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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH: HYDERABAD

O.A. NO. 540/89

~~I.A. NO.~~

DATE OF DECISION 19/3/90

Petitioner

Advocate for the
Petitioner (s)

Versus

Respondent

Advocate for the
Respondent (s)

CORAM

The Hon'ble Mr.

B. N. Jayasinha, VC

The Hon'ble Mr.

1. Whether Reporters of local papers may be allowed to see the Judgment? *no*
2. To be referred to the Reporter or not? *no*
3. whether their Lordships wish to see the fair copy of the Judgment? *no*
4. whether it needs to be circulated to other Benches of the Tribunal? *no*
5. Remarks of Vice-Chairman on columns 1,2,4. (To be submitted to Hon'ble Vice-Chairman where he is not on the Bench)

B.N.
(B.N.J.)
HVC

(42)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL: HYDERABAD BENCH:
AT HYDERABAD

O.A.NO. 540 of 1989

Date of Order: 19/03/1990

R.Chandra Mouli

..Applicant

Versus

Union of India, rep. by
the Secretary to Government,
Department of Posts, New Delhi,
and 3 others

..Respondents

....

For Applicant: Mr. R.S.R. Anjaneyulu, Advocate

For Respondents: Mr. J. Ashok Kumar, SC for the Department

... \

C O R A M:

HON'BLE SHRI B.N.JAYASIMHA: VICE CHAIRMAN

...

(Judgment delivered by Hon'ble Shri B.N.Jayasimha, VC)

1. The applicant herein is working as an Assistant Post Master (Accounts) Warangal. He has filed this application against the order No. Accounts/6/14/88 dated 30-9-1988 issued by the Post Master General, Hyderabad, rejecting his request for fixation of pay applying FR-224C.

2. The applicant states that he was initially appointed as time scale clerk in the scale of pay of Rs.110-240 on 9-3-1962. He passed the PO & RMS Accounts Examination held in 1973 and thereafter he was appointed as PO & RMS Accountant with effect from 3-5-1974 in the scale of pay of Rs. 260-480 plus Special Pay of Rs.45/- per month. Later the scale of PO & RMS Accountant was

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revised to Rs.380-620 without Special Pay in 1978 as per DGP & T Letter dated 10-11-1978. The applicant exercised option under FR-23 electing the revised scale of pay of Rs.22 380-620 from the date of his subsequent increment raising the pay of Rs.456/- in the time scale of Rs.260-480 w.e.f. 1-3-1982 as permissible under Rules. By an order dated 19-10-1981, the applicant was appoined as Assistant Post Master Accounts in the higher grade of Rs.425-640 on adhoc basis. While this was so, by an order dated 24-2-1981 the Director General, P & T declared that the scale of pay of Rs.380-620 has been made defunct and the PO & RMS Accountants holding the posts were brought under the scale of Rs.260-480 plus Special Pay of Rs.45/- as existed before. However, the existing incumbents in the pay scale of Rs.380-620 were given the option to retain the defunct scale 380-620 under FR-23. The applicant exercised the option of retaining the defunct scale of pay of Rs.380-620. The applicant was promoted to the cadre of Asst.Post Master Accounts on regular basis in the LSG Scale of pay of Rs.425-640 with effect from 9-9-1983 against 1/3rd quota of vacancies vide Memo dated 8-9-1983. The applicant was not given the benefit under FR-22-C by treating the appointment as not involving higher duties and responsibilities which has resulted in monetary loss to him. He contends that the LSG APM Accounts is required to supervise the work of a large complement of staff under him who are in the scale of pay of Rs.260-480 and also the work of PO & RMS Accountant in the scale of pay Rs.260-480 plus Special Pay of Rs.45/-.

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He, therefore, contends that he is eligible for the benefit of FR 22-C on his promotion to the post of LSG Accountant.

3. The applicant thereafter submitted a representation on 29-10-1987 to the Post Master General enclosing a copy of the Judgment of the Central Administrative Tribunal, Bangalore Bench, in O.A.No.1445 of 1985 dated 11-12-1986 in respect of similarly placed persons. After issue of reminders, by an order dated 30-9-1988 the applicant was informed that the judgment of the CAT, Bangalore bench is applicable to the parties concerned and their request of the applicant to extend the benefit in his case cannot be acceded to. Aggrieved by this order, the applicant has filed this application.

