

CENTRAL ADMINISTRATIVE TRIBUNAL,
HYDERABAD BENCH: HYDERABAD

C.A. NO. 270/97 and batch

DATE OF DECISION: 3-3-99

A. Phaniak & Ors.

PETITIONER(S)

N. Ramachandra Rao

ADVOCATE FOR THE
PETITIONER(S)

VERSUS

Union of India & Ors.

RESPONDENT(S)

Mr B. Narasimha Sarma & Ors

ADVOCATE FOR THE
RESPONDENT(S)


THE HON'BLE Sri R. Rangarajan, Member (A)


THE HON'BLE Sri B. S. Tai Parameshwar, Member (J)

1. Whether Reporters of local papers may be allowed to see the judgement?
2. To be referred to the Reporter or not?
3. Whether their Lordships wish to see the fair copy of the judgement?
4. Whether the judgement ~~xxxx~~ is to be circulated to the other Benches?

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JUDGEMENT DELIVERED BY HON'BLE Sri R. Rangarajan, Member (A)


H.S.S.P.
7(5)


H.R.R.V.
7(A)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL: HYDERABAD BENCH:
AT HYDRABAD

ORIGINAL APPLICATION NOS.270, 271, 497 & 260 of 1997

DATE OF ORDER: 3rd MARCH, 1999

BETWEEN:

O.A.NO.270/97

1. A.DHANAIHA,
2. J.V.RAMANA,
3. P.SRINIVASULU,
4. B.NARAYANA,
5. V.RAGHUNATH REDDY,
6. B.ASHOK KUMAR,
7. ABDUL GAFOOR,
8. RAMACHANDER,
9. MADHAVA PRASAD,
10. S.BAHADUR,
11. G.RAJA RAO,
12. MURARILAL,
13. M.NAGESWARA RAO,
14. C.SATYANARAYANA,
15. S.KUMAR,
16. Y.YADAIHA,
17. G.GOPALAKRISHNA,
18. S.MALLIKARJUNA RAO,
19. M.RAJENDRA PRASAD,
20. V.RAMCHANDER.

.. APPLICANTS

and

1. Union of India rep. by
The Secretary,
Ministry of Defence,
New Delhi,
2. The Scientific Advisor to the Minister
of Defence and Director General,
Defence Research & Development Organisation,
Directorate of Personnel 'H' Block,
New Delhi,
3. The Director,
Defence Electrical Research Laboratory (DLRL),
Kanchanbagh,
Hyderabad-28.

.. RESPONDENTS

O.A.NO.271 of 1997

1. N.B.ANAND,
2. Y.ANJAIHA,
3. B.HANUMANTHA RAO,
4. THR CHOUHAN,
5. Y.SIVARAMAIAH,

[Signature]

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6. M.VEERESHAM,
7. D.BARASIMHA,
8. N.BABU RAO,
9. K.RAMULU,
10. S.YADAGIRI,
11. K.VENKATESWARA RAO,
12. ABDUL KALEEL,
13. K.HANUMANTHU,
14. N.YELLAIAH,
15. MAHAMEED HUSSAIN,
16. SHIVRAJ,
17. YADAGIRI,
18. Smt. BEWA HALDAR,
19. MAHAMMAD MASEED GOURI,
20. MIR ZULFKAR ALI,
21. P.SREERAMULU,
22. K.ANJANEYULU,
23. C.PENTAIAH,
24. G.HANUMANTHA RAO,
25. D.YETTAPPA,
26. M.PHILLIPS,
27. ANJI REDDY,
28. N.BABU RAO,
29. S.MALLAREDDY,
30. LAXMAIAH,
31. S.H.MADHUKAR,
32. B.BALAKRISHNA,
33. RAMA SWAMY,
34. D.BALARAJ,
35. D.VENKATAIAH,
36. M.RAMACHANDAR,
37. P.ADAVAIAH,
38. B.ANJAIAH,
39. V.NARAYANA,
40. G.BALARAJ,
41. GAR KHAN,
42. D.BALRAM,
43. M.ASHOKKUMAR,
44. B.N.SWAMY,
45. CHRIST RICHARD,
46. MOHD AHMED,
47. L.VENKATSWAMY.

