

Second Floor,
Commercial Complex,
Indiranagar,
Bangalore-560 038.

Dated: 9 JAN 1996

Review Appln. No. 36 of 1994 in

Application No.

600 of 1991.

Applicant(s) : Mr. Ashok,
V/s.

Respondents : Secretary, Ministry of Defence,
New Delhi and others.,

To

1. Sri. K. S. Savanur, Advocate,
No. 73, Nandidurga Road,
Jayamahal Extension,
Bangalore-560046.

2. Sri. M. S. Padmarajaiah, Sr. CGSC,
High Court Bldg, Bangalore-1.

3. Dr. M. S. Nagaraja, Advocate,
No. 11, Sujatha Complex,
First Cross, Gandhinagar,
Bangalore-560099.

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Subject:- Forwarding of copies of the Orders passed by
Central Administrative Tribunal, Bangalore-30

-x-x-x-

A copy of the Order/Stay Order/Interim Order,
passed by this Tribunal in the above mentioned application(s),
is enclosed for information and further necessary action.
The Order was pronounced on 04-01-1996.

For-Deputy Registrar
Judicial Branches.

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**CENTRAL ADMINISTRATIVE TRIBUNAL,
BANGALORE BENCH, BANGALORE.**

REVIEW APPLICATION NO. 36/ 1994

IN

ORIGINAL APPLICATION NO. 600/ 1991

THURSDAY, THIS THE FOURTH DAY OF JANUARY, 1996

SHRI JUSTICE P.K. SHYAMSUNDAR ... VICE CHAIRMAN
SHRI V. RAMAKRISHNAN ... MEMBER (A)

Shri Ashok, S/o Shri Raenppa,
aged 49 years,
Working as Chargeman-I,
Sy. S.L. (SIM) ADE,
Bangalore - 93, Residing at
C/ 4 - 6, DRDO Complex,
C.V. Raman Nagar,
Bangalore - 560 092.

Applicant

(By Advocate Shri K.S. Savanur)

Vs.

1. Union of India,
represented by Secretary
to Government of India,
Ministry of Defence,
New Delhi - 100 001.
2. S.A. to R.M. &
Director General,
Research & Dev. Organisation,
Ministry of Defence 'B' Wing,
'Sena Bhavan', DHQ P.O.,
New Delhi - 110 011.
3. The Director,
Aeronautical Dev. Establishment,
Ministry of Defence,
C.V. Raman Nagar,
Bangalore - 560 093.
4. Sri R. Anbalagan,
S/o Shri K. Ramalingam,
No. 311, 12th Cross,
Anandapuram,
Jeevan Bhima Nagar P.O.,
Bangalore - 560 093.

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5. Shri C. Nagaraju,
No. 35, Govindappa Building,
3rd Floor, Cholurpalya,
Near Ganesh Temple,
Magadi Road,
Bangalore - 560 023.
6. Shri S. Balachandran,
No. 780, '8' BDA Layout,
Domlur,
Bangalore - 560 071.
7. Shri P.S. Lourdunathan,
Zion Cottage,
Ex-Serviceman Colony,
Doddabanasavadi,
Bangalore - 560 043.
8. Shri D. Thimme Gowda,
No. 85/ 16, DRDO Complex,
C.V. Raman Nagar,
Bangalore - 560 093.
9. Shri Yogeswara,
DRDO Complex, No. C-7/16,
C.V. Raman Nagar,
Bangalore - 560 093.
10. Shri A. Ramakrishna,
VISL, Simulation Aeronautical
Development Establishment,
Bangalore.
11. Shri Bettagowda,
H. No. 201/ 31, New-4,
4th Street, Model House,
Basavanagudi,
Bangalore - 560 004.
12. Shri A.V. Srinivasa Rao,
No.6, 7th Cross,
Prashantha Nagar,
Bangalore - 560 079.
13. Shri P. Shanmugam,
No.6, 7th Cross,
Prashantha Nagar,
Bangalore - 560 079.