4. The main ground urged by the respondents in their counter is that the applicant was promoted as APM (Accounts) on 9-9-1983 and he did not express any grievances when his pay was fixed under FF-22(a)(ii) as per the Presidential Order dated 10-11-1978 treating the appointment as not involving higher responsibilities. The applicant kept quiet all along and it is only after coming to know of the orders ~~by~~ passed by the Bangalore Bench, the applicant was encouraged to make representation. The applicant was, therefore, informed that the Judgment/order is applicable to the party who filed the application before the Bangalore Bench and the same cannot be extended to him.

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5. I have heard Shri K.S.R.Anjaneyulu, learned counsel for the applicant and Shri J.Ashok Kumar, Standing Counsel for the Department.

6. It is not in dispute that the Judgment of the Bangalore Bench in D.A.No.1445 of 1985 dated 11-12-1986 covers persons who are similarly promoted as Assistant Post Master (Accounts)/LSG Accountant from the grade of PO & RMS Accountants in the grade 260-480 plus Special Pay of Rs.45/-/380-620 without Special Pay (subsequently made defunct). The Judgment of the Bangalore Bench would, therefore, apply to the facts of the instant case.

7. What Shri J.Ashok Kumar contends is that the applicant had not made any representations after his pay was fixed treating that the post does not involve higher responsibilities way back in the year 1983. The application is therefore belated and barred by limitation. In support of this he relies on Charan Singh Vs. Union of India (ATR (1987 (1) CAT) where-in the Jodhpur Bench held that mere making a representation to the respondents does not revive the period of limitation. Shri Anjaneyulu states that the applicant, on learning that similarly placed persons are agitating the matter in a Court, can wait till the out-come of the ^{new} ~~relief~~ ^{then} ~~of the~~ case. He accordingly approached the respondents for applying the relief given in the Judgement to him. In support of this he relies on Laxmandas Vs. Union of India (1988 (6) ATC 609) where-in the Jodhpur Bench of the Tribunal held that "the applicants waiting for the out-come of the case and then filing an application after exhausting alternate remedies cannot be denied their rights."

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In O.A.No.54-89 (M.Venkateswara Rao Vs. The Director General Posts), this bench applying the decision of the Jodhpur Bench, granted relief to the applicant therein who is similarly situated as the applicant. It may be noted here that in Laxman Das's case, the Jodhpur Bench considered its earlier decision in Charan Singh's case where no application for condonation of delay had been filed and that such a question was not considered. In this view of the matter, the contention of Shri Ashok Kumar that the application is liable to be rejected on grounds of laches cannot be sustained. It follows therefore that the applicant is eligible to the relief prayed for as given by the Bangalore Bench in respect of similarly placed persons. The respondents are therefore directed to fix the pay of the applicant accordingly and pay the arrears due to him within two months from the date of receipt of this order.

In the result the application is allowed with no order as to costs.

B.N. Jayasimha
(B.N. JAYASIMHA)
VICE CHAIRMAN

Dated: 19th March 1990. *[Signature]* 20/3/90
DEPUTY REGISTRAR(J)

Other copy
[Signature]
20/3/90

sqh/vcr.

TO:

1. The Secretary to Government (Union of India), Department of posts, New Delhi.
 2. The Chief post master general, A.P. Circle, Hyderabad.
 3. The Director of postal service, Andhra Pradesh Northern Region, Hyderabad.
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 5. One copy to Mr. K.S.R. Anjaneyulu, Advocate, 1-1-365/A, Jawaharnagar, Bakaram, Hyderabad-500 020.
 6. One copy to Mr. J. Ashok Kumar, SC for postal department, CAT, Hyderabad.
 7. One spare copy.
- ...

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20/3/90

Draft by: . Checked by: Approved by
D.R. (J)

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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH.

HON'BLE MR. B. N. JAYASIMHA: (V.C.) ✓
A N D
HON'BLE MR. D. SURYA RAO: MEMBER (JUDL)
A N D
HON'BLE MR. J. NARASIMHA MURTHY: (M) (J)
A N D
HON'BLE MR. R. EALASUBRAMANIAN: (M) (A)

DATED: 19.3.90

~~ORDER/JUDGMENT:~~ ✓

~~M.A./R.A./D.O./No.~~ in
~~T.A.No.~~ (L.F.No.)
D.O.No. 540/89

~~Admitted and interim directions~~
~~issued.~~

~~Allowed.~~ ✓

~~Dismissed.~~

~~Disposed of with direction.~~

~~M.A. Ordered.~~

~~No order as to costs.~~ ✓

Sent to Xerox on: 20/3/90

[Signature]

