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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL:HYDERABAD BENCH
AT HYDERABAD

ORIGINAL APPLICATION NO. 551/90

DATE OF JUDGEMENT: 22nd OCTOBER, 1992

BETWEEN

B. Pratap Reddy

.. Applicant

AND

1. Union of India, Rep by its
Secretary,
Min. of Defence,
New Delhi.

2. The Director,
Defence Electronics Research Laboratory
Hyderabad.

3. Legal Advisor,
Research & Development Headquarters
New Delhi

.. Respondents

Counsel for the Applicant

: Mr K. Prabhakar Reddy

Counsel for the Respondents

: Mr V. Rajeswara Rao
for Mr NV Ramana, CGSC

CORAM:

HON'BLE SHRI T. CHANDRASEKHARA REDDY, MEMBER (JUDL.)

T. Chandrasekhara Reddy

JUDGEMENT OF THE SINGLE MEMBER BENCH DELIVERED BY
HON'BLE SHRI T. CHANDRASEKHARA REDDY, MEMBER (JUDL.)

This application is filed under Section 19 of the Administrative Tribunals Act to direct the respondents to pay equal pay to the applicant On par with his junior and to direct the respondents to pay all arrears of salary and other emoluments and pass such other order as may deem fit and proper in the circumstances of the case.

2. The applicant was initially appointed to the post of Fitter in the ^{2nd} respondent's organisation w.e.f. 4.12.62. Subsequently, he was appointed as Jr. Scientific Assistant II w.e.f. 15.10.63 and as Jr. Scientific Assistant-I w.e.f. 15.12.66. While serving as Jr. Scientific Assistant I, the applicant had acquired the qualification of B.E. Degree. In terms of Ministry of Defence letter No. 96850/V-1967/DTTA/884/D(Civ.I) dated 4.2.69, the applicant was granted three advance increments w.e.f. 13.2.70 in consideration of his acquiring B.E. Degree while in service. Subsequently, the applicant was promoted to the post of Sr. Scientific Assistant w.e.f. 16.11.70 in the pre-revised scale of pay of Rs. 325-575. Hence, his pay, on promotion to the grade of Sr. Scientific Assistant was fixed under FR 22(c) taking into account his pay as Jr. Scientific Assistant I, including three advance increments granted to him under the provisions of the Govt. of India letter dated 4.2.69 referred to above.

3. ~~At this stage~~, we may refer to the Ministry of Defence order dated 2.6.71, wherein it was specified that the contents of the Ministry's letter dated 4.2.69 will be applicable to persons who possessed the prescribed qualification at their time of their entry into Govt. service in non-gazetted technical/scientific grade.

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The applicant had filed writ petition No.563/80 in the Hon'ble High Court of Andhra Pradesh and claimed the benefit of the said letter dated 2.6.71 of the Ministry of Defence. A single Judge of the High Court dismissed the said writ petition No.563/80 as per his orders dated 3.11.82. Thereafter, the applicant filed writ appeal No.499/83 against the Judgement in the writ ~~xx~~ petition No.563/80. A Division Bench of the High Court as per its Judgement dated 6.7.87 rejected the writ appeal of the applicant in regard to giving him the benefit of three advance increments for a second time, but directed the respondents to verify whether any junior to the petitioner was drawing more salary and emoluments than the applicant, and if so, the applicant might also be paid such salary and emoluments. One Mr Shankaran was brought on record as Junior to the Petitioner (applicant herein) and was said to be drawing more pay than the applicant.

In view of the judgement on the writ appeal No.499/83 in the High Court of Andhra Pradesh, the case of the applicant was considered for stepping up of the applicant's pay to bring on par with that of Mr Shankaran. But, the applicant was informed that the applicant was not eligible for stepping up of his ^{pay} ~~equal~~ to that of Shri Shankaran.

Aggrieved by this decision, the applicant filed a contempt case No.222/90 in the High Court of Andhra Pradesh which was dismissed by the High Court as per the order dated 18.4.90. After the said contempt petition was dismissed, as per the observations in the order dated 18.4.90 in the said contempt case No.222/90, the second respondent referred the matter to the third respondent for his opinion for stepping up the pay of the applicant with that of the said Mr Shankaran who was junior to the applicant.

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The third respondent gave his opinion that the applicant was not entitled to any relief. As the said Shri Shankaran was drawing more pay than that of the applicant, and aggrieved by the decision of the third respondent, the applicant has filed the present OA for the reliefs as indicated above.

Counter is filed by the respondents opposing this OA.

We have heard Mr K. Prabhakar Reddy, Counsel for the applicant and Mr P. Rajeswara Rao for Mr NV Ramana, SC for respondents.

The applicant is an employee of Defence Electronics Research Laboratory, Hyderabad. The fact that the applicant is paid salary from the Defence Services Estimates is not in dispute in this case. According to Govt. of India, Ministry of Defence letter M dated 4.2.69, a civilian employee, paid from Defence Service Estimates who acquires a Degree in Engineering or an equivalent qualification while he is serving in a non-gazetted technical/scientific grade shall have his ^{re-}pay/fixed with effect from the date on which he acquires the above mentioned qualification at the stage in his scale of pay which would give him three advance increments.