14. Shri B. Vittala Chary,
No. 43 (Old No. 17),
5th Main Road,
Near BPIP School,
Malleswaram,
Bangalore - 560 003.

15. Shri M. Arokyaswamy,
No. 8-5/4, DRDO Complex,
C.V. Raman Nagar,
Bangalore - 560 093.

16. Shri K. Chandra Mohan,
No. 26, Alpine Home,
Lake View,
'T' Dasarahalli,
Bangalore - 560 057.

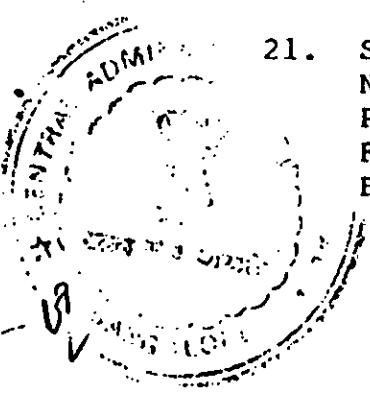
17. Shri J. Bendry,
S/o Jeevarathinam,
No. 155, Mothappa Palyam,
Indira Nagar,
Bangalore - 560 038.

18. Shri E.C. Vasanthaiah,
No. 821, II Cross,
K.N. Extension,
Yeswanthpur,
Bangalore - 560 022.

19. Shri Chikkananjaiah, H.,
No. 37/1, I Cross,
Najobha Agrahara,
Chamarajpet,
Bangalore - 560 018.

20. Shri S. Neelamegan,
No. 76, F. John,
Bull Street,
Viveknagar Post,
Bangalore - 560 047.

21. Shri A. Amalanathan,
No. 198, 7th Cross,
Pillanna Garden,
Frazer Town,
Bangalore - 560 005.



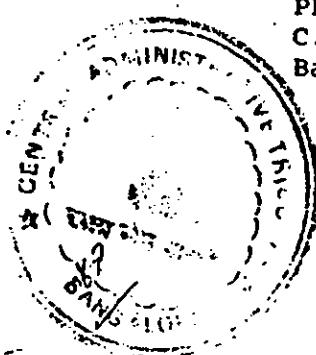
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22. Shri R. Yesu Prasad,
No.83 (2) Pillanna Block,
Srirampuram, Bangalore-21.
23. Shri P. Prasad,
S/o Shri Papanna, No.49,
Goraguntapalya, B'llore-22.
24. Shri B. Sivaiah,
No. 7/1, 11th 'A' Main,
4th 'F' Block, Jayanagar,
Bangalore - 560 081.
25. Shri S. Sivanarayana,
No. 697, T. Govindappa lane,
Kodihalli, HAL II Stage PO,
Bangalore - 560 008.
26. Shri B. Lingappa,
No. 55/3, C/o Annayappa,
Magadi Main Road,
Bangalore - 560 079.
27. Shri T.D. Sathakumar,
S/o Shri Doraiswamy,
Precision Mechanic,
ADE, Bangalore - 560 093.
28. Shri M. Anthony Joseph,
S/o Shri M.R. Maria Dass,
No.5, New Pension Line,
Mysore Road,
Bangalore - 560 018.
29. Shri G. Pandurangan,
No. 14/9, Veelariamman
Temple Street,
Viveknagar PO,
Vannarpet - 560 047.
30. Shri Pawar, N.R., Chargeman;
Gr.I, Bonded Stores,
PAAC Division, ADE,
C.V. Raman Nagar,
Bangalore - 560 093.
31. Shri Arumugam P.S.,
Chargeman, Gr. I, Machine Shope,
PET, A.D.E.,
C.V. Raman Nagar,
Bangalore - 560 093.

Respondents

(By Senior Central Government Standing Counsel,
Shri M.S. Padmarajaiah for R1 to R3)

(Dr. M.S. Nagaraja for Respondents 4 to 31)



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ORDER

Shri V. Ramakrishnan, Member (A):

MA 412/94 praying for condonation of delay is allowed and delay condoned.

