

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH
AT HYDERABAD

O.A.No.56/90

Date of Order: 16.9.1993

BETWEEN :

K.Satyanarayana

.. Applicant.

A N D

1. The Secretary to Government
of India, Department of
Personnel and Training,
North Block, New Delhi.

2. The Chief Secretary, Govt.
of Andhra Pradesh,
Secretariat, Hyderabad. .. Respondents.

Counsel for the Applicant .. Mr.Vijaya Kumar
for
Mr.B.G.Ravindra Reddy

Counsel for the Respondents .. Mr.N.V.Ramana, Addl.CGSC
Mr.D.Panduranga Reddy, SCfor AP

CORAM:

HON'BLE SHRI A.B.GORTHI : MEMBER (ADMN.)

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

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Order of the Division Bench delivered by
Hon'ble Shri A.B.Gorthi, Member (Admn.).

The prayer of the applicant herein is that his pay has ^{to be} refixed in the senior time scale ~~of~~ of Indian Administrative Service (I.A.S.) under Rule 4(5) of the I.A.S. (pay) Rule 1954 from the date he was posted to officiate in the Senior Time Scale post of Joint Secretary, A.P.State Electricity Board.

2. The applicant while working as Deputy Collector was selected for promotion to I.A.S. and his name was included in the select list for the year 1967. Subsequently he was posted as Joint Secretary, A.P.State Electricity Board. It was an Ex-cadre post but was declared equivalent to that of a cadre post. The claim of the applicant is that he having worked in a cadre post after having been brought on to the select list, he is entitled to fixation of his pay in terms of I.A.S. (Pay) Rules, 1954. Rule 4 (5) of the Pay rules reads as under:

"The initial pay of an officer of a State Civil Service who has been appointed to hold a cadre post in an officiating capacity in accordance with Rule 9 of the Indian Administrative Service (Cadre) Rules, 1954, shall be fixed in the manner specified in Section III of Schedule II."

3. Rule 9 of the Administrative Service (Cadre) Rules 1954 referred to above is to the effect that "that a cadre post in a State may be filled by a person who is not a cadre officer if the State Government is satisfied

(a) that vacancy is not likely to last for more than 3 months or (b) that there is no suitable cadre officer available for filling ^{up} the vacancy." The applicant's claim is that he having been appointed to a cadre post under the Rule 9 of the cadre rules he is entitled to fixation of his pay in terms of Rule 4 (5) of the I.A.S. (Pay) Rules. He accordingly represented his case. It was considered by the Govt. of India and the applicant was informed vide letter dated 20.4.1977 that rule 4 of the I.A.S. Pay Rules regulates only the fixation of pay and increments of State Civil service officers appointed to I.A.S. in a substantive capacity or appointed to hold cadre post in an officiating capacity in accordance with Rule 9 of the Cadre Rules. The applicant has since retired from service w.e.f. 31.12.1972. The respondents rejected the applicant's request on the ground that the question of remunerating a select list officer holding a non-cadre post in the senior time scale of I.A.S. under the I.A.S. Pay Rules does not arise.

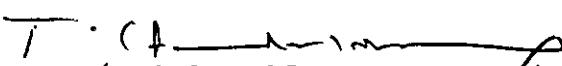
4. The crucial question for our determination is whether the Tribunal has jurisdiction to entertain this application. Admittedly, the applicant was not a member of the I.A.S. and he remained to be an officer of the A.P. State Government till the date of his retirement. The question of pay fixation is certainly a "Service matter" but in the present application the applicant is not a member of any All India Service nor can he be said to be a person ^{belonging} to any Civil Service

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of the Union or holding any Civil post under the Union. It is also seen that the service matter in the present case pertains to pay fixation and not to the recruitment of the applicant to the I.A.S. In view of this and in view of the Provisions of Section 14 of the Administrative Tribunals Act 1985, we find that the Tribunal has no jurisdiction to entertain this application.

5. The learned counsel for the applicant has drawn our attention to the case of Union of India Vs. G.N.Tiwari AIR 1986 SC 348. That was the case where the petitioner was appointed to I.A.S. and the question therein was the year of allotment taking into consideration the petitioner's continuous officiation in a senior post. The said case will be of no assistance in determining the question of jurisdiction of the Tribunal over a State Government employee who is brought on the select list but is yet to be appointed to the I.A.S.

6. In the result, the application is dismissed for want of jurisdiction. It is open to the applicant to approach a proper forum in accordance with law. There shall be no order as to costs.

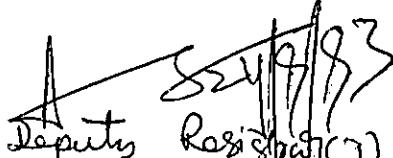

(T.CHANDRASEKHARA REDDY)
Member (Judl.)


(A.B. GORTHY)
Member (Admn.)

Dated : 16th September, 1993

(Dictated in Open Court)

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82/9/93
Deputy Registrar (S)

TYPED BY

COMPARED BY

CHECKED BY

APPROVED BY

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH AT 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 (JUDL)

AND

THE HON'BLE MR. P. T. TIRUVENGADAM: M(E)

Dated: 16 - 9 - 1993

ORDER/JUDGMENT:

M.A./R.A./C.A. NO.

in

O.A. No. 56/96

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.

pvm

