

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH
AT HYDERABAD

O.A.No.978/90

Date of Order: 20.12.93

BETWEEN:

M.Subrahmanyam

.. Applicant.

A N D

1. Secretary, Ministry of
Defence, Govt. of India,
New Delhi.
2. The Flag Officer Commanding -in-
Chief, Headquarters, Eastern Naval
Command, Visakhapatnam.
3. The Admiral Superintendent,
Naval Dockyard, Visakhapatnam.

.. Respondents.

Counsel for the Applicant

.. Mr.P.B.Vijay Kumar

Counsel for the Respondents

.. Mr.N.V.Ramana

CORAM:

HON'BLE Mr.JUSTICE V.NEELADRI RAO : VICE-CHAIRMAN

HON'BLE Mr.R.RANGARAJAN : MEMBER (ADMN.)

BMP
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O.A.No.978/90

JUDGMENT

(AS PER HON'BLE SHRI JUSTICE V.NEELADRI RAO, VICE CHAIRMAN)

Heard Shri P.B.Vijaya Kumar, learned counsel for the applicant and Shri N.V.Ramana, learned Standing counsel for the respondents.

2. The applicant joined service as casual LDC in the Naval Dockyard, Visakhapatnam of which the 3rd respondent is Admiral Superintendent, on 9.11.1966. He was in continuous service as casual LDC from 3.5.67 and his service as LDC was regularised with effect from 1.3.1968.

3. The applicant and 75 others filed OA 288/88 praying for a direction to the respondents to regularise their services from the dates of their initial appointment ^{and for} restoring their seniority with all consequential benefits. The same was disposed of by this Bench on 12.6.1988 and the relevant order therein is as under:-

"We direct that the respondents will examine whether any of the employee junior to the applicants herein have been regularised retrospectively from the date of initial appointment. If the juniors have been regularised, then the respondents shall also regularise the services of the applicants herein from the date of initial appointment, restore their seniority and also give them all consequential benefits as has been extended to the juniors covered by the orders No.CE/0762, dt. 17.9.1987 of the Flag Officer Commanding-in-Chief, Eastern Naval Command, Visakhapatnam."

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In pursuance of the said direction, revised seniority list was published and the applicant was shown at Sl.No.27 while Shri D.Hanumanth Rao who joined service on 26.12.1966 was shown at Sl.No.28. But on the basis of the pre-revised seniority list, Shri D.Hanumanth Rao was promoted as UDC on 17.6.1974 while the applicant was promoted as UDC on 1.2.1979.

4. It is stated for the applicant that even though the revised seniority list was published so as to be in conformity with the order in OA 288/88, the monetary benefits are not given to the applicant and hence this OA was filed praying for directions to the respondents; (i) for monetary benefits, (ii) to promote him as UDC ~~from the date on which his immediate junior as per the revised seniority list was promoted~~ (iii) ~~and for grant of Rs.70/- per month as special pay~~ ^{after} advancing the date of promotion as UDC.

5. It is pleaded for the respondents that as none of the employees who were covered by the order No.CE/0762, dated 17.9.1987 is junior to the applicant, the monetary benefits as per the same is not extended to the applicant. But there is ^l falacy in the plea of the respondents. The effect of the order in OA 288/88 is to extend ~~the monetary benefits~~ to the applicants in OA 288/88, the similar benefit extended ~~to the employees covered by the order dated 17.9.1987.~~ Hence, we find that the applicant herein is also entitled to the notional benefit, in case the date of promotion of the applicant as UDC in pursuance of the revised seniority list ^{has} ~~had~~ to be advanced.

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6. Even in the reply in this OA, it is stated that Shri D.Hanumanth Rao is at Sl.No.28 while the applicant is at Sl.No.27 as per the revised seniority list of LDCs. As ~~Shri~~ Shri D. Hanumanth Rao was promoted as UDC on 17.6.1974 and as he is immediate junior to the applicant, the date of promotion of the latter as UDC has to be advanced to, ~~from~~ 17.6.1974 and the pay of the applicant in the category of UDCs has to be notionally fixed as on that date.