.. APPLICANTS

and

1. Union of India rep. by the
Secretary, Ministry of Defence,
New Delhi,
2. The Scientific Advisor to the
Minister of Defence & D.G, DRDO,
New Delhi-11,
3. The Director,
DMRL, Kanchanbagh,
Hyderabad-28.

.. RESPONDENTS

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O.A.NO.497 of 1997

1. K.VEERA REDDY,
2. AHMED NAWAZ,
3. G.V.SATYANARYANA VARMA,
4. G.ANAND REDDY,
5. MOHD ABDUL SATTARY,
6. E.RAMESH,
7. RAMA SWAMY,
8. N.BRAMACHARI,
9. T.K.SHANKAR RAO,
10. B.DAYANAND,
11. V.PENTAIAH,
12. M.L.GOPAL,
13. G.DHARMA REDDY,
14. M.KISTAIAH,
15. N.LATCHAIAH,
16. ABDUL WAHEED,
17. D.KISHORE RAO,
18. RAMPAL,
19. N.NARSING RAO,
20. S.SATYANARAYANA,
21. G.BRAMMAIAH,
22. B.KISHAN RAO,
23. P.BALAIAH.

.. APPLICANTS

and

1. Union of India rep. by the
Secretary, Ministry of Defence,
New Delhi,
2. The Scientific Adviser to Minister of
Defence & D.G. DRDO, New Delhi,
3. The Director,
DRDL, Kanchanbagh,
Hyderabad.

.. RESPONDENTS

O.A.NO.260 of 1997

1. SYED SATTAR,
2. SHIVRAJ,
3. K.BALRAJ,
4. D.RANGAIAH,
5. D.KRISHNA,
6. K.ESWARLAL,
7. M.KRISHNA,
8. R.KRISHNA,
9. S.LAXMAIAH,
10. M.SATHAIAH,
11. K.SATYANARAYANA,
12. K.BALSETTI,
13. S.P.NARSING RAO,
14. G.NIRANJAN SINGH,

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15. D.RAJI REDDY,
16. B.BEEM RAO,
17. S.CHINNA RAMULU,
18. P.SUDARSHAN,
19. P.RAJAIAH,
20. B.KRISHNA,
21. RAJ KAMAL SINGH,
22. G.KRISHNA RAO,
23. C.SWAMY,
24. G.UMAPATHI RAO.

.. APPLICANTS

AND

1. Union of India rep. by
the Secretary,
Ministry of Defence,
New Delhi,
2. The Scientific Advisor to the
Minister of Defence & DG, DRDO,
New Delhi-11,
3. The Director, DRDL,
Kanchanbagh,
Hyderabad-28.

.. RESPONDENTS

COUNSEL FOR THE APPLICANTS: N.RAMAMOHAN RAO

COUNSEL FOR THE RESPONDENTS: Mr.B.Narasimha Sarma, Sr.CGSC
in OA 270/97,Mr.Vinod Kumar, Addl.CGSC in
OA 270/97,Mr.V.Bhimanna, Addl.CGSC in OA
497/97; andMr.K.RAMULU, Addl.CGSC in OA
260/97.

CORAM:

HON'BLE SHRI R.RANGARAJAN, MEMBER (ADMN.)

HON'BLE SHRI B.S.JAI PARAMESHWAR, MEMBER (JUDL.)

JUDGEMENT

ORDER (PER HON'BLE SHRI R.RANGARAJAN, MEMBER (ADMN.))

Heard Mr.N.Rama Mohan Rao, learned counsel for the
applicants in all the 4 OAs. Heard Mr.B.Narasimha Sarma
for the respondents in OA 270/97, Mr.Vinod Kumar in OA




271/97, Mr.V.Bhimanna in OA 497/97 and none in OA 260/97. Though there are different learned standing counsels for the respondents, Mr.B.Narasimha Sarma led the others in arguing this case.

2. The contentions raised in all the 4 OAs and the relief_s asked for are same. Hence all the 4 OAs are *being* disposed of by ^{this} common judgement.

