

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH
AT HYDERABAD

OA.192/90

date of decision : 4-3-1993

Between

1. Thriambaka Rao, D
2. P. Venkateswarlu
3. P. Mohana Ranga Rao
4. D. Bhavanarushi
5. N. Venkaiah
6. G.R.K. Reddy
7. M. Prakasa Rao
8. M. Edmund Wingfred
9. B.S.N. Sasthry
10. K.V. Susheela
11. B. Rajarao
12. C.V. Subramanyam
13. A.K. Julani
14. L.T.S. Sarma
15. V.V. Subbarao
16. N.F. Roosevelt Mohan
17. Ch. V. Anjaneyulu
18. P.R.K. Raju
19. D. Venkateswara Rao
20. K. Annapurna
21. M. Satyanarayana
22. V.S. Paul
23. V. Satyanarayana
24. D.J. Zachariah
25. Syed Mahaboobasha
26. M. Vasudeva Rao
27. M. Krishna Rao
28. K. Umamaheswara Rao
29. R. Sadguru Moorthy
30. P.R.K. Paramahamsa
31. S.P. B. Eswar
32. N. Venkata Rao
33. A. Subramanyam
34. T. Rangacharyulu
35. S. Luka Nandam
36. A.G. Veeranna
37. S. Madhusudhana Rao
38. P. Subba Rao
39. P. Kasimkhan
40. M. Gopal Singh
41. B. Anjaneya Sastry
42. P. Rangarao

Applicants

and

1. Divisional Railway Manager(MG)
Hyderabad Division,
at Secunderabad
2. Divisional Railway Manager
Vijayawada

3. General Manager
South Central Railway
Secunderabad

4. Government of India, rep. by
Secretary
Min. of Railways
Railminayam
New Delhi

: Respondents

Counsel for the Applicants : V. Rama Rao, Advocate

Counsel for the Respondents : N.R. Devaraj, Standing
Counsel for Railways

CORAM

HON. MR. JUSTICE V. NEELADRI RAO, VICE CHAIRMAN

HON. MR. R. BALASUBRAMANIAN, MEMBER (ADMN.)

Judgement

(Orders as per Hon. Mr. Justice V. Neeladri Rao, VC)

All these forty two applicants are the Head clerks/Sub-Heads in Vijayawada and Secunderabad Divisions. All these applicants were promoted as Head Clerks/Sub Heads on 1-1-1982. Their pay as Head Clerks/Sub Heads is lower than the pay of the juniors who were promoted as Head Clerks/Sub Heads later. They filed this OA praying for a direction to the Respondents to refix their pay on their promotion as Head Clerks/Sub Heads with effect from 1-1-1984 on notional basis duly treating them as having been granted Rs.35/- as special pay while they were working as Senior Clerks and for payment of arrears with effect from 1-1-1985.

2. The facts which give rise to this OA are briefly as under :

Ten per cent of the posts of Senior Clerks were treated as special posts and special pay of Rs.35/- per month was given as per Circular No. PC./79SP/1/UDC, dated 11-7-1979.

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The promotion from the post of Senior Clerks due to the Head Clerks/Sub Heads, a Restructuring of the posts was done in 1985. Then the ratio between the Senior Clerks and Head Clerks/Sub Heads was fixed as 20:80. The same was given effect to from 1-1-1984. Prior to 1-1-1984 the special pay was not treated as part of pay for fixing the pay in the post of Head Clerks/Sub Heads on promotion. But while restructuring was done, of order, the special pay was directed to be treated as part of the pay for fixing the pay in the post of Head Clerks/Sub Heads on promotion.

3. In view of the restructuring, there was a steep increase in the number of posts of Head Clerks/Sub Heads and hence, the vacancies that had arisen in the category of Head Clerks/Sub Heads were far more than the 10% of the posts of the Senior Clerks which were existing by the date of restructure. Hence, some of the Senior Clerks who were not in the 10% of the posts or Senior Clerks for whom special pay was given, were also promoted with effect from 1-1-1984. The applicants were some such employees who were promoted as Head Clerks with effect from 1-1-84. They were not drawing special pay as Senior Clerks for they were not within the 10% of the posts of the Senior Clerks.