2. Shri Ashok, presently serving as Chargeman, Grade-I in Aeronautical Development Establishment (ADE for short) under Defence Research & Development Organisation (DRDO for short) seeks review of our order dated 6.4.93 in OA 600/91 filed by Shri R. Ambalagan and others.

3. The background leading to the Tribunal's order in OA 600/91 is briefly set out below:

Shri Ambalagan, the applicant in OA 600/91 was appointed as Precision Mechanic (PM) after 1.1.73. The posts of Precision Mechanics fall in industrial cadre of DRDO and they had enjoyed a higher pay-scale as compared to other Mechanics, including Senior Electrician to which post the Review Applicant initially belonged. There was a change in this position in 1973 and the pay-scale of PMs was revised to 380 - 560 with effect from 1.1.73 and the same pay-scale was also given to other Tradesmen of Group 'A'. Subsequently, on 13.4.81, the pay-scale of PMs in the DRDO who were in position as on 31.12.72 was revised to 425 - 700 with effect from 1.3.77 and the financial effect was allowed with effect from 1.12.80. During 1984, some of the PMs who were appointed as such after 1.1.73 moved the Andhra Pradesh High Court by a Writ Petition subsequently transferred to Hyderabad Bench of CAT seeking grant of higher pay-scale of 425 - 700 to them also so as to bring them at par with those on the rolls as on 31.12.72. The Hyderabad Bench by its order dated

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10.11.86 allowed the applications and all PMs who were appointed as such even after 31.12.72 became entitled to the higher pay-scale of 425 - 700. The department extended the benefits mutatis mutandis to those serving in Bangalore Units after some employees got orders in their favour at the hands of Bangalore Bench of CAT in OA 793 - 810/89 and 223 - 236/90 disposed of on 17.5.90.

The earlier position for promotion of PMs was that they along with Supervisor Technical Grade-II (Technical Cadre) were eligible for promotion to the post of Chargeman Grade-II by having separate quotas. In 1977 orders were issued to revise the pay-scale of Supervisor Technical Grade-II from 380 - 560 to 425 - 700 and later they were designated as Chargeman Grade-II. The recruitment rules were amended in 1979 by SRO 326 published on 15.12.79 under which the Supervisor Technical Grade-II (redesignated as Chargeman Grade-II), were eligible for promotion to the post of Chargeman Grade-I. For the post of Chargeman Gr.II promotion quota was split up between technical and industrial cadres. 25 per cent was fixed for industrial cadre consisting not only PMs but also other tradesmen. There was a further amendment to the rules of 1981 and the RRs for Chargeman Grade-I were amended by SRO - 246/81 published on 12.9.81 making the PMs in the pay-scale of 425 - 700 with three years regular service in the grade eligible for promotion to the level of Chargeman Grade-I. However, the RRs were amended again in 1992 by SRO 15/92 dated 28.1.92 which deleted the eligibility of PMs in the pre-revised scale of 425 - 700 for being considered for promotion as Chargeman Grade-I. We may also mention that in.

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1981 posts of PMs were merged with Trademan Group 'A' by SR 221/81 published on 22nd August, 1981 and the distinct identity of PM was done away with in respect of future recruitment.

Despite the grant of scales, of Rs. 425 - 700 with effect from 1.3.77, and even though the RRs for Chargeman Gr.I, as amended by SRO 246/81, published on 12.9.81, made the PMs in the scale of Rs. 425 - 700 with three years service in the grade eligible for promotion to the level of Chargeman Gr.I alongwith Chargeman Gr.II the department did not take action to consider the case of PMs for regular promotion in terms of the RRs. Aggrieved by this inaction on the part of the Department, Shri Ambalagan and a number of others moved the Bangalore Bench of this Tribunal in OA No. 600/91, where they sought a direction to the respondents to convene a Review DPC for considering their retrospective promotion as Chargeman Gr.I. The Tribunal by its order dated 6.4.93, allowed the application and directed the respondents to convene a Review DPC as per the orders then in force and consider the suitability of the PMs for regular appointment as Chargeman Gr.I and above with effect from the date they became eligible as per the statutory rule. The Tribunal also observed that in the absence of separate quotas for the industrial and non-industrial (technical) categories, there was need for preparation of a combined seniority list of both the categories and directed the respondents to prepare such a seniority list on the basis of rational and objective principles for promotion to the level of Chargeman Gr.I and above in respect of vacancies which arose prior to 28.1.92 and which will be available after 12.9.81 to PMs in the scale of Rs. 425 - 700 with three years service.