3. In OA 270/97, there are 20 applicants. They are Technicians Grade-C in Defence Electrical Research Laboratory (DLRL for short) Research Laboratory (DMRL), Hyderabad under Defence Research and Development Organisation (DRDO for short).

3. There are 47 applicants in OA 271/97. They are also Technicians 'C' working in Defence Metallurgical Research Laboratory (DMRL for short), Hyderabad.

6. In OA 497/97 there are 23 applicants in the grade of Technicians 'C' working in the Defence Research and Development Laboratory (DRDL for short), Hyderabad.

6. In OA 260/97 there are 24 applicants who are working as Technicians 'C' in Defence Research and Development Laboratory (DRDL for short), Hyderabad.

7. All the above Laboratories are under the umbrella of DRDO under the Ministry of Defence.

8. All the applicants in all these OAs were granted higher pay scale from the Semi-skilled (Rs.210-290) to the



Skilled in the scale of pay of Rs.260-400 in terms of Ministry of Defence letter No.3813/DS(O&M)/Civ-1/84, dated 15.10.84 (Annexure R-3 to the reply in OA 270/97). Subsequently, Memo No.17(5)/89-D(Civ.I), dated 19.3.93 (Annexure R-8 to the reply in OA 270/97) was issued granting the benefit of upgradation from 16.10.81 for the cadres which were recommended for upgradation by the Anomalies Committee. In that impugned letter dated 19.3.93, upgradation with effect from 16.10.81 for the employees of DRDO was rejected.

9. This OA is filed to set-aside the impugned letter No.96532/IE/ANID/RO/PERS-3/1023/D (R&D), dated 20.3.96 (Annexure A-1 at page 15 to the OA) and for consequential declaration that the applicants are entitled to the benefit of upgradation of their posts from Semi-skilled to Skilled in the grade of Rs.260-400 with effect from 16.10.81 with consequential monetary benefits and service benefits including seniority with effect from 16.10.81.

10. Similar replies have been filed in all the OAs. It is stated that the instructions for upgradation with effect from 16.10.81 for the DRDO staff are not considered necessary as there is a grade-wise seniority irrespective of trades existing in DRDO and in view of the judicial pronouncements for upgradation of specific trades, the Ministry of Defence issued order NO.17(5)/89-D(Civ-I), dated 19.3.93 antedating upgradation of 11 trades from 15.10.84 to 16.10.81 and those orders were not made applicable to the DRDO. As such, the benefit of the order dated 19.3.93 cannot be made applicable to other trades

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especially when there was neither trade-wise ^ediscription in the matter of seniority nor were they all recommended for upgradation. The respondents also submit that this OA is covered by the judgement of the Madras Bench of the Tribunal in OA 1978/93 decided on 30.4.96 which is enclosed at Annexure R-12 to the reply. The respondents further submit that the contentions raised in this OA have already been answered by the Madras Bench in the above referred OA and hence the applicants are not entitled for the relief. It is also stated in the additional reply statement filed on 1.2.99 that the applicants herein do not come under the 16 categories mentioned in ECC report as well as Anomalies Committee's report. The trades of the applicants in OA 270/97 have been enclosed as Annexure-1 to the additional reply to prove the above statement.

11. The applicants contend that the upgradation for the DRDO employees was given in view of the judgement of the Full Bench of this Tribunal in OA 111/91 on the file of the Bangalore Bench of this Tribunal for the reasons stated therein. That reason still holds good for giving upgradation from October 1981 even if the grade-wise seniority was introduced in DRDO as per the provisions of SRO No.221 dated 7.8.81. Hence when the upgradation with effect from 15.10.84 was given even when the grade-wise seniority was in existence in DRDO, denying the upgradation with effect from 16.10.81 on the ground ^atht the DRDO had switched over to grade-wise seniority is untenable. The applicants also submit that Madras Bench of this Tribunal had dismissed OA 1978/93 on the ground of limitation and not on merits. Hence dismissal of the OA 1978/93 on the

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file of Madras Bench will not stand in the way of the applicants to grant the relief as prayed for in this OA.

