

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL: PRINCIPAL BENCH  
NEW DELHI.

REGN. NO. O.A. 1096/88

Date of Decision:- 3-7-89.

Shri V.V.G. Rao

....

Applicant

Vs.

Union of India

....

Respondents

CORAM:- Hon'ble Shri B.C. Mathur, Vice Chairman

For the Applicant

.....

Shri K.L. Bhandula, Advocate

For the Respondents

.....

Shri M.L. Verma, Advocate

Judgement

This is an application under Section 19 of the Administrative  
Tribunals Act/1985 filed by Shri V.V.G Rao, Extra Assistant Director/Assistant  
Engineer in the Directorate Central Water Commission, against the  
impugned order dated 8.8.1988 passed by the Under Secretary, Central  
Water Commission, regarding fixation of his pay. The brief facts of  
the case as stated in the application are that the applicant was  
appointed as Supervisor on 3.3.1965 in the pay scale of Rs. 180-380,  
and was eligible for promotion to the post of Extra Assistant Director/  
Assistant Engineer. The applicant proceeded on deputation to  
M/s WAPCOS (I) Ltd., New Delhi on 13.3.78, in the public interest.

In April, 1978, as many <sup>02</sup> 36 supervisors including the applicant's juniors  
were promoted on ad hoc basis to the next grade of Extra Assistant Director /  
Assistant Engineer. The applicant was not informed of the promotion orders  
so as to enable him to opt out of deputation and rejoin the Central  
Water Commission. On joining back on 5th Feb. 1981 the applicant was  
not promoted as Extra Assistant Director/Assistant Engineer and he  
was promoted on 10.8.1981 as EAD/AE on ad hoc basis and his pay was  
fixed at the minimum of the scale of EAD/AE at Rs. 650/- per month  
in the scale of Rs. 650-1200. The regular promotion order of the  
applicant was issued on 26th Dec. 1983 in the grade of E.A.D/A.E.

in Central Water Commission under the "Next Below Rule" when the applicant was again on deputation to the National Water Development Agency, New Delhi. The pay of the applicant was fixed at Rs. 710/- p.m. in the scale of Rs. 650-1200 on 1.8.83 whereas his juniors drew the pay of Rs. 810/- per month in the scale of Rs. 650-1200 w.e.f. 1.6.83. The pay of the applicant was not fixed at par with his immediate juniors S/Shri V.S. Rao and B.R. Reddy. The applicant proceeded on deputation to the National Water Development Agency in the same cadre as Assistant Engineer in the same scale i.e. Rs. 650-1200. The applicant's junior Shri B.R. Reddy was promoted as E.A.D./A.E. on regular basis w.e.f. 31.12.84 whereas the applicant was promoted on regular basis w.e.f. 26.12.83.

2. The applicant is entitled to the same pay as his juniors from the date of his promotion as E.A.D./A.E. The ad hoc promotion of the applicant is followed by regular promotion and his seniority has not been disturbed and he has been placed at a disadvantageous position to the extent of Rs. 105/- per month in the basic pay in the pay fixation in relation to his juniors for no fault of the applicant. It is obligatory on the part of Central Water Commission to protect the interest of those who are working outside the cadre in compliance with the orders of the cadre authority and in the public interest and the provision in the statutory service rules about maintaining the lien in the cadre post of the officer sent out of the cadre, the benefit of next below rules, the concept of notional promotion in the cadre etc., are all indicative of the fact that an officer sent out on deputation cannot be written off. The applicant has prayed that in view of the observations of the Ministry of Finance incorporated in the C.W.C. I.D note dated 12.5.82 that after the promotion of junior official is made regular without any break in the service in the higher grade, the pay of the senior official may be considered for stepping to the level of the pay drawn by the junior official retrospectively under F.R. 27 and therefore, the applicant is entitled to get pay in the grade of Extra Assistant Director/ Assistant Engineer being stepped up to the level of pay drawn by his juniors retrospectively w.e.f.

5.2.81 with consequential benefits of arrears etc. The relief sought by the applicant is to re-fix the pay in the grade of Extra Assistant Director/ Assistant Engineer @ Rs. 740/- w.e.f. 5.2.81 at the level of the pay drawn by his juniors viz., S/Shri V.S. Rao and B.R. Reddy and pay arrears of pay, allowances on the re-fixation of the pay.

