

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

HYDERABAD BENCH : AT HYDERABAD

BP No.77/93

in

MA No.1173/92

in

DA No.47/89.

Dt. of Order:26-8-93.

C.K.Kumaran

.....Applicant/  
Applicant/  
Applicant

Vs.

1. Union of India,  
Secretary, Ministry of Railway,  
Railway Board, New Delhi.
2. The General Manager,  
S.C.Rlys, Sec'bad.
3. The Chief Engineer (Open Line),  
SC Rlys, Sec'bad.
4. Chief Engineer (Construction)  
now re-designed as  
Chief Administrative Officer (Construction),  
SC Rlys, Sec'bad.
5. Mr.K.R.Akole  
(Respondent No.5 is not necessary  
party)

.....Respondents/  
Respondents/  
Respondents

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Counsel for the Applicant : Shri D.Govardhana Chary

Counsel for the Respondents : Shri N.R.Devraj, SC for Rlys

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CORAM:

THE HON'BLE SHRI A.B.GORTHY : MEMBER (A)

THE HON'BLE SHRI T.CHANDRASEKHAR REDDY : MEMBER (J)

(Order of the Divn. Bench passed by Hon'ble  
Shri A.B.Gorthi, Member (A) ).

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In this review application the prayer of the applicant is for a review of our order dt.2-2-92 in MA 1173/92 ( in OA 47/89). The back ground history of the case may<sup>be</sup> briefly stated. The applicant together with another individual filed O.A.47/89 praying for a direction to the respondents to pay them the equal pay and allowances as applicable to Asst.Programmers in the EDB Centres irrespective of the designation of the post they held with effect from 1-11-1984. Allowing the said Original Application the Bench of this Tribunal observed as under :-

"The applicants were selected and appointed as Assistant Programmers after a due process. That the nature of duties which the applicants are performing are the same as in the EDP Unit had not been denied by the respondents. Yet, the respondents denied the applicants the special pay of Rs.125/- pm from 1-11-84 to 31-12-85 and the

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revised scale from 1-1-86 onwards. While revising the pay scale the respondents had taken into account the special pay of Rs.125/- pm in the case of those working in the EDP Unit while denying the same to the same set of people performing similar duties outside the EDP Unit. The attempt of the respondents to justify this on the ground that creation of the posts of Assistant Programmers outside the Data Processing Centre was itself incorrect is not acceptable. If, as a policy, the respondents do not want the Assistant Programmers outside the Data Processing Centre, it is open to them to transfer persons like the applicants to the EDP Unit but they cannot discriminate against them on the simple plea that they are outside the Data Processing Centre. We are, therefore, of the opinion that the applicants are entitled to the special pay of Rs.125/- pm in the same manner as those working in the EDP Unit and also the revised pay scale applicable to similar set of people working in the EDP Unit, We therefore, direct the respondents to give these benefits to the applicants within three months of the date of this judgment."

2. From the above judgement what is clear is that the Tribunal held firstly that the nature of duties which the

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applicant <sup>2</sup> ~~were~~ performed were the same as in the EDP Unit, secondly the attempt of the respondents to discriminate between the Asst. Programmers out side the Data Processing Centre and those working in the EDP Unit was not acceptable and thirdly that the applicants were entitled to the special pay of Rs.125/- pm and also the revised pay scale applicable to similar set of ~~pk~~ people working in the EDP Unit. In compliance with the aforesaid judgment the Respondents calculated the arrears of special pay at the rate of Rs.125/- pm for the period from 1-11-84 to 31-12-85 and paid the same to the applicant. As regards pay fixation their pay was also refixed in the scale of Rs.2,375-3500. As the Tribunal was satisfied ~~xxx~~ that Respondents complied with our judgment in OA 47/89 it dismissed MA 1173/92 which was for implementation of the Tribunal's order in OA 47/89.

<sup>2</sup> In the review application, it has now been stated that the Respondents vide office order No.P/E/16/89 dt.31-1-89 posted the applicant (Sri C.K.Kumaran) as Chief Design Assistant in <sup>2</sup> the scale of Rs.2000-3200. In other <sup>would 1</sup> ~~wise~~ the Respondents have reduced the scale of <sup>pay of 2</sup> the applicant from that of Rs.2375-3500 to 2000-3200. The reason assigned for the ~~se~~ reduction in the pay scale is, as would be evident from para-1 of the said Office Order itself, that

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the Railway Board vide letter dt.13/14-7-87 decided to re-designate the post of Asst. Programmer in the office of CE/DL/SC&CE/CN/SC as Chief Design Asst. in the scale of Rs.2000-3200. We must note here that the said Railway Board letter dt.13/14-7-87 form<sup>ed</sup> part of the material papers annexed to OA.47/89. From the judgment in the said O.A. it is <sup>m</sup> apparent that notwithstanding the said Railway Board's letter, the Respondents were directed that as the applicants were working as Asst. Programmers they would be eligible for the same scale of pay as that being given to Asst. Programmers in EDP Unit, <sup>in respect of</sup> ~~not with standing~~ the designation of the appointment. The Respondents have ~~applied~~ complied with our judgment in OA 47/89 and having continued to pay the applicant the higher scale of Rs.2375-3500, <sup>they</sup> are not, in our considered opinion, justified in reducing their pay scale, that too without any prior notice. The said office order dt.31-1-89 is not only <sup>not</sup> in conformity with our judgment in OA 47/89, <sup>but</sup> is clearly in violation of principle of natural justice. We therefore set aside our order in MA 1173/92. We further set aside the Railway Board's order dt.31-1-89 so far as it pertains to the applicant herein (Sri C.K.Kumaran). The Respondents are directed to pay the applicant the same pay that he was drawing as on 31- till the date of retirement with the increments if any

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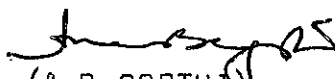
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that became due. The applicant would also be entitled to all consequential/benefits. As the applicant retired from service on 30-9-90 his pension will be revised in accordance with the ~~instruct~~ extant instructions. As regards the payment of pay and allowances the Respondents are given four months time and as regards revision of pension, the respondents may revise it within a period of six months from the date of communication of this order. No order as to costs.

  
(T.CHANDRASEKHAR REDDY)  
Member (J)

  
(A.B.GORTHI)  
Member (A)

Dated: 26th August, 1993.  
Dictated in Open Court.

avl/

  
Deputy Registrar (J)

To

1. The Secretary, Ministry of Railway,  
Union of India, Railway Board, New Delhi.
2. The General Manager, S.C.Rlys, Secunderabad.
3. The Chief Engineer (Open Line) S.C.Rlys, Secunderabad.
4. The Chief Engineer (Construction)  
now re-designed as Chief Administrative Officer, (Construction)  
S.C.Rlys, Secunderabad.
5. One copy to Mr.D.Govardhana Chary, Advocate 1-1-80/20  
2nd floor, R.T.C. 'X' Roads, Hyd.
6. One copy to Mr.N.R.Devraj, SC for Rlys.CAT.Hyd.
7. One copy to Library, CAT.Hyd.
8. One spare copy.

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