12. The brief facts of this case are as follows:-

As recommended by the IIIrd Pay Commission, an expert Classification Committee (ECC for short) was set up to scientifically evaluate the industrial and certain non-industrial jobs and to classify the various trades for appropriate fitment in the IIIrd Pay Commission's scales. The classification of various trades was done by the ECC which evaluated 1720 industrial jobs. The Experts committee had evaluated the job content based on various factors for each trade and awarded points-score to each job. Those trades which had obtained point score between 251 to 328 had been given the grade of Rs.260-400 and those who obtained the point-score between 206 to 250 were given the semi-skilled grade of Rs.210-290. The report submitted by the ECC was examined by the Government and orders granting five major categories (Unskilled, Semi-skilled, Skilled, Highly Skilled-Gr.II and High Skilled Gr.I) were issued with effect from 16.10.1982.

13. Some anomalies were, however, noticed in introducing the pay scales on the basis of the above order. Therefore, an Anomalies Committee was constituted by the Government in 1982, in the Departmental Council (JCM for short) which was subsequently converted into an Expert Body for the purpose of making job evaluation of certain trades where anomaly was stated to have existed in implementing the ECC's recommendations. This Anomalies Committee

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submitted its report in May 1984. The Govt. accepted the recommendations and orders were issued, effective from 15.10.84, granting higher pay scales and upgrading 11 trades from semi-skilled (Rs.210-290) to Skilled grades (Rs.260-400). The applicants were beneficiaries of such upgradation.

14. In the DRDO, five grades structure of a different pattern had already been introduced as per SRO No.221 dated 7.8.1981. According to this SRO, trade-wise seniority were done away with and only grade-wise seniority was followed. For example, the lowest grade was designated as Tradesman 'E' and the higher grades were designated as Tradesman 'D', 'C', 'B' and 'A'. Tradesman 'E' corresponded to the semiskilled with the scale of Rs.210-290. In the SRO, 74 trades have been listed as falling under the various grades of Tradesman-A to E. It is the case of the respondents that with the implementation of this SRO, trade-wise distinction has^d been done away with and only grade-wise common-seniority was maintained. The Tradesmen were categorised only as Tradesmen-E, D etc. and not as Carpenter, Book Binder, Machinist and so on. Whenever vacancies arose, the senior most Tradesman - say Tradesman 'C' should be considered for promotion to the next higher grade of Tradesman-B, irrespective of the specific trade in which he was working. The person had to qualify in his particular trade, though.

15. With the implementation of the upgradation of 11 trades with effect from 15.11.84, a situation arose in which the erstwhile seniors in the common seniority list

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were either functioning in Tradesman-E (equivalent to semi-skilled) or had obtained promotions after October 1984 whereas a number of juniors belonging to the 11 trades got the benefit of upgradation from 15.10.84. Those seniors who were in the trades other than the 11 upgraded trades filed cases before the ^{various} Benches of this Tribunal. The matter was referred to the Full Bench in OA 111/91 on the file of the Bangalore Bench which was decided on 18.6.93. In its order the Full Bench observed as under:-

"(A) Picking and choosing of only 11 trades from common category of trades who are all in the same feeder category for promotion to Tradesman-C would per-se result in discrimination against the excluded categories."

16. In view of the Full Bench orders, the employees belonging to the trades other than the 11 ^{trades} were also upgraded and extended the benefit of upgradation effective from 15.10.84.

17. Independent of the above proceedings relating to the other than 11 upgraded trades even those belonging to 11 trades had a grievance that their upgradation had been delayed till October 1984 whereas as a result of the classification based on the ECC some others had been conferred the benefit of the revised scales in skilled grade right from 16.10.81. The matter went up to the Hon'ble Supreme Court in Bhagwan Sahai and others v. Union of India, reported in 1989(2) SCC 299. It was held by the Apex Court that the employees of different trades in the

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skilled grade cannot be treated differently by allowing higher pay scales to employees of some of the trades from an earlier date and giving the same benefit to members of other trades in the skilled grade from a later date. Such an action was found to be discriminatory. Accordingly the petitioners in the Military Engineering Services were allowed the benefit from 16.10.81 instead of 15.10.84.

