

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH
AT HYDERABAD.

O.A.No.291/90.

Date of Judgment 18.11.1991.

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O.A.No.316/90.

N.S.Natarajan (Applicant in O.A.291/90)

&

K.R.Narayanan (Applicant in O.A.316/90) Applicants

Vs.

The Union of India,
represented by

- 1. Secretary to Govt.,
Department of Supply &
Director-General,
Supplies & Disposals,
New Delhi.
- 2. The Director of
Inspection, DGS&D,
Bangalore.
- 3. The Dy. Director of
Inspection, DGS&D,
Hyderabad.

.. Respondents in both the applications

Counsel for the Applicants : Shri K.S.R.Anjaneyulu
in both cases

Counsel for the Respondents : Shri N.Bhaskar Rao, Addl.CGS
in both the cases

CORAM:

Hon'ble Shri R.Balasubramanian : Member(A).

There are two applications filed under section 19 of the Administrative Tribunals Act, 1985 involving common facts and issues and hence the common disposal of the two cases by this common order.

2. O.A.No.291/90 has been filed by Shri N.S.Natarajan and O.A.No.316/90 has been filed by Shri K.R.Narayanan. The applicants in both the cases started their career in the Dte. General, Supplies & Disposals (DGS&D for short) organisation as Examiner of Stores (EOS for short). Thereafter, they were promoted as Junior Field Officers (JFOs for short) after observing due procedure for such promotion. Thereafter, from the posts of JFOs they were

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promoted as Asst. Inspecting Officers (AIOs for short). At the time of promotion to the cadre of AIOs their pay was fixed with reference to the pay they were drawing in the cadre of JFOs. While matters stood thus, by the impugned order No.A.1700/336/88/A-16 dated 7.1.90 the respondents reduced their pay with reference to their presumptive pay in the grade of EOS on the ground that the earlier fixation done in 1980 with reference to their pay in the cadre of JFOs was wrong. This was on the plea that JFOs was not a feeder cadre to the AIO and their re-fixation of pay was by way of rectifying the earlier mistake. The applicants represented against this but in vain. Hence this application praying for a declaration that the impugned order dated 7.1.90 is illegal and to direct the respondents not to revise the pay and recover the alleged overpayments.

3. The respondents have filed a counter affidavit and oppose their prayer. It is their case that the JFO cadre is not a feeder cadre to the grade of AIO and it is only EOS which is the feeder cadre. Hence the earlier pay fixation in the cadre of AIO with reference to their pay in the cadre of JFO was wrong and the correct fixation has to be done ^{with reference to} ~~in~~ the cadre of EOS. In support of their contention they quote that an order of the Calcutta Bench of this Tribunal which conceded a claim like the one before me, is being contested by the Union of India in the Supreme Court where the matter is pending. The respondents also rely on the decision of the Full Bench of this Tribunal dated 7.11.89 in the case of R.P.Upadhyay Vs. Union of India

4. I have examined the case and heard the learned counsels for the applicants and the respondents. In the course of the hearing the learned counsel for the applicants produced a copy of the judgment dated 6.3.91 of the Madras Bench of this Tribunal in their O.As No.1006/89, 1007/89 & 21/90.

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I have carefully gone through this judgment. This judgment covers the case before me totally and deals with all the contentions raised by the applicants and the respondents as well. Besides, this detailed judgment covered among various other judgments of different courts the ones cited by the respondents also. The respondents' reliance on the Full Bench decision has, in fact, been busted. The Full Bench case applies to where:

- (a) there is a deputation outside to an ex-cadre post,
- (b) there is an option for the pay scale in the deputation post, and
- (c) there is a reversion to the parent department before promotion.

None of these is obtaining in the cases before me. The Madras Bench had also held that the principles of natural justice were violated in-as-much as the respondents had unilaterally reduced the pay of the applicants without giving them an opportunity to present their case claiming that such a re-fixation is only by way of rectifying a mistake committed long back. This observation applies to the cases before me too.

5. The principles of natural justice had been violated by the respondents and the Full Bench judgment referred to by the respondents is not applicable to the cases before me, I am in full agreement with the decision of the Madras Bench of this Tribunal. I, therefore, set aside the re-fixation of the pay of the respondents and quash the impugned order dated 7.1.90. The original pay fixed shall be restored to the applicants. The applications are thus allowed with no order as to costs.

R. Balasubramanian
(R. Balasubramanian)
Member(A).

Dated 18th November, 1991.

[Signature]
Deputy Registrar (J)