In order to implement these directions, the department has prepared a combined seniority list of Chargeman Gr.II and PMs and the seniority of the review applicant in the combined seniority list has come down as he was promoted as Chargeman Gr.II in 1984 whereas Shri Anbalagan and others were PMs and drawing pay in the higher pay-scale of 425 - 700 retrospectively with effect from 1.3.77 and the actual financial benefit from 1.12.80 (which was identical with that of Chargeman Gr.II) and by virtue of SRO 246/81 published on 12.9.81, PMs with three years regular service became entitled for promotion as Chargeman Gr.I. The review applicant was promoted as Chargeman Gr.II in 1984 and was further promoted as Chargeman Gr.I on 16.3.92. He apprehends that with the loss in seniority at the level of Chargeman Gr.II, he may be reverted from the higher post of Chargeman Gr.I. He has filed the Review Application in August, 1994.

4. We have heard Shri K.S. Savanur for the review applicant and Shri M.S. Padmarajaiah for the official respondents.

5. The main grounds urged by Shri Savanur for reviewing our orders in OA 600/91 are as follows:

(1) He contends that the order of the Bangalore Bench dated 17.5.90 in OA 793 - 810/89 and 223 - 236/90 had dealt only with the pay and pay-scale of PMs. He submits that the Tribunal had not taken note of orders contained in SRO 26-E/73 dated 29.12.73 and SRO 245/75 published on 26.7.75. SRO 26-E

SRO 26-E

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prescribes the pay-scales of the industrial staff and has given the same pay-scale to the PMs, Senior Electricians and other Mechanics. Under SRO 245/75, the DRDO (Class-III & Class-IV) Industrial Posts Recruitment Rules were promulgated. These rules clubbed together 14 trades including PMs, Senior Electrician, etc. as forming part of Group 'A' Tradesmen. It prescribed the same pay-scale for all the trades in Group 'A' and the other requirements as per the RRs were also identical. Shri Savanur contends that the applicants in OA 600/91 had suppressed any reference to these orders.

(2) The learned counsel also contends that while downgrading his seniority, [REDACTED]
[REDACTED]
[REDACTED] justice.

(3) It is also his stand that the review applicant was not a party to OA 600/91 which dealt with the right of PMs to be considered for promotion as Chargeman, Gr.I or even to the earlier applications, namely OA 793 - 810/89 and OA 223 - 236/90 where the Tribunal held that the PMs who were appointed as such even after 31.12.72 were entitled to the higher scale of 425 - 700. The impugned orders had been passed without the review applicant being heard by the Tribunal and according to the learned counsel, these orders are not binding on him.

6. - We have given our anxious consideration to the submissions of Shri Savanur on the aforesaid grounds. He argues that the earlier order of the Tribunal in OA 793 - 810 and 223 - 236/90 decided on 17.5.90, related only to grant of the higher pay-

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scale of 425 - 700 even to those PMs who were appointed as such after 1.1.73, and not to the seniority of PMs. According to him, the Tribunal erred in giving certain directions regarding seniority while disposing of OA 600/91.

