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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH
AT HYDERABAD.

O.A.No.607/90.

Date of Judgment 3.9.91

K.L.Kameshwara Rao .. Applicant

Vs.

Regional Director,
Employees State Insurance
Corporation,
Hill Fort Road,
Hyderabad-500463. .. Respondent

Counsel for the Applicant : Shri B.S.Rahi
Counsel for the Respondent : Shri N.Bhaskar Rao,
Addl. CGSC

CORAM:

Hon'ble Shri J.Narasimha Murthy : Member(Judl)
Hon'ble Shri R.Balasubramanian : Member(Admn)
[Judgment as per Hon'ble Shri R.Balasubramanian,
Member(Admn)]

This application has been filed by Shri K.L.Kameshwara Rao under section 19 of the Administrative Tribunals Act, 198 against the Regional Director, Employees State Insurance Corporation, Hill Fort Road, Hyderabad-500463.

2. The applicant joined the service of Employees State Insurance Corporation as an LDC on 12.11.75 at Vizianagaram. During 1976 the applicant asked for a transfer to Hyderabad at his own cost. It is stated that in March, 1977 he again applied for cancellation of his request for transfer to Hyderabad, but in spite of this in April, 1977 he was transferred to Hyderabad at his own cost and he accordingly joined at Hyderabad. After joining at Hyderabad he again asked for a transfer back to Vizianagaram but that was not done. In April, 1977 there was a vacancy of UDC in the Local Office at Vizianagaram and the person junior to the applicant Shri P.K.Ramachandra Murthy was promoted on an ad hoc basis. Subsequently, the applicant was also promoted

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as UDC on a regular basis w.e.f. 23.3.81. It is the contention of the applicant that had he been retained at Vizianagaram he would have got an opportunity to perform the duties of UDC. The nett result of it was that ^{when} he was promoted to the cadre of UDC his pay was fixed at Rs.330/- while that of his junior ^{was} at Rs.360/-. This discrepancy was again reflected when his pay was fixed due to the implementation of the Fourth Pay Commission Recommendations (1-1-86). At that time ^{his} pay was fixed at Rs.1,290/- while that of his junior at Rs.1,410/-. He made several representations all to no avail. Hence he has made this petition with a prayer that the Regional Director, Employees State Insurance Corporation, Hyderabad be directed to fix his pay as UDC on par with that of his junior w.e.f. 1.1.86.

3. The respondents have filed a counter affidavit and oppose the prayer. It is pointed out by them that he never asked for cancellation of his request for a transfer from Vizianagaram to Hyderabad. Thus, the transfer from Vizianagaram to Hyderabad was at his own request. However, soon after his joining at Hyderabad he wanted to go to Vizianagaram which was not accepted on administrative grounds. It is admitted that the junior is getting higher pay. It is argued that this was so because the junior had been drawing more pay in the lower scale viz: LDC by virtue of his promotion.

4. We have examined the case and heard the learned counsel for the applicant and the respondents. The respondents have justified their action based on the Govt. of India, Min. of Finance O.M.No.F.2(78)-E.III(A)/66 dated 4.2.66 vide Instruction (10) under F.R.22(c). It is their argument that the junior official was drawing more pay in the lower scale. Sub-Instruction(c) of the above letter states that stepping up of pay is permissible if the anomaly is directly as a result of application of F.R.22(c). It could be denied only if even in the

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lower post the junior draws from time to time the higher rate of pay than the senior by virtue of grant of advance increments. ~~The question is~~ In this case the junior was not drawing any advance increments. He was only enjoying an ad hoc promotion. The Calcutta Bench of this Tribunal in the case of Anil Chandra Das & another Vs. Union of India & others reported in (1988) 7 ATC 224 had held that if juniors were not drawing higher pay in the lower scale and were only given promotion earlier on ad hoc basis on account of occurrence of some vacancies locally, then there is a case for stepping up of pay. Quoting this citation this Bench had also permitted stepping up of pay while deciding the review petition No.71/90 in O.A.No.622/89. The case before us falls squarely in line with these two decision. The junior was fixed at a higher scale only by virtue of his ad hoc promotion and not by advance increments ^{or} ~~and~~ accelerated promotion. Hence, applying these two decisions, we direct the respondents to step up the pay of the applicant also on par with that of his junior Shri P.K.Ramachandra Murthy. The application is allowed with no order as to costs.

MS

(J.Narasimha Murthy)
Member(Judl).

R. Balasubramanian
(R.Balasubramanian)
Member(Admn).

Dated

3rd September 91

REGISTRAR.

Copy to:-

1. The Regional Director Employees State Insurance Corpn. Hill Fort Road, Hyderabad.
2. One Copy to Shri B.S.Rahi, Advocate, A-14, Journalist colony Jubilee Hills, Hyderabad. 500034.
3. One copy to Shri N.Bhaskar Rao, Advocate, S.C.for E.S.I., C.A.T. Hyderabad.
4. One copy to Hon'ble Mr.J.Narsimha Murthy, Member (Judl) C.A.T. Hyderabad.
5. One spare copy.

MS
5/9/91

2A-607/90

TYPED BY
CHECKED BY
IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH AT HYDERABAD

COMPALED BY
APPROVED BY

THE HON'BLE MR. V.C.

AND

THE HON'BLE MR. M(J)
AND

THE HON'BLE MR. J. NARASIMHA MURTY: (J)
AND

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

DATED: 3/24/ -1991

ORDER/ JUDGMENT

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

in

D.A. No. 607/90

T.A. No.

(W.P. No.)

Admitted and Interim directions
issued.

Allowed.

Disposed of with direction.

Dismissed.

Dismissed as withdrawn.

Dismissed for default.

M.A. Ordered/Rejected.

No order as to costs.

DESPAT
18 SEP 1991