3. The respondents in their reply have stated that the applicant was on deputation with WAPCOS (I) Ltd., from 13.3.78 to 25.5.81 and ~~the applicant~~ was not available in the parent department during this period. In the exigencies of work, S/Shri V.S. Rao and B.R. Reddy were promoted to the grade of Extra Assistant Director/Assistant Engineer on ad hoc basis w.e.f. 1.6.78 and 22.6.78 and their pay in the promotion post was fixed at Rs. 650/- in the scale of Rs. 650-1200. The applicant <sup>was</sup> promoted in C.W.C. to the grade of E.A.D/A.E on ad hoc basis w.e.f. 10.8.81. The applicant again proceeded on deputation to the National Water Development Agency w.e.f. 31.12.82 as he was not holding the post of EAD/A.E on a regular basis at the time of his deputation to N.W.D.A and he reverted to his regular grade i.e. Junior Engineer w.e.f. 31.12.82 vide order dated 26.2.83. While working in N.W.D.A against an ex-cadre post the applicant was given proforma promotion on the grade of E.A.D/A.E. on regular basis in Central Water Commission w.e.f. 26.12.83. As the anomaly in the junior drawing pay at the higher stage as compared to him was not on account of application of F.R. 22-C, the applicant was not entitled to any stepping up. S/Shri V.S. Rao and B.R. Reddy who are juniors to the applicant in the grade of supervisor and E.A.D./A.E. were drawing pay at higher stage due to their continuous officiation in the grade of E.A.D./AD on ad hoc basis, w.e.f. 1.6.78 and 22.6.78 respectively. The anomaly is on account of the fact that the senior being away from the cadre was not available for ad hoc promotion, whereas those junior to him being available in the cadre were actually promoted to the higher grade on ad hoc basis and were entitled to fixation of pay in the pay scale attached thereto and to the increments due therein by virtue of their actually performing the duties of the higher post.

4. The learned counsel for the applicant has brought out in the

rejoinder a judgement of the Hyderabad Bench of the Tribunal dated 27.10.1988 in T.A. 1/1988 ( W.P 1833/85 ) between B.V. Rangaiah Vs. Union of India and has held that the applicant would be entitled to re-fixation of pay as claimed in the application. The judgement says that he is , therefore, entitled to re-fixation of pay on par with his juniors Shri B.R. Reddy with monetary benefits from 26.6.81 and would also be entitled to all consequential increment and difference in pay which would accrue to him from time to time on the basis of fixation of pay. The present applicant is a colleague of Shri B.V. Rangaiah and working in the same organisation and also belongs to the same cadre and this case is on all four with his case and therefore, fully applicable.

5. Learned counsel for the applicant also stated that a S.K.P. had been filed by the respondents against the order of the Tribunal in the case of Shri B.V. Rangaiah but the S.L.P. was dismissed by the Supreme Court. The pay of Shri B.V. Rangaiah was re-fixed on the basis of the judgement of the Central Administrative Tribunal Hyderabad Bench on 19.5.89 giving him the benefits retrospectively w.e.f. 26.6.81. Learned counsel for the applicant contended that the present case is identical to the case of Shri Rangaiah.

6. I have gone through the pleadings and carefully considered the arguments of both sides. While the pay on deputation may not be protected and there may also be a case for not providing a senior officer on deputation when a junior officer is promoted purely on ad hoc basis but in this case the promotion was not just ad hoc but there has been no reversion nor was the promotion to the grade of E.A.D/A.E. a short term arrangement as promotions of all the juniors referred to in the application were followed by regularisation without any break. The applicant was on deputation and since the promotions of his juniors were on long term basis it would be denial of natural justice if he is not allowed the pay drawn by his juniors especially when he has not given any option to revert to the cadre when his juniors were promoted on ad ad hoc basis. In view of the judgement of the Hyderabad Bench of the Tribunal in the case of Shri B.V. Rangaiah Vs. U.O.I.

similar facilities have to be provided to the applicant. In the circumstances, the application is allowed and it is directed that pay of the applicant be stepped up to that drawn by his junior retrospectively 5.2.81 with all consequential benefits of arrears and salary etc.

In other words his pay should be re-fixed at Rs. 740/- per month in the scale of pay of Rs. 650-1200 w.e.f. 5.2.81 which is at the same level of the pay drawn by his juniors viz S/ Shri V.S. Rao and B.R. Reddy. He would also be entitled to all arrears of pay and allowances with consequential benefits that he may be entitled to on account of re-fixation of his salary. Respondents are further directed to make the above payments to the applicant within a period of three months from the date of receipt of the orders. There is no order as to costs.



( B.C. MATHUR )  
VICE CHAIRMAN