HEGDE)
MEMBER (J).

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CENTRAL ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH

REVIEW PETITION NO.: 81/97 IN O.A. NO.: 461 /94.

Dated this Monday, the 15th day of September, 1997.

CORAM : Hon'ble Shri B. S. Hegde, Member (J).
Hon'ble Shri M. R. Kolhatkar, Member (A).

N. Ramanna Shetty ... Applicant

Versus

Union Of India & Others ... Respondents.

TRIBUNAL'S ORDER BY CIRCULATION :

¶ PER.: SHRI B. S. HEGDE, MEMBER (J) ¶

This review petition has been filed by the applicant in O.A. No. 461/94 seeking review of the judgement dated 06.06.1997. The Tribunal vide its aforesaid order, disposed of O.A. No. 461/94 alongwith O.A. Nos. 793/96, 1206/96, 194/97, 195/97, 348/97 and 334/97. Since the issue involved in all these O.As. were common, a common order was passed by the Tribunal pursuant to the circular issued by the Ministry Of Defence vide dated 08.06.1994 and as per the decision of the Supreme Court dated 04.11.1987, directing the respondents to grant the pay fixation w.e.f. 01.01.1947 but restricted the actual payment to 60% of the arrears of pay and allowances. It is true that the Tribunal has granted the relief to the applicants in O.A. No. 1037/92 but the same mistake has been committed and the applicant has filed the R.P., and while entertaining the R.P., we

[Signature]

modified the order of the Tribunal dated 29.09.1995 and directed the respondents to make the payment in terms of Ministry Of Defence circular dated 08.06.1994 within a period of three months from the date of communication of the order and also to pay to the applicant the revised pensionary benefits.

2. In the instant case also, though the relief was granted to all the applicants as per the Ministry Of Defence circular and the decision of Supreme Court, the benefit has been restricted to three years prior to the filing of the O.A., which appears to be not in consonance with the circular of the Department and the ratio of the Supreme Court decision.

3. In the circumstances, we hereby direct the respondents that the stipulation of "monetary benefits regarding difference in pay and allowance is restricted to 3 years prior to the filing of the O.As" be deleted and in its place, the respondents are directed to make the payment of arrears of pay and allowance to the extent of 60% and the same benefit be granted to the applicant and others who are similarly situated. Though the others have not filed the review petition, they cannot be denied of the said benefit. The respondents are, therefore, directed to extend the said benefits to other applicants who are involved in the O.A. but did not file any review petition.

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It may be noted that it is already observed by the Tribunal that it is not necessary that the persons who have not approached the Tribunal should be denied the benefit. They are entitled to get the same benefit as others. It is for the department to consider the request of various persons who are similarly situated and grant the benefit as per their own circular and the decision of the Supreme Court.

4. The Review Petition is, therefore, allowed. The respondents are directed to make payment to the applicants as per the aforesaid direction within a period of three months from the date of receipt of a copy of this order.

M R Kolhatkar

(M. R. KOLHATKAR)
MEMBER (A).

B S Hegde

(B. S. HEGDE)
MEMBER (J).

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21/12/97
Order/Judgement despatched
to Applicant/Respondent(s)
on 12/9/97

23/9/97

CENTRAL ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH

M.P. NO.: 767/2000 & C.P. NO.: 25/2000 & R.P.No.: 44/2000

IN ORIGINAL APPLICATION NO.: 461/94.

Dated this Friday, the 9th day of February, 2001.

CORAM : Hon'ble Shri B. N. Bahadur, Member (A).
Hon'ble Shri S. L. Jain, Member (J).

K. K. Nair & 7 Others ... Applicants

(By Advocate Shri K.S. Kallapura
for Original Applicant No. 1.
By Advocate Shri G.P. Iyer for
Applicant Nos. 2 to 8 in R.P.)

VERSUS

Union of India & Others ... Respondents.

(By Advocate Shri R.R. Shetty
for Shri R. K. Shetty).

TRIBUNAL'S ORDER :

We have before us today M.P. No. 767/2000 and C.P. No. 25/2000. Learned Counsel Shri K.S. Kallapura, Shri G. P. Iyer and Shri R. R. Shetty (for Shri R. K. Shetty) are present respectively for Original Applicant No. 1, Original Applicant Nos. 2 to 8 and for Original Official Respondents.

2. Before the M.P. and C.P. were considered, it was brought to our notice that one R.P. No. 44/2000 has been filed and not yet considered. With consent of parties, this R.P. was taken up for consideration. We, therefore, first decide the R.P. No. 44/2000.

3. We have heard the three Learned Counsel and the following facts emerge. Another R.P. was earlier filed (No. 81/97) in the

same O.A. and was disposed of. That is not under controversy. Even assuming that a second R.P. could be filed, the first thing that is observed is that the filing is late by three years and 11 months and the point of limitation has to be decided. Learned Counsel, Shri G. P. Iyer, brings to our notice a decision on this very aspect made by the Hyderabad Bench of this Tribunal in M.A. No. 236/2000 in O.A. No. 392/98 on 19.04.2000. We agree with the point therein that the delay in filing the R.P. will be fatal to the case of the present Review Petitioner.

4. Even otherwise, the point made by Shri R. R. Shetty on merits of the R.P. is that the Supreme Court judgement has been made on interpretation of law on 24.10.1997 and that this decision settles the law in a manner different to the manner in which the O.A. was disposed of. As pointed out by the Learned Counsel, Shri Iyer and Shri Kallapura, the O.A. was disposed of prior to the Supreme Court judgement i.e. it was disposed of on 15.09.1997. Thus the order is final between parties as per settled law. Even this point, notwithstanding the very substantial point about delay, is relevant. Hence, the Review Petition is dismissed.

5. The M.P. and C.P. are adjourned as per request of Shri Kallapura. The alleged contemnors, i.e. the Original Respondents are at liberty to file additional reply to C.P. bringing out the latest position.

6. Case posted to 16.04.2001. *for consideration of MP/CP.*

(S.L. Jain)
(S.L. Jain)
MEMBER (J).

B.N. Bahadur
(B.N. BAHADUR)
MEMBER (A).