As has been brought out earlier, PMs who were appointed prior to the merger of their category with other Tradesmen Group 'A' vide SRO 221/81 published on 22.8.81 were given the pay-scale of 425 - 700 irrespective of whether they were in position as on 31.12.72 or were appointed later. The RRs for the post of Chargeman Grade-I were amended by SRO 246/81 published on 12.9.81 which amended the relevant column 12 of the schedule (dealing with the grade from which promotion is to be made) by making the following insertion "and Precision Mechanic in the scale of 425 - 700 with three years regular service in the grade". The effect of this insertion is that for filling up the promotion quota in respect of Chargeman Grade-I, the feeder channels are (1) Chargeman Grade-II with three years regular service in the grade and (2) Precision Mechanics in the grade of 425 - 700 with three years regular service in the grade. It is true that initially the department extended the higher pay-scale of 425 - 700 only to those PMs who were in position on 31.12.72 but on account of Court directions, this higher pay-scale was extended even to those who were appointed as PMs after 31.12.72. The SRO 246/81 does not make any distinction between those who were in position as on 31.12.72 and those who joined or were promoted as PMs from 1.1.73 onwards.

[REDACTED]

[REDACTED]

[REDACTED]

long as they had put in three years regular service. Earliest when both PMs and Supervisor Technical were feeder channels for promotion to Chargeman Grade-II, the RRs had prescribed separate quotas. However, for promotion to Chargeman Grade-I, no separate quotas had been prescribed for the industrial and non-industrial categories. In view of this, the Tribunal recognised the need for preparation of a combined seniority list of both these categories. In fact, the Hyderabad Bench of CAT had gone into the same question while dealing with T.A. No. 160/86 and decided as early as 12.5.89 that in the context of promulgation of SRO 246/81 there was no infirmity in preparing a common seniority list. It is true that this judgement was rendered when some persons belonging to technical category challenged the eligibility for promotion of PMs who were in position as on 31.12.72 and to whom the higher pay-scale of 425 - 700 was initially extended but the principle upheld by the Hyderabad Bench that there is need for preparation of a combined seniority list in such a situation would apply equally to the present case also. We, therefore, do not see any merit in this argument of Shri Savanur.

Shri Savanur also submits that while the Tribunal had highlighted the provisions of SRO 246/81, it had not noticed SRO 26-E/73 and SRO 245/75. SRO 26-E/73 published on 29.12.73 is a notification promulgating "the Civilians in Defence services (Revised Pay) Rules 1973". The schedule to these rules shows the designation of post, present scale (prior to the Third Pay Commission, Recommendations) and Revised Scale. In this schedule, against the industrial staff, the same revised pay-

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scale of 380 - 560 has been prescribed for PMs as also other mechanics including Senior Electricians to which trade the review applicant belonged. SRO 26-E/73 was issued in the context of implementation of the recommendations of the Third Pay Commission as accepted by the Government. Subsequent changes in the pay-scales can however be sanctioned by the Government through administrative order's and there is no need for notifying or amending statutory rules. As has already been brought out, Government issued orders on 13.4.81 by upgrading the scale of PMs who were in position as on 31.12.72 to 425 - 700 with effect from 1.3.77. As per the Court's directions, the same higher pay scale was also extended with effect from 1.3.77 to those PMs who were appointed on or after 1.1.73. It is open to the Govt. to revise the pay-scales of its employees from time to time and this can be done by an administrative order. As such, the Government's action in upgrading the scale of PMs who were in position as on 31.12.72 by issuing an administrative order cannot be faulted. So far as the PMs appointed after 31.12.72 are concerned, it was incumbent on the part of the Govt. to implement the directions of the Tribunal which had become final. In view of this, the reference to SRO 26-E/ 73 does not in any way help the review applicant as the position substantially changed in 1981 and later.

Shri Savanur also relies on SRO 245/75 published on 26.7.75. This SRO regulates the method of recruitment to Class- III and IV industrial posts in DRDO. The schedule refers to Group 'A' of this cadre consisting of posts of 14 trades including PMs and senior electricians which have been listed and