18. The applicants before us filed this OA praying that their pay scales should also be revised from 16.10.81 and not from 15.10.84.

19. Similar OA, namely, OA 1978/93 (G.Murugan and others v. Union of India and another) filed on the file of the Madras Bench of the Tribunal was dismissed for the reasons stated therein. Though the learned counsel for the applicants submits that the Madras Bench dismissed similar OA 1978/93 on the ground of limitation, a reading of the judgement makes us to come to the conclusion that the said OA was dismissed for various other reasons including the ground of limitation and it is not dismissed exclusively on the ground of limitation. Hence the reasons given in that OA also ^cshould be taken note of before disposing of the present OA.

20. The main contention of the applicants in these OAs is that Bhagwan Sahai's case extending the benefit retrospectively from the year 1981 is equally applicable to the applicants in these OAs even if they do not belong to the same 16 trades as noted in the ECC or Anomalies Committee's report.



21. Per contra, the learned counsel for the respondents vehemently argued that the applicants cannot continue to claim so. The DRDO is a specialised research organisation. The work culture in this organisation is of a different type. In the Defence Ministry, unlike in other wings like the Ordnance Factories, etc., only in the DRDO a unique method of clasifying workmen has been adopted. The workmen are classified as Tradesman-E, D, C etc. and not by their trades. In other units, for example the workmen may be designated as Machinist Skilled, Machinist Highly Skilled and so on. Such a situation does not exist in the DRDO.

22. When the above contention was made by the respondents, the learned counsel for the applicants argued that the respondents had not raised any such objection at the time of implementation of the Anomalies Committee's recommendation in the year 1984. Those recommendations related only to 11 specific trades which are to be upgraded from Semi-skilled to Skilled. Further, promotions are made by trade test in the specific discipline. In view of the above submissions, it is to be noted that even though the respondents had initially extended the benefit of upgradation to only 11 trades subsequent to the judgement of the Full Bench in OA 111/91 dated 18.6.93, even others who ^{were} ~~are~~ not included in the 11 trades and who happened to be in position as on 15.10.84 had to be given the Skilled grade. The relevant observations made by the Full Bench are extracted below:-

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"Promotion to the category 'C' is governed by the same Rules in respect of all the units/wings of the DRDO. In accordance with the rules, persons in semi-skilled category in the scale of Rs.210-290 would become eligible for promotion to Category 'C' on fulfilling the prescribed requirement of experience. As a matter of fact all the applicants did earn promotion in accordance with the Rules in their own right between 28.3.85 and 15.4.87. Promotion to category 'C' is based on common seniority of persons belonging to all the trades. The upgradation with which we are concerned in this case is to the post in the promotional cadre from the post in the feeder cadre. All those belonging to the 11 upgraded trades as also the applicants who belong to the trade of Fitter are equally eligible for promotion to category 'C' in accordance with the common seniority list which is required to be maintained to make promotions in accordance with the rules. From among several trades in the feeder category whose names are included in the common seniority list persons belonging to 11 specified trades alone have been picked up for upgradation to the promotional post of Gorup-C. They do not come by promotion on the basis of their eligibility and seniority in the common seniority list, but by the process of upgradation of the 11 categories of posts. Thus it becomes clear that only those belonging to 11 specified trades from the seniority list were given the benefit of upgradation to the promotional category 'C' denying the same treatment to other in the same seniority list. As a result of such picking and choosing of tradesmen belonging to 11 categories for

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upgradation, persons who are lower in the seniority list would get into promotional cadre by the process of upgradation with effect from 15.10.1984 whereas persons senior to them in the same seniority list may get promotion with effect from subsequent dates after waiting for their turn for promotion in accordance with the Rules. Thus, picking and choosing of only 11 trades from the common category of trades who are all in the same feeder category for promotion to Group-C would per se result in discrimination against the excluded categories. It is this vice of discrimination flowing from picking of 11 trades for upgradation that is neutralised by the judgment of the Hyderabad Bench of the Tribunal which directed that the benefit of upgradation be given to every trade which was in the feeder category on 15.10.1984. Acceding to the argument of the respondents would result in our maintaining discrimination brought about by the selective upgradation of 11 trades from among large number of trades which formed the common feeder category for promotion to category 'C'.