7. The special pay of Rs.70/- is ordered for 10% of the posts of UDCs and the special pay is being allowed upto the extent of 10% of the posts of UDCs ~~and for selection to that category is from among UDCs.~~ The applicant was also selected when UDCs who were promoted from 25.9.1972 to 1.7.1976 were selected for the same. It is pleaded in Para-4 of the reply that inadvertently the case of the applicant also was considered ^{and} for special pay of Rs.70/-, ~~this~~ case should not have been considered as he was promoted as UDC only on 1.2.1979 while UDCs promoted upto 1.7.1976 alone would get that special pay. But as per the revised seniority list, the date of promotion of the applicant has to be advanced to 17.6.1974 and as he was already selected, a direction has to be given to the effect that he is also one of those UDCs who is entitled to special pay of Rs.70/- per month.

8. ^{IT} The Bench of ~~this~~ Tribunal is limiting the monetary benefits from one year prior to the date of filing of the OA, whenever there is delay in approaching the Tribunal in regard to continuous cause of action. The reliefs ~~xxxxxxx~~ claimed herein ~~xxx~~ are also of continuous cause of action. Hence, the monetary benefits in regard to the special pay of Rs.70/- and also

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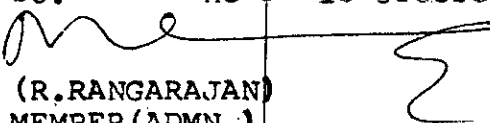
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in regard to the pay as UDC which has to be revised now as his pay in the category of UDCs has to be notionally fixed as on 17.6.1974, are to be given from 13.10.1989, as this OA was presented on 13.10.1990.

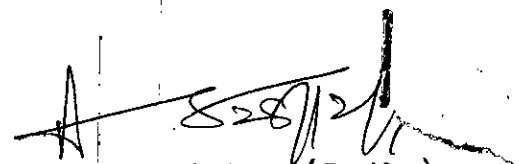
9. It is stated that the monetary relief which has to be granted in pursuance of the Judgment in OA 288/88 is awaited ^{ing} for financial sanction. We will make it clear that the applicant also has to be given the same if other applicants in OA 288/88 are granted.

10. The OA is ordered accordingly. No costs.


(R. RANGARAJAN)
MEMBER (ADMN.)


(V. NEELADRI RAO)
VICE CHAIRMAN

DATED: 20th December, 1993.
Open court dictation.


Deputy Registrar (Judl.)

vsn

Copy to:-

1. Secretary, Ministry of Defence, Govt. of India, New Delhi.
2. The Flag Officer Commanding-in-Chief, Headquarters, Eastern Naval Command, Visakhapatnam.
3. The Admiral Superintendent, Naval Dockyard, Visakhapatnam.
4. One copy to Sri. P.B. Vijaya Kumar, advocate, Advocates Associations, High Court Building, Hyd.
5. One copy to Sri. N.V. Ramana, Addl. CGSC, CAT, Hyd.
6. One copy to Library, CAT, Hyd.
7. One spare copy.

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APPROVED BY

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH : HYDERABAD

THE HON'BLE MR. JUSTICE V. NEELADRI RAO
VICE-CHAIRMAN

AND

THE HON'BLE MR. A. B. GORTHI : MEMBER(A)

AND

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

AND

THE HON'BLE MR. R. RANGARAJAN : MEMBER(A)

Dated: 20/12/1993

ORDER/JUDGMENT: _____

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

in

O.A.No. 978790

T.A.No. _____ (W.P. _____)

Admitted and Interim directions
issued.

Allowed.

Disposed of with directions.

Dismissed.

Dismissed as withdrawn.

Dismissed for default.

Rejected/Ordered.

No order as to costs.

