

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 6/2 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 Raod,  
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,  
Gulmohar Road, 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, IIInd Floor,  
Motiniwas Co-op. Hsg. Scy. 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, Begeshwari East,  
Bombay - 400 060.

3. Karuvakkal Chandran Nair,  
residing at No.1-Basweswar Co-op. Hsg.  
Scy. 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.  
Scy. Ltd., 3rd Floor,  
Opp. Seven Bunglows Bus Depot,  
Andheri (W), 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, BOTISAR - 401504.  
District Thane, Maharashtra. (Applicants in OA.461/94)

By Advocate Shri S.R. Singh.

IV.1. K.V. Vasudevan,  
residing at : 17/2, Konark Nagar,  
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. Scy. Ltd.,  
Wingaon, Pune-411 032. (Applicants in OA.194/97)

By Advocate Shri S.P. Saxena

V. 1. P.K.Nair,  
125, Resta 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, Gultekdi,  
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,  
DHQ 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,  
DAPCDI, 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 OAs the applicants are praying for the following relief:-

- (a) to direct the Respondents to reclassify the Applicants as Clerk Upper Division with effect from 1/1/47.
- (b) to direct the Respondents to refix the pay in the scale of Clerk Upper Division from 1/1/1947 and grant annual increments as and when due.
- (c) to direct the Respondents to calculate the difference of arrears of pay arising out of above clauses (b) due to re-fixation, and pay 60% of the amount to the Applicants in terms of the order of the Supreme Court, as ordered by the Central Administrative Tribunal in Original Application No.1037/1992.
- (d) to direct the Respondents to review the case of promotion from U.D.C. to Office Supdt. and antedate the same.
- (e) to direct the Respondents to recalculate all the pensionary benefits and pay the arrears in terms of 60% liability for the same.
- (f) to give all other consequential benefits arising out of above.
- (g) to pass any other just and equitable orders which may be necessary in the facts and circumstances of the case.

2. Some of the applicants who are similarly situated like the present applicants have approached the Tribunal by filing the OA on the basis of the letter issued by respondents dated 8/6/94. The Tribunal while allowing the OA No.1037/92 passed the orders dated 15/4/96 and 29/9/95 respectively., since the applicant has retired from service, the monetary benefits regarding difference in pay and allowances was restricted to three years prior to filing of the OA. So far as pensionary and other benefits such as promotion, re-fixation, seniority recalculation of pension and gratuity, etc the respondents were directed to carry out the same in accordance with their order dated 8/6/94

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 necessary calculations and treating the applicants as U.E.G. 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:-

DETAILS OF APPLICANTS

S.No.	Name of the applicant	Date of appointment as clerk lower Div.	Date of promotion as U.D.C.	Date of promotion as Office Supdt.	Date of Superannuation
1.	V.D. Prabhune	20.05.1942	12.02.1953	03.10.1970	31.12.1974.
2.	S.D. Nerlekar	01.09.1944	26.12.1960	20.01.1976	30.04.1979.
3.	M. M. Gandhi	01.12.1941	25.07.1958	20.01.1976	12.12.1979.
4.	M. K. Pathak	01.04.1943	01.07.1961	28.07.1980	28.02.1981.
5.	M.G. Desai	05.06.1943	25.01.1965	-----	31.07.1981.
6.	Late Shri D. Madhav	01.07.1943	01.01.1966	-----	31.10.1981.
7.	Shankar Dinkar Imamdar	11.08.1941	1961	1974	30.11.1978.
8.	Laxman Nivruti Varade	01.04.1944	1963	-----	31.08.1979.
9.	Keez-halipurath Kelu Nair	22.06.1944			31.12.1985.
10.	N. Rammanna Shetty	03.08.1944			31.05.1981.
11.	Karuvakkai Chandram Nair	16.04.1945			30.06.1984.
12.	Ramachandra Gajanam Kulkarni	23.02.1941			31.05.1979.
13.	Jappu Shankar	01.08.1942			30.06.1978.
14.	Smt. Sheela D Jayawant	21.05.1942			31.12.1976.
15.	Gopal Krishna Auchat	24.05.1941			31.03.1974.
16.	Smt. Manorama Bade	02.11.1942			31.12.1980.
17.	K. V. Vasudevan	07.03.1944	01.11.1955	12.10.1970	31.07.1984.

	Name of the applicant	Date of appointment as clerk lower Div.	Date of promotion as U.D.C.	Date of promotion as Office Supdt.	Date of Superannuation.
18.	T.K.Nair	07.03.1944	01.06.1955	12.10.1970	29.02.1984.
19.	F.K.Nair	17.08.1943	21.08.1955	29.05.1971	31.08.1982.
20.	N.Raman	15.11.1944	01.09.1954.	01.02.1978	31.08.1982.
21.	N.R.Murthy	01.10.1942	12.12.1959	-----	31.08.1975.

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 :

: ORDER :

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, those 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).

abp