23. From the above extracted portion, it is to be noted that the Full Bench has treated all ^{the} categories in the DRDO on the same footing with reference to upgradation effective from 15.10.84 to avoid discrimination in the common seniority unit as promotion given to juniors in the common seniority unit will be a discrimination to the seniors in the same seniority unit.

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24. In the present case, none from the DRDO in the common seniority list ^{was} ~~were~~ given upgradation with effect from 16.10.81. If some of the employees in the common seniority list who belong ^{ed} ~~to~~ to 5 and 11 trades mentioned by ECC and Anomalies Committee's report ^{where} ~~are~~ are given upgradation from 16.10.81, then discrimination which was sought to be abolished by the judgement of the Full Bench of this Tribunal ^{was} ~~will~~ once again be perpetuated. Hence if upgradation is to be given with effect from 15.10.81 it should be given to all and not to a section of employees who are in the trades mentioned in the ECC and the Anomalies Committee's report. It appears that the applicants in OA 270/97 do not belong to the 11 trades mentioned in the ECC and the Anomalies Committee's report. Hence in those cases, upgradation is not considered necessary. Even if it is necessary, it cannot be given to a section of ^{the} ~~an~~ employees leaving out seniors in the common seniority list. Hence when the respondents submit that the applicants in all the OAs are governed by the SRO 221 dated 7.8.81 wherein there is no trade-wise seniority but only grade-wise seniority and hence they are not entitled for upgradation with effect from 16.10.81, the same has to be taken as a very appropriate decision in view of the fact that the upgradation to some of the trades in the common seniority unit will once again create discrimination which is not contemplated by the Full Bench while granting them upgradation with effect from 15.10.84. It is not possible for the Government to give the benefit to all with effect from 16.10.81 in view of huge financial implications. The Tribunal cannot give a direction without taking due note of the financial liability of the Government to pay, in view



of the stringent financial situation now existing.

25. The applicants submit in the rejoinder that the number of trades in the other organisations where upgradation was given from 16.10.81 are not 16 but it is more. Hence 16 trades mentioned in the ECC and the Anomalies Committee's report are not a binding number of trades and it can be extended also. The details available before us do not make us to accept that statement. It may be possible that in the other organisations, the trades which are included over and above 16 may be related trades and hence those trades were also included in those organisations.

26. The respondents submit that the Order of the Govt. of India, Ministry of Defence bearing No.17(5)/89-D(Civ.I), dated 19.3.93 (Annexure-8 to the reply) was not sent to the DRDO as the upgradation with effect from 16.10.81 was not intended for the employees of the DRDO and it has been sent only to the 10 other organisations mentioned in the side line of the order dated 19.3.93 to which institution the order is applicable. We asked the learned standing counsel for the respondents to enclose the order addressed to the various units. In the additional reply, the order despatched to the 10 units has been enclosed. We see therein that the DRDO is not one of the organisations to which the above order was despatched. Though the learned counsel for the applicants submits that non despatch of the order to DRDO may be an omission or may be a wanton act, those views are not accepted by us. Those directions were not issued to DRDO as there is no nexus between the

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applicants in these OAs in DRDO and the employees of other units under the Ministry of Defence who were granted upgradation with effect from 16.10.81.


27. In view of what is stated above, we find that the impugned notification dated 20.3.96 (Annexure A-1 at page 15 to the OA) has been issued ^{after} giving proper consideration to the request of the employees and after taking into account all the factors mentioned in the various OAs filed before this Bench as well as ^{the} views expressed by the Full Bench in OA 111/91.

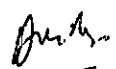
28. In view of what is stated above, we find no merits in these OAs. Hence all the four OAs namely, OAs 270/97, 271/97, 497/97 and 260/97 are only liable to be dismissed and accordingly they are dismissed. No order as to costs.


(B.S. JAI PARAMESHWAR)
MEMBER (JUDL.)

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DATED : 3rd March, 1999


(R. RANGARAJAN)
MEMBER (ADMN.)


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