4. The anomaly of Senior Head Clerk/Sub Head getting pay less than that of the junior in that category had arisen because of one or the other reasons:

i) The special pay of Rs.35/- was not treated as part of the pay for those who were promoted from the post of Senior Clerk to that of Head Clerk/Sub Head prior to 1-1-1984 for fixing the pay in the category of Head Clerk/Sub Head. Hence, these promotees, even though they were getting special pay while working as Senior

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Clerks, ~~they~~ could not get the benefit of the special pay in fixation of the pay in the cadre of Head Clerks/Sub Heads.

ii) In view of the large number of vacancies in the posts of Head Clerks/Sub Heads with effect from 1-1-1984, it had become necessary to promote even those senior clerks who were not in the 10% of the posts, and ~~thus who~~ ^{they} were not drawing special pay ~~but when such employees~~ ^{their} were promoted to fill up all the vacancies. Their juniors who were within 10% of the posts of Senior Clerks were given the special pay of Rs.35/- per month. When they were promoted to the posts of Head Clerks/Sub Heads, when their turn for promotion had come, this special pay was treated as part of the pay for fixing their pay in the category of Head Clerks/Sub Heads.

5. Hence, in regard to these applicants, an anomaly had arisen when their pay as Head Clerks/Sub Heads was found to be less after ^{promotion of} their juniors who had the benefit of the special pay in fixing their pay as Head Clerks/Sub Heads. But it is now well established that the pay of the seniors should not be less than that of the juniors, if all things are equal and that they are discharging the same duties. In order to avoid such anomaly, a principle of Stepping Up is introduced. It means that if everything is equal, the pay of the senior had to be stepped up with the pay of the junior from the date the junior's pay is more than the pay of the senior.

6. In this case, the applicants claim that their pay on promotion should be fixed by giving them the benefit of the special pay of Rs.35/- even though they were not getting special pay of Rs.35/- per month while working as Senior Clerks. They are claiming it on two grounds :

a) If their claim is going to be ~~asserted~~ ^{accepted} there will not be any anomaly of junior getting pay more than that of the senior, and

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To

1. The Divisional Railway Manager(MG) Hyderabad Division,
at Secunderabad.
2. The Divisional Railway Manager, Vijayawada.
3. The General Manager, S.C.Rly, Secunderabad.
4. The Secretary, Govt.of India, Min.of Railways,
Railnilayam, New Delhi.
5. One copy to Mr.V.Rama Rao, Advocate, 3-6-779,
14th Street, HImayatnagar, Hyderabad.
6. One copy to Mr.N.R.Devraj, SC for Rlys, CAT.Hyd.
7. One spare copy.

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b) In view of the large number of vacancies, they got their promotion even before they were within the 10% of the posts of Senior Clerks to which the special pay is attached and they should not be deprived of that pay in fixing their pay in the cadre of Head Clerks/Sub Heads, for it is not their fault when they were promoted to the posts of Head Clerks/Sub Heads even before they had the opportunity of working in the posts of Senior Clerks with special pay of Rs.35/- per month.

7. By adopting the Principle of Stepping Up, the anomaly can be avoided. Hence, for this purpose there is no need to fix the notional pay in the category of Senior Clerks by adding special pay of Rs.35/- per month.

8. Heard Mr. Murthy for Mr. V. Rama Rao, counsel for the applicants and Mr. N.R. Devaraj, Standing counsel for the respondents.

9. When the applicants and those who are similarly situated were not within the 10% of the posts of Senior Clerks, to which the special pay is attached and when there is no other equitable ground for adding the special pay in order to fix the pay in the cadre of Senior Clerks notionally for the purpose of fixation of pay in the post of Head Clerks/Sub Heads, the latter contention cannot be accepted.

10. In the result, the Stepping Up of salary of the applicants as the Head Clerks/Sub Heads has to be made from the date on which the pay of their juniors is higher than their pay. The arrears on such fixation have to be paid within three months from today.

11. The OA is ordered accordingly. No costs.

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(V. Neeladri Rao)
Vice-Chairman

R. Balasubramanian

(R. Balasubramanian)
Member (Admn)

dated : March 4, 1993
Dictated in the Open Court

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Deputy Registrar (J)