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they are shown as carrying the same scale of pay, namely, 380 - 560. It is relevant to mention that the identity of each trade is maintained in this SRO and it says that there are 372 posts at the level of PMs, 91 posts of senior electricians etc. This position continued till the promulgation of SRO 221/81 published on 22.8.81 which grouped all the trades as Tradesman 'A' and without allocating separate posts for each trade. It is, therefore, clear that PMs appointed prior to 22.8.81 had a separate identity as compared to other Tradesmen. Col.5 of the schedule, to SRO 245 prescribes the scale of pay for all industrial group 'A' staff as 380 - 560. This was changed to 425 - 700 so far as PMs are concerned without upgrading the pay-scale of industrial staff belonging to other trades. In other words, the earlier position where the PMs enjoyed a higher pay-scale as compared to other Tradesmen in Group 'A' was restored with effect from 1.3.77. The fact that the SRO 245/75 prescribed the same pay scale and identical requirements to the PMs as also to other tradesmen ceases to be relevant when the PMs were subsequently given a higher pay-scale and what is more, they were also given a statutory right for being considered for promotion to the higher level of Chargeman Grade-I so long as they had put in three years regular service in the scale of 425 - 700, on promulgation of SRO 246/81. We, therefore, do not see any substance in the contention that SRO 245/75 makes any material difference to the position. In fact, the Tribunal in OA 600/91 had negatived the respondents' contention that the Govt. decision to grant the scale of 380 - 560 to PMs appointed

After 31.12.72 would show that such PMs were essentially Group 'A' Tradesmen and grant of promotion to them as Chargeman Grade-I would give them ^{an} unintended advantage over other categories in Tradesman Group 'A'. This argument was rejected on the ground that the RRs which were statutory in nature gave the PMs a right to be considered for promotion to the level of Chargeman Grade-I on completion of three years of regular service in the scale of 425 - 700. We, therefore, do not see any substance in Shri Savanur's argument regarding the significance of SRO 245/75.

7. There is a reference in the review application to SRO 213/68 and it is contended that this SRO has to be taken into account for determining whether Anbalagan and other applicants in OA 600/91 had become eligible to come into the group of PMs. SRO 213/68 deals with DRDO Class-III non-gazetted technical, scientific and other non-ministerial staff RRs, 1968. Anbalagan and other applicants were not in such cadres but they were in the industrial cadre and 213/68 does not deal with posts in the industrial cadre. It, however, lays down the grades from which promotion can be effected to the level of Chargeman Grade-II and Chargeman Grade-I. As regards Chargeman Grade-II the Rules provided that the promotion quota was split up between Supervisor Technical Grade-II (who are non-industrial staff) and PMs in the ratio of 75% and 25% respectively. It thus recognised that the PMs stood on a higher footing as compared to other mechanics who are Tradesman Group 'A' as the eligibility for promotion to Chargeman Grade-II was restricted only to PMs and not made available to other mechanics including Senior Electricians. In any case, a number of changes in RRs had taken

place from time to time and with the promulgation of SRO 246/81 published on 12.9.81 PMs were equated with Chargeman Grade-II for the purpose of promotion to the level of Chargeman, Grade-I. The question as to whether any particular person was properly appointed as PI or not was not the issue in OA 600/91 and the Tribunal had directed the department to take action to give effect to the statutory rules under which PMs in the scale of 425 - 700 with three years regular service had a right to be considered for promotion to the level of Chargeman, Grade-I. This called for preparing a combined seniority list of Chargeman, Grade-II and PMs on the basis of rational and objective principles. The reference to SRO 213/68 does not advance the cause of the review applicant.

8. Shri Savanur also contends that down-grading the seniority of the review applicant in the combined seniority list of Chargeman Grade-II and PMs was done without any notice to him. This is controverted by the learned standing counsel who submits that acknowledgement was taken from the employees when the seniority rolls were published in draft and their representations were considered. In any case, this is not a matter which can be agitated in a review application when the Tribunal's directions were that the combined seniority list should be prepared on rational and objective principles and this is expected to be done obviously in accordance with law.

