

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
MUMBAI BENCH

Original Application No: 364 of 1998.

Date of Decision: July 16, 1999.

S. Suresh & 21 Others,

Applicants

Shri P. A. Prabhakaran,

Advocate for  
Applicants

Versus

Union Of India & Others,

Respondent(s)

Shri S. S. Karkera for  
Shri G. K. Neelkanth,

Advocate for  
Respondent(s)

CORAM:

Hon'ble Shri. Justice R. G. Vaidyanatha, Vice-Chairman.

Hon'ble Shri. B. N. Bahadur, Member (A).

- (1) To be referred to the Reporter or not?
- (2) Whether it needs to be circulated to  other Benches of the Tribunal?

*R. G. Vaidyanatha*

(R. G. VAIDYANATHA)  
VICE-CHAIRMAN.

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CENTRAL ADMINISTRATIVE TRIBUNAL  
MUMBAI BENCH.

ORIGINAL APPLICATION NO.: 364 of 1998.

Dated this Friday, the 16th day of July, 1999.

CORAM : Hon'ble Shri Justice R. G. Vaidyanatha, Vice-Chairman.

Hon'ble Shri B. N. Bahadur, Member (A).

1. S. Suresh  
Resident of 483, Sector-C  
C.G.S. Colony, Bhandup(E),  
Mumbai - 400 042.

Working in the office of  
the Accountant General  
(Commercial Audit),  
101, M. K. Road, Mumbai-400 020.

2. R. Ganesh.

3. S. Sivakameswaran.

4. S. Senthilnathan.

5. K. Nagarajan.

6. O. P. Poulose.

All working in the office of  
the Accountant General  
(Commercial Audit), Mumbai.

7. Ajay Kumar Krispashankar.

8. S. G. Acharya.

9. M. Ganesh.

10. J. N. Perumal.

All from 7 to 10 working in the  
office of The Principal Director  
of Commercial Audit & Ex-Officio  
Member Audit Board-I, 6th floor,  
Engineering Centre, 9th Mathew Road,  
Mumbai - 400 004.

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11. S. D. Kelkar.
12. P. Madhusoodanan.
13. A. D. Raju.
14. C. S. Govindarajan.
15. J. Thyagarajan.
16. R. Srinivasan.
17. Alok Saxena.
18. Rajesh Luhadia.
19. Om Prakash Mehta.

All at Sl. Nos. 11 to 19 working in the office of the Principal Director of Commercial Audit & Ex-Officio Member, Audit Board-II, Ilaco House, Sir P. M. Road, Fort, Mumbai - 400 001.

20. S. Venkataraman.
21. P. S. Prabhakar.
22. P. S. Ramanarayanan.

All at sl. nos. 20 to 22 working in the office of the Principal Director of Commercial Audit & ex-officio Member, Audit Board-IV, R. K. Puram, New Delhi, in his Mumbai office at 4th floor, Mistry Bhavan, Dinshaw Wacha Road, Mumbai 400 020.

... Applicants.

(By Advocate Shri P. A. Prabhakaran).

VERSUS

1. Comptroller & Auditor General of India,  
10, Bahadurshah Zafar Marg,  
New Delhi - 110 002.
2. Principal Director of Commercial Audit & Ex-Officio Member,  
Audit Board-IV, R. K. Puram,  
New Delhi - 110 006.



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3. Principal Director of Commercial Audit & Ex-Officio Member Audit Board-I, 6th floor, Engineering Centre, 9th Mathew Road, Mumbai - 400 004.
4. Accountant General (Commercial Audit), 101, M. K. Road, Mumbai - 400 020.
5. Principal Director of Commercial Audit & Ex-Officio Member, Audit Board-II, Ilaco House, Sir P. M. Road, Fort, Mumbai - 400 001. ... Respondents.

(By Advocate Shri S. S. Karkera for  
Shri G. K. Neelkanth).

O R D E R (ORAL)

PER : Shri Justice R. G. Vaidyanatha, Vice-Chairman.

1. This is an application filed under Section 19 of the Administrative Tribunals Act, 1985. The respondents have filed reply. The point involved is a short point. We are disposing of the O.A. at the admission stage after hearing both the counsel.

2. The applicants' were appointed as Section Officers (Commercial) in the office of the Accountant General at Mumbai. They belong to the Comptroller & Auditor General of India. The applicants were appointed in 1987 but they were not given increments after the expiry of first year. The applicants were making number of representations. It is also their case that some of the employees approached the Hyderabad Bench of the Tribunal by filing O.A. No. 607/91. The said Tribunal by order dated 25.09.1995 allowed the application and directed the Government to