Admittedly, in terms of the said letter, ^{dated 4-2-69} the applicant had been granted 3 advance increments w.e.f. 13.2.70 when the applicant was working in the Grade of Jr. Scientific Assistant I. As already pointed out,

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as per Govt. of India, Min. of Defence lr. dated 2.6.71, the orders contained in the Ministry's letter dated 4.2.69 were made applicable to the persons who possessed the prescribed qualification at the time of entry into their Govt. service in non-gazetted technical/scientific grade. It is on the basis of this letter that the applicant claims three more advance increments. The Min. of Defence letter dated 2.6.71, would govern the persons who possessed the prescribed qualification at the time of entry into Govt. service in non-gazetted technical/scientific grade. (emphasis supplied). As the applicant herein had been promoted to the post of SSA and as the applicant herein is not a fresh entrant into service as SSA, the applicant will not be entitled to the benefits of the aforesaid letter dated 2.6.71.

Admittedly, the applicant herein, while he was promoted to the post of SSA, his pay on promotion to the Grade of SSA has been fixed under FR 22C taking into account his pay as Junior Scientific Assistant-I including 3 advance increments granted to him under the provisions of Min. of Defence letter dated 4.2.69. So, as all the three advance increments have been taken into consideration while fixing the pay of the applicant in his promotional post of Sr. Scientific Assistant, the applicant in our opinion, is not at all entitled to the benefits of the provisions of the Min. of Defence letter dated 2.6.71.

One of the arguments of the counsel for the applicants advanced in this case is, that Mr Shankaran, who is junior to the applicant is getting higher salary than that of the applicant. As the said Mr Shankaran is a fresh entrant

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ASA

Copy to:-

1. Secretary, Ministry of Defence, Union of India, New Delhi.
2. The Director, Defence Electronics Research Laboratory, Hyd.
3. Legal Advisor, Research & Development Headquarters, New Delhi
4. Copy to Reporters as per standard list of CAT, Hyd.
5. One copy to Sri. K.Prabhakar Reddy, advocate, 3-43, Hanuman nagar, Dilsukhnagar, Hyd.
6. One copy to Sri. N.V.Ramana, Addl. CGSC, CAT, Hyd.
7. One copy to Deputy Registrar, Judl. CAT, Hyd.
8. One spare copy.

Rsm/-

22/10/11
12/11/11

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into the Govt. service ^{as} as SSA (Direct recruit), he is entitled for 3 advance increments in pursuance of the letter dated 2.6.71 of the Min. of Defence. As the junior to the applicant is entitled for the benefits of Min. of Defence letter dated 2.6.71, being a direct recruit, it is not open for the applicant herein to plead that he is also entitled for the benefit of the provisions of Min. of Defence letter dated 2.6.71, which benefits under the letter dated 2.6.71 ^{only} are meant ^{for} direct recruits. The applicant is not justified in comparing himself with his junior ^{who is a direct recruit} in the payment of advance increments for which, the applicant is not entitled as the applicant is a promotee and not a direct recruit. The learned counsel for the applicant relied on the Judgement of Hon'ble Mr Justice Muktadar passed in writ petition No.4076/74 on the file of AP High Court, and contended that the applicant herein is entitled to the said ^{three} advance increments even though the applicant is promoted to the post of Sr.Scientific Assistant. But, the said Judgement does not go to show that the Learned Judge has considered the applicability of the provisions of the letter dated 2.6.71. So, the said Judgement is not applicable to the facts of this case and we are not inclined to rely upon the said judgement in giving relief to the applicant which he has prayed for in this OA. We see no merits in this OA and this OA is liable to be dismissed and is accordingly dismissed leaving the parties to bear their own costs in the circumstances of the case.

(T.CHANDRASEKHARA REDDY)
Member(Judl.)

Dated: 29 October, 1992

mvl

8/2/1992
Deputy Registrar (Judl.)

contd. ...

Typing Dept
for Section
O.A. 551/90
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COMPARED BY

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APPROVED BY

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH : HYDERABAD

THE HON'BLE MR

AND

THE HON'BLE MR. R. BALASUBRAMANIAN: M(A)

AND

THE HON'BLE MR. T. CHANDRASEKHAR REDDY:
M(JUDL)

AND

THE HON'BLE MR. C. J. ROY : MEMBER (JUDL)

Dated: 22/10/1992

ORDER/JUDGMENT:

R.A./C.A./M.A.No

in

O.A.No.

551/90

T.A.No.

(wp.No)

Admitted and interim directions
issued.

Allowed

Disposed of with directions

Dismissed

Dismissed as withdrawn

Dismissed for default

M.A. Ordered/Rejected

No orders as to costs

pvm