9. The main ground urged in support of the review application is that the review applicant and similarly placed officials were

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not heard by the Tribunal when the effect of Tribunal directions had an adverse impact on their seniority and promotional opportunities. Shri Savanur contends that such omission violates the principles of natural justice. He also relies on the judgement of Supreme Court in Union of India vs. P.K. Roy - AIR 1980 SC 850. P.K. Roy's case was in the context of re-organisation of the States and the constitution of the "new" State of Madhya Pradesh and the integration of services from various units belonging to the previously existing States which got merged while forming the new State. Some persons contended that the gradation list prepared by the State Govt. under instructions from Central Govt. was illegal as only Central Govt. can pass such orders. The Apex Court held that there was nothing wrong in the action of the Central Govt. in taking the assistance of State Govt. before issuing the final orders. It, however, held that on the facts and special circumstances of the case, the employees were entitled to an opportunity to make representation on specific issues before the final gradation list was published.

It is thus clear that the decision in P.K. Roy's case turned on the facts and special circumstances of the case and does not lay down any general principle.

10. The question as to whether persons whose seniority is affected in such circumstances have to be impleaded or not is settled by the Supreme Court in the case of A. Janardhana vs. Union of India - 1983 SCC (L&S) 467. We may with advantage reproduce para 36 of this judgement.

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"36. It was contended that members who have scored a march over the appellant in 1974 seniority list having not been impleaded as respondents, no relief can be given to the appellant. In the writ petition filed in the High Court, there were in all 418 respondents. Amongst them, first two were Union of India and Engineer-in-Chief, Army Headquarters, and the rest presumably must be those shown senior to the appellant. By an order made by the High Court, the names of respondents 3 to 418 were deleted since notices could not be served on them on account of the difficulty in ascertaining their present addresses on their transfers subsequent to the filing of these petitions. However, it clearly appears that some direct recruits led by Mr. Chitkara appeared through counsel Shri Murlidhar Rao and had made the submissions on behalf of the direct recruits. Further an application was made to this court by nine direct recruits led by Shri T. Sudhakar for being impleaded as parties, which application was granted and Mr. P.R. Mridul, learned senior counsel appeared for them. Therefore, the case of direct recruits has not gone unrepresented and the contention can be negated on this short ground. However, there is a more cogent reason why we would not countenance this contention. In this case, appellant does not claim seniority over any particular individual in the background of any particular fact controverted by that person against whom the claim is made. The contention is that criteria adopted by the Union Government in drawing up the impugned seniority list are invalid and illegal and the relief is claimed against the Union Government restraining it from upsetting or quashing the already drawn up valid list and for quashing the impugned seniority list. Thus the relief is claimed against the Union Government and not against any particular individual. In this background, we consider it unnecessary to have all direct recruits to be impleaded as respondents. We may in this connection refer to C.M., South Central Railway, Secundrabad v. A.V.R. Siddhanti. Repelling any contention on behalf of the appellant that the writ petitioners did not implead about 120 employees who were likely to be affected by the decision in the case, this court observed that [SCC para 15, p. 341: SCC (L&S) p. 2961] the respondents (original petitioners) are impeaching the validity of those policy decisions on the ground of their being violative of Articles 14 and 16 of the Constitution. The proceedings are analogous to those in which the constitutionality of a statutory rule regulating seniority of government servants is assailed. In such proceedings, the necessary parties to be impleaded are those against whom the relief is sought, and in whose absence no effective decision can be rendered by the court. Approaching the matter from this angle, it may be noticed that relief is sought only against the Union of India and the concerned Ministry and not against any individual nor any seniority is claimed by anyone individual against another particular individual and therefore, even if technically the direct recruits were not before the Court, the petition is not likely to fail on that ground. The contention of the respondents for this additional reason must also be negatived."