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grant increments to those applicants after the completion of first year. The Government has since implemented the decision of the Hyderabad Bench of the Tribunal by issuing a presidential order. The S.L.P. filed by the Government against the order of the Hyderabad Bench of the Tribunal came to be rejected by the Supreme Court on 07.05.1996. The applicants are similarly situated like the applicants before the Hyderabad Bench of the Tribunal. Even under the rules, the applicants are entitled to increments after the expiry of one year from the date of joining duty. Hence, both on merits and by virtue of the decision of the Hyderabad Bench of the Tribunal the applicants are entitled to increment after the expiry of first year. The applicants ~~were~~ <sup>are</sup> also relying on the subsequent Government Order dated 20.03.1997 under which the Government has sanctioned increments after the expiry of one year but however, they have given a direction that notional benefit should be given and actual benefit should be given prospectively from the date of the Government Order. The applicants ~~were~~ <sup>are</sup> aggrieved by this condition in the order dated 20.03.1997 under which the notional benefit is given and no arrears are granted but actual benefit given prospectively.

3. The respondents in their reply have justified their action on the basis of the rules that applicants were not entitled to increment after the expiry of one year. As far as the claim for arrears is concerned, it is stated that the claim is barred by limitation, delay and laches.

4. We need not go into the question whether the applicants are entitled to increments after the expiry of first year since it has now been conceded by the Government in the impugned order dated 20.03.1997. The matter is also concluded by the decision of the Hyderabad Bench of the Tribunal dated 25.09.1995 and by the rejection of the S.L.P. by the order of the Supreme Court dated 07.05.1996. Hence, on merits we need not consider whether the applicants are entitled to increments after the expiry of one year from the date of first appointment.

5. The point of controversy between the parties is whether the applicants are entitled to the arrears of monetary benefits or not ?

According to the Learned Counsel for the applicants, the applicants have been agitating the matter by sending repeated representations and they were also waiting for the decision of the Hyderabad Bench of the Tribunal and when those applicants have been given the benefits, the same cannot be denied to the applicants. The Learned Counsel for the respondents contended that it is a policy decision taken by the <sup>Govt.</sup> ~~Tribunal~~ to give benefits prospectively and retrospective benefits given notionally and even otherwise, the claim is barred by limitation, delay and laches.

6. As already stated, there is no dispute that applicants ~~are~~ <sup>were</sup> entitled to increments after the completion of one year from the date of first appointment. One year expired sometime in 1988. The present O.A. is filed about ten years later in 1998. <sup>distance</sup> The question is, whether at this ~~stage~~ of time the respondents should grant monetary benefits to 22 applicants who are before us. If once such a benefit is given to the applicants, then the department will have to give similar benefits to hundreds of officers who are similarly situated all over India. In a matter like this, the Court has to be cautious in granting arrears of monetary benefits. The Learned Counsel for the applicants himself relied on the case of M.R. Gupta V/s. Union of India reported in (1995) 31 ATC 186 where the Supreme Court had occasion~~s~~ to consider the question whether fixation of proper pay is barred by limitation or it is a continuous cause of action. In the said judgement the Supreme Court ruled that fixation of pay is a continuous cause of action and there is no limitation for the same. However, the Supreme Court clearly observed in para 7 of the reported judgement that the question of limitation is attracted only regarding consequential and other reliefs includings the arrears and the matter was remitted to the <sup>for considering</sup> Tribunals considering the same according to law.

7. When high stakes are involved and heavy burden imposed on State Exchequer, the Courts and Tribunals should be circumspect in granting consequential arrears of monetary

<sup>may</sup>  
benefits. It may be in an individual case the Court <sup>can</sup> grant retrospective promotion and retrospective arrears but when we are concerned with group of persons like the present applicants and existence of similar persons all over India, we should be careful and cautious in granting arrears of monetary benefits. In the present case, we find that the Government Order is issued on 20.03.1997. We also notice that the Hyderabad Bench of the Tribunal gave the judgement on 25.09.1995 but however the matter became final when the Supreme Court rejected the S.L.P. on 07.05.1996. When there was a decision of the competent Tribunal holding that the officials are entitled to ~~1~~ increments after the expiry of one year and the Supreme Court had put a seal of approval by dismissing the S.L.P. on 07.05.1996, we feel that in the peculiar facts and circumstances of this case, the Government should have issued an order granting the benefits to the applicants. But the Government took few months time in issuing the impugned order dated 20.03.1997. Therefore, we feel that in the peculiar facts and circumstances of the case, the applicants should be given monetary benefits from 01.05.1996.

8. In the result, the application is allowed partly <sup>in</sup> pursuance of the order dated 20.03.1997, The Government should grant ~~1~~ arrears of monetary benefits to the applicants in this O.A. <sup>only</sup> from 01.05.1996 and onwards. This is subject to fixing

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notional fixation of increment in respect of the applicants as mentioned in the said Government Order dated 20.03.1997 but actual benefit should be given from 01.05.1996 and onwards. In the circumstances of the case there will be no order as to costs.

B. N. Bahadur  
(B. N. BAHADUR)

MEMBER (A).

R. G. Vaidyanatha  
(R. G. VAIDYANATHA)

VICE-CHAIRMAN.

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