

**CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE BENCH**

ORIGINAL APPLICATION NO.170/00050/2017

DATED THIS THE 22nd DAY OF MARCH, 2019

HON'BLE DR.K.B.SURESH, JUDICIAL MEMBER

HON'BLE SHRI C.V.SANKAR, ADMINISTRATIVE MEMBER

1. Gautam Kumar
S/o Siya Saran Singh, aged 35 years,
R/o C-80, Block-06, Income Tax Colony,
Jalahalli, Bangalore – 560 013.
2. Binod,
S/o Shiv Prasad Barnwal, aged 34 years,
R/o AS-9, 2nd Floor, Block A,
Durgawadi Housing Society,
Taleigaon, Tiswadi, Goa – 403 001.
3. Ajay Kumar,
S/o Krishna Singh, age 37 years,
R/o B-5, Income Tax Quarters,
Pundalik Nagar, Porvorim, Goa – 403 001.
4. Birendra Kumar,
S/o Nakuldeo Prasad Kushwaha, age 34 years,
R/o C-3, New Income Tax Quarter, Gogol,
Housing Board, Margao, Goa – 403 001.
5. Gaurav Barjatya,
S/o Padam Jai, age 32 years,
R/o C-87, Block-06, Income Tax Colony,
Jalahalli, Bangalore – 560 013.
6. Pankaj Kumar,
S/o Ashrit Kumar, age 35 years,
R/o C-67, Block-05, Income Tax Colony,
Jalahalli, Bangalore – 560 013.
7. Devendra Dubey,
S/o Radheshyam Dubey, age 34 years,
R/o C-102, Block-07, Income Tax Colony,
Jalahalli, Bangalore – 560013.
8. Ashok Kumar,
S/o Siyaram Mahto, 34 years,

R/o C-49, Block-04, Income Tax Colony,
Jalahalli, Bangalore – 560 013.

9. Pradeep Kumar,
S/o Deo Narayan Rajak, 35 years,
R/o C-22, Block-2, Income Tax Colony,
Jalahalli, Bangalore – 560 013.
10. Pankaj Kumar Mallik,
S/o Umashankar Mallik, 34 years,
R/o Q No. 39, CPWD Colony,
Alto Porvorim, Bardez, Goa – 403 001.
11. Shiwendra Kumar,
S/o Basudeo Singh, 37 years,
R/o A-4, Income Tax Quarters,
Pundalik Nagar, Porvorim, Goa – 403 001.

All the applicants are working as Inspectors of Income Tax in Karnataka and Goa Region under the Respondent No.2.

.....Applicants

(By Advocate Shri T.C. Gupta)

Vs.

1. Union of India,
Through the Finance Secretary,
Ministry of Finance,
Department of Revenue,
Government of India,
New Delhi – 110 001.
2. Pr. Chief Commissioner of Income Tax,
Karnataka & Goa Region,
Queens Road,
Bangalore – 560 001.
3. Ramanuj Shanker Prasad
Inspector of Income-tax
Circle-7(2) (1)
BMTC Building, Kormangla
Bangalore.

.....Respondents

(By Advocate Shri Vishnu Bhat)

O R D E R (ORAL)(PER HON'BLE DR.K.B.SURESH, MEMBER (JUDL.)

Heard. The question is not whether FR 22 has an application or not. The question is under whatever interpretation if a junior is drawing more pay which is denied to a senior unjustifiably then it must be remedied. Both sides admit that the applicants are seniors to the party respondent who is junior. Sri Sugumaran clarifies that he was the junior earlier but then the applicants passed the departmental examination earlier and were promoted and posted whereas the junior was promoted later as he could not pass the examination. But then at that point of time, the rate of increment was more than what the applicants obtained on their promotion. This they would say is an Act of God and therefore cannot be a remedy. It is not so.

2. It is trite law that the junior cannot have more pay than the senior. In such circumstances, if by right or wrong interpretation of the rules, it is made out to the junior, it has to be protected to the applicants also. Therefore, the applicants are eligible to have the same pay as the junior is getting. A mandate is issued for the same. Benefits to be made available within two(2) months without interest and thereafter at the rate of 12% interest. The OA is allowed. No costs.

(C.V.SANKAR)
MEMBER (A)

(DR.K.B.SURESH)
MEMBER (J)

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Annexures referred to by the applicants in OA.No.170/00050/2017

Annexure A1: Copy of representations of the applicants
Annexure A2: Copy of pay fixation order of senior dtd.30.9.2011
Annexure A3: Copy of pay fixation order of junior dtd.15.10.2015
Annexure A4: Copy of CBDT instruction dtd.27.3.2015
Annexure A5: Copy of respondents letter dtd.19.1.2016

Annexures with reply statement:

Annexure-R1: CBDT's letter dtd.5.1.1989
Annexure-R2: CBDT's letter dtd.19.5.1999

Annexures with rejoinder:

Annexure-A6: Copy of Tribunal order dtd.22.11.2016
Annexure-A7: Copy of the Supreme Court decision dtd.9.1.2009
Annexure-A8: Copy of Pr.CCIT Bangalore letter dtd.19.1.2016
Annexure-A9: Copy of CCIT Goa order dtd.25.8.2016
Annexure-A10: Copy of Pr.CCIT Bhopal order dtd.17.12.2015
Annexure-A11: Copy of Pr.CIT Bikaner order dtd.23.1.2014
Annexure-A12: Copy of Pr.CIT-1 Jodhpur order dtd.25.5.2016
Annexure-A13: Copy of Pr.CIT-1 Jodhpur order dtd.26.8.2016

Annexures with additional reply statement:

Annexure-R1: Copy of order of Chief Commissioner of Income Tax, Panaji
Annexure-R2: Revised statement of fixation of pay of Shri Pankaj B.Kalashikar, ITI
Annexure-R3: Copy of order dtd.24.11.2017 of CCIT

Annexures with written argument note:

Annexure-A1: Copy of the Supreme Court decision dtd.9.1.2009
Annexure-A2: Copy of the respondent letter dtd.19.1.2016
Annexure-A3: Copy of similar orders passed by other authorities

Annexures with MA.No.530/2018

Annexure-A1: Revised cause title impleading the junior