So far as the present case is concerned, some PMs who were appointed as such after 31.1.72 approached the Tribunal in Transfer Application No. 156/86 filed by Shri Prasad and others

in Hyderabad that they should be entitled to the benefit of upgradation of the scale to 425 - 700 which had been extended to PMs who were in position as on 31.12.72. The Tribunal noted that all such PMs whether they were appointed by way of promotion prior to 31.12.72 or thereafter were shouldering identical responsibilities and discharging the same duties and held by its order dated 10.11.86 that they were entitled to the higher pay-scale of 425 - 700 and the same could not be restricted only to those who were in position on 31.12.72. A number of PMs including Shri Anbalagan moved the Bangalore Bench for extending to them the same benefit as given by the Hyderabad Bench. The Bangalore Bench while disposing of OA 793 - 810/89 and 223 - 236/90 following the decision of the Hyderabad Bench in Prasad's case and allowed the applications on the same lines. The effect of these judgements is that the higher status and pay-scale enjoyed by the PMs over other Tradesman Group 'A' till 31.12.72 was restored to them with effect from 1.3.77. The present review applicant as also employees who belong to trades other than PMs were, however, not impleaded as respondents in those applications. The relief sought for by the PMs appointed after 31.12.72 was against the Union of India and not against other tradesmen. It is, however, pertinent to mention that a number of employees other than PMs who were in the industrial line and who were designated as Tradesman 'A' such as Senior Mechanics, Instrument Mechanics, Tool Maker, Carpentry Rigger, Senior Electrician, Radio mechanic and other equivalent cadres approached Bangalore Bench of the Tribunal in OA 868 - 899/89. (Shri K. Puttalingappa and 31 others vs. Union of India and

others) seeking a direction that the other Tradesman 'A' should also be given the higher pay-scale of 425 - 700 extended to the PMs. The Tribunal examined the various contentions and by its order dated 5.12.90 dismissed the application holding that there was no hostile discrimination against the other Tradesman 'A' as the PMs and other Tradesman 'A' do not constitute a homogeneous class. One of the applicants in that case (OA 868/89), Shri Govind Raj approached the Supreme Court with an SLP (Civil Appeal No. 7764/92). The SLP was dismissed by the Supreme Court by its order dated 10.11.94 as is seen at Annexure R-2 attached to the reply statement of the respondents. From the above, it is clear that the Tribunal's decision laid down the principle that the PMs whether they were in position as on 31.12.72 or promoted as such on or after 1.1.73 have to be treated on the same footing in the matter of extending the higher pay-scale of 425 - 700 but that the omission to extend the same higher pay-scale to other Tradesman 'A' as distinct from PMs did not amount to hostile discrimination. In the subsequent application filed by Shri Anbalagan and others in OA 600/91, the Tribunal took note of the fact that with the promulgation of SRO 246/81 on 12.9.81 a statutory right was conferred on the PMs who were in the scale of Rs. 425 - 700 and who had put in three years of regular service in the grade to be considered for promotion as Chargemen Grade-I. The Tribunal also observed that the statutory rules did not make any distinction between PMs who were in position as on 31.12.72 and those who joined/ promoted as PMs from 1.1.73 onwards and that the SRO 246/81 would apply to all PMs subject to their completing the requisite period of

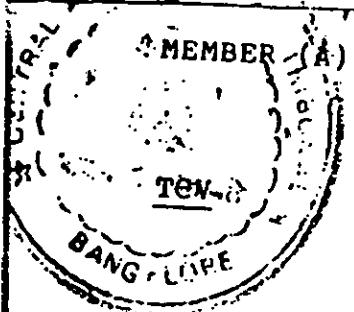
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regular service. It was also noticed that in order to give effect to this rule and in the absence of separate quotas for the industrial and technical categories, there was need for preparation of a combined seniority list of both the categories and such seniority list should be prepared on the basis of rational and objective principles. The relief sought for was against Union of India and DRDO to act according to the statutory rules and not against other tradesmen. This relief was a natural corollary to the various decisions rendered by the Tribunal starting from Prasad's case referred to supra. (The contention of the review applicant that as he was not a party to the previous proceedings, the earlier decisions of the Tribunal were vitiated and were not binding on him has to be negatived in the context of the law laid down by the Supreme Court in Janardhana's case.

11. For the reasons stated above, we hold that the review application is devoid of merit and accordingly dismiss the same.

Sd-

Sd-



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10/11/96
Section Officer
Central Administrative Tribunal
Bangalore Bench
Bangalore

VICE CHAIRMAN

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