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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH
AT HYDERABAD

O.A. No.140/89

Date, of the order: 27-10-1989.

D.P.Patnaik

... Applicant

Versus

Union of India represented
by the Secretary, Ministry of
Information & Broadcasting,
New Delhi.

... Respondents

Appearance:

For the Applicant : Mr.Y.Suryanarayana, Advocate

For the Respondent : Mr.Narram Bhaskara Rao, Addl.CGSC

CORAM:

The Hon'ble Mr.D.Surya Rao, Member (Judicial)

And

The Hon'ble Ms.Usha Savara, Member (Admn.).

(The judgment of the Bench delivered by the Hon'ble Mr.D.Surya Rao,
Member (J).

The applicant herein seeks to question the order Adesh No.81/88-CIS dated 10-5-1988 reverting him from the Grade-III post in the Central Information Service (CIS) to the Grade-IV post. The applicant was originally recruited in the Directorate of Advertising and Visual Publicity. He earned promotion as Field Publicity Officer (Grade-III) on 5-12-1984. The application discloses that this promotion to Grade-III was in CIS on adhoc basis. Subsequently, the Respondents issued notification on 8-4-88 appointing the applicant to officiate in a Grade-IV post in the CIS from

23-11-86. The Ministry, however, periodically was ~~was~~ issuing orders continuing the applicant in the Grade-III service. ^{is} ~~is~~ The latest order dated 27-12-88 valid upto 31-3-89. On 10-5-88, the Ministry issued the impugned Adesh No.81/88-CIS ~~in~~ reverting the applicant to Grade-IV post, but directing him to work against the present Grade-III post in his own grade pay until further orders. It is stated that acting on the basis of this order dated 10-5-88, the Accounts Officer in the Ministry has initiated action to recover the difference in pay between Grade-III and Grade-IV posts. It is alleged that the Ministry has permitted more than 100 persons who are juniors to the applicant, to continue in the Grade-III posts. It is further contended by that even ~~after~~ 8-4-88 when the applicant was inducted into CIS Grade-IV, he had already put in three years and four months of service in Grade-III and that he had been promoted to Grade-III long before. It is alleged that payment of salary in Grade-IV while continuing him in Grade-III is illegal and bad. He therefore seeks that the reversion to Grade-IV order No.81/88-CIS dated 10-5-88 is illegal.

2. A counter has been filed on behalf of the Respondent denying the claim of the applicant. It is stated that he was appointed as Field Publicity Officer in the CIS on transfer on deputation from 5-12-84. He was at the time of his appointment holding substantively an ex-cadre post of Exhibition Assistant. This post of Exhibition Assistant was subsequently encadred in Grade-IV of CIS w.e.f. 28-11-86 by an order dated 8-4-88. He was accordingly considered for inclusion in the corresponding grade of service since his post was included in the Grade-IV of CIS from the date of his induction. This was done in consultation with the Union Public Service Commission. Accordingly the applicant

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was included in the Grade-IV of CIS on 28-11-86. On 28-11-86 the applicant came to be governed by CIS Rules 1959. It is denied that the applicant was ever promoted to Grade-III of CIS. He was not a member of CIS prior to 28-11-86. It is, therefore, stated that all other contentions are irrelevant and extraneous and since he was appointed on substantive post in CIS only from 28-11-86, he has no right to claim that he should be continued in Grade-III or for quashing of the impugned order dated 10-5-88.

3. Heard Shri Suryanarayana, the learned counsel for the applicant and Shri Bhaskara Rao, the learned Addl.CGSC for the Respondent.

4. It may be seen from the order dated 8-4-88 bearing Notification No.A-42012/3/73-CIS issued by the Ministry of Information and Broadcasting that 33 employees were appointed to Grade-IV of CIS in the scale of Rs.1400-2600 w.e.f. 23-11-86. Most of these officers, though absorbed in Grade-IV of CIS had earlier been working in Grade-III on deputation or otherwise, from D.A.V.P. or other organisations. By Adesh No.229/88-CIS and No.230/88-CIS dated 27-12-88, several officers including the applicant herein of the candidates were allowed to continue in Grade-III but only upto 31-3-89 or till such time substitute arrangements are made. The applicant herein whose name figures at Serial No.68 of the order dated 8-4-88 is governed by Adesh No.229/88-CIS dated 27-12-88. Other similarly placed persons namely Mr.M.M.Pillai at Serial No.60 and Mr.K.P.Damodaran at Serial No.62, had filed cases before the Central Administrative Tribunal, Madras Bench and the Central Admn. Tribunal, Hyderabad Bench respectively. Mr.Pillai had filed O.A.Nos.39/89 and 415/89 before the Madras Bench challenging the order of reversion dated 27-12-88 and final seniority list dated 16-5-89 of Grade-IV

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employees in CIS. Mr.Damodaran had filed O.A. 213/89 before this Bench, also questioning the order dated 27-12-88. He had subsequently, by an amendment petition, also sought to question the seniority list dated 16-5-89 and we had passed the following order in the case of Mr.Damodaran:

"The case of the applicant before the Madras Bench viz. of Sri Pillai and the applicant before us, Sri Damodaran, are identical. Sri Pillai figures at Serial No.20 in the order dated 16-5-89 whereas the applicant herein figures at Serial No.22. Both Sri Pillai and the applicant herein are aggrieved by the fact that their services in D.A.V.P. prior to their absorption in C.I.S. were not reckoned for the purpose of seniority. It is the case of both of them that other similarly placed persons namely Sl.Nos. 1 to 7 in the order dated 16-5-89 (No.119/89-CIS) who are similarly placed like them, have been inducted into Grade-III on regular basis though as in the case of the applicant herein, their services can be reckoned in Group-IV only from the date of induction into CIS. It is contended by Sri Narasimha Reddy ^{from} ~~from~~ ^{in the} that the order dated 24-5-89 rejecting the applicant's claim for higher seniority in Group-IV namely that he cannot count seniority in DAVP since the post ~~of~~ in the DAVP was lower in terms of payscale, etc. as compared to Grade-IV of CIS, would equally apply in the case of the Sl.Nos.1 to 7 in the list dated

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16-5-89. If they could be reckoned for their ^{regularly} induction into Grade-III, it follows that there should be no bar to the applicant also being inducted into Grade-III. It is in this context that he seeks to make out a plea of discrimination. The Madras Bench of the Tribunal has, on identical facts, directed that the matter be remitted to the Respondents (Government) to consider the case of the applicant (Sri Pillai) on par with 7 others whose cases have been considered by the DPC held on 10-4-89 and accordingly set aside both the orders dated 27-12-88 and the order dt.16-5-89. Applying the Madras Bench's decision, it follows that the applicant also should be given the same relief and he should also be considered on par with Sri Pillai who figured in the list dated 16-5-89 alongwith him. In the circumstances, the case is remitted back to the Respondents who shall while disposing of the representation of Sri Pillai, consider the case of the applicant herein also, taking into account the various pleas made by the applicant including his claim for seniority in Grade-IV of CIS, and his claim for absorption into Grade-III as in the case of the employees at Serial No.1 to 7 in the order dated 16-5-89 (No.119/89-CIS)."

5. As already stated supra, the case of the applicant is similar to the case of S/Shri Damodaran and Pillai, the applicants in O.A.No.213/89 before the Hyderabad Bench and O.A.No.39/89 and O.A.No.415/89 before the Madras Bench. In terms of the ^{decision of the} Hyderabad Bench of the Tribunal and Madras

To

1. The Secretary, Union of India,
Ministry of Information and Broadcasting,
New Delhi.
2. One copy to Mr.Y.Suryanarayana, Advocate
Hyderabad.
3. One copy to Mr.N.Bhaskara Rao, Addl.CGSC.,
C.A.T., Hyderabad.
4. One spare copy.

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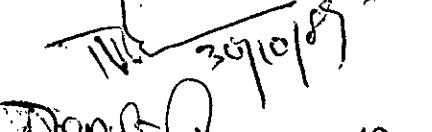
Bench of the Tribunal in the aforesaid cases, it would follow that the reversion of the applicant pursuant to the impugned order No.81/88/CIS dated 10.5.1988 without determining whether he is entitled to regularisation as in the case of persons at Sl.Nos. 1 to 7 as mentioned in the order No. 119/89/CIS dated 16.5.1989, would be premature. If the applicant is entitled to regularisation ^{as in the case of} those employees at Sl:Nos.1 to 7 in the Order dated 16.5.1989 and the question of his being reverted pursuant to the impugned order dated 10.5.1988 would not arise. We would accordingly direct as in the case of S/Shri Damodaran and Pillai that the applicant also should be considered for regularisation in Grade-III as in the case of employees at Sl.Nos. 1 to 7 ^{by} ~~in~~ the order dated 16.5.1989 (No.119/89/CIS). As in the case of S/Shri Damodaran and Pillai, pending disposal of the matter by the respondents, the applicant would be entitled to continue in Grade-III. The recovery proposed to be made in the order No.PAO/IRLA/C-II/DFP/11055/437 dated 6.7.1988 ~~directing recovery~~ of Pay & Allowances for the period from 10.5.1988 to 30.6.1988 obviously cannot stand. The applicant had performed duty in higher post of Grade-III during this period and as such the question of recovery of this amount would be illegal.

6. For the reasons given in the preceding paragraphs, the application is disposed of with the direction contained in Paragraph-5 supra. In the circumstances of the case, there will be no order as to costs.

(Dictated in the open court).


(D. SURYA RAO)
Member(Judl.)


(Ms. USHA SAVARA)
Member(Admn.)


Deputy Collector (A)

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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

HYDERABAD BENCH

HON'BLE MR. B. N. JAYASIMHA: V.C.

AND

HON'BLE MR. D. SURYARAO: MEMBER (J)

AND

HON'BLE MR. D. R. CHAKRAVORTY: M(J)

AND

HON'BLE MR. J. NARASIMHAMURTHY: M(J)

DATED: 27/10/89 ✓

ORDER/JUDGMENT

T.A. NO. / (W.P. No. /

00.A. No. 140 189 ✓

Allowed

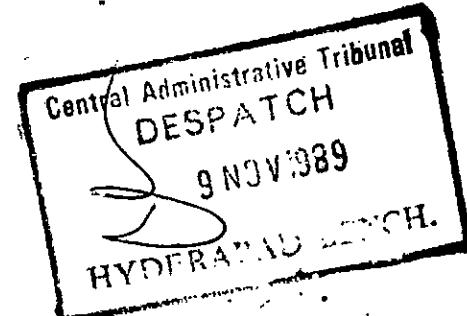
Dismissed

Disposed of

Ordered

No order as to costs.

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30/10/89