

(52)

CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH: AT HYDERABAD.

O.A. No. 97/91

Date of Decision: 31-9-92

T.A. No.

Ch. Prabhakara Rao

Petitioner.

Sri JV Lakshmana Rao

Advocate for
the Petitioner(s)

Versus

Chief Administrator, Danda Karanya Project
Koraput, Orissa

Respondent.

Sri NR Devaraj

Advocate for
the Respondent
(s)

CORAM:

THE HON'BLE MR.

T. CHANDRASEKHARA REDDY, MEMBER (JUDL.)

THE HON'BLE MR.

1. Whether Reporters of local papers may be allowed to see the Judgment ?
2. To be referred to the Reporters or not ?
3. whether their Lordships wish to see the fair copy of the Judgment ?
4. Whether it needs to be circulated to other Benches of the Tribunal ?
5. Remarks of Vice Chairman on Columns 1, 2, 4 (To be submitted to Hon'ble Vice-Chairman where he is not on the Bench.)

T. C. R.
(HTCR)
M(J)

(53)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL:HYDERABAD BENCH
AT HYDERABAD

ORIGINAL APPLICATION NO.97/91

DATE OF JUDGEMENT:

30th SEPT., 1992

BETWEEN

Ch. Prabhakara Rao

.. Applicant

AND

1. Secretary,
Ministry of Home Affairs
Dept. of Internal Security,
Jaisalmer House, Mansingh Road,
New Delhi-6.
2. The Chief Administrator
Dandakaranya Development Authority
Project Head Quarters
Koraput, Orissa
3. The Asst. Director
National Sample Survey Organisation
Field Operations Dvn, AP East Region
Vijayawada

.. Respondents

Counsel for the Applicant : Sri JV Lakshmana Rao

Counsel for the Respondents : Sri NR Devaraj, ^{Sr. CGSC}

CORAM:

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

T. C. N. S. J.

...2.

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

This is an application filed under Section 19 of the Administrative Tribunals Act, by the applicant herein, to direct the respondents to sanction special pay of Rs.70/- per month from 1.10.86 and order refixation of his pay as Grade 'A' Selection Grade Clerk with effect from 1.7.1987 taking special pay of Rs.70/- into consideration with all consequential benefits.

2. The facts giving rise to this OA in brief are as follows:

3. The applicant herein was initially appointed as LDC w.e.f. 8.6.60 at Danda Karnya Development Project, Koraput, a subordinate office under Ministry of Home Affairs, Govt. of India, Department of Internal Security (Rehabilitation Division). He was promoted to the post of UDC w.e.f. 21.8.63 and continued as such till his further promotion to the post of Grade A Selection Grade Clerk w.e.f. 1.7.1987.

4. While working as UDC in the office of the Director (Transport & Workshop), Dandakarnya Project, Ambaguda, ~~w.e.f.~~ the applicant was sanctioned a special pay of Rs.35/- p.m. for attending to the work of complex and important nature carrying discernible duties and responsibilities of complex nature higher than those normally expected of UDC w.e.f. 1.7.1979 in the aforesaid office in terms of Government of India, instructions contained in Ministry of Finance (Department of Expenditure) OM No.7(52)/E.III/78 dated 5.3.1979 from the month of April, 1979 onwards. The said special

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The special pay of Rs.35/- was revised to Rs.70/- in the revised pay scales and was withdrawn to the applicant from 1.10.86. As already pointed out, the applicant was promoted to the post of Grade 'A' Selection Grade Clerk w.e.f. 1.7.87. On promotion he was posted at Visakapatnam. While fixing the pay of the applicant, the said special pay of, Rs.70/- was not taken into consideration. It is the grievance of the applicant, that not only he is liable to be paid Rs.70/- from 1.10.86, but also, he is liable to get his pay fixed in the grade of Grade 'A' Selection Grade Clerk taking into account the special pay of Rs.70/- w.e.f. 1.7.87. Hence, the present OA.

5. Counter is filed by the respondents opposing this OA.

6. We have heard Mr JV Lakshmana Rao, Counsel for the applicant and Mr NR Devaraj, Counsel for the respondents. It is an admitted fact that from October, 1986 onwards the sanctioned strength of UDCs in the office of the Director (T&W) depleted to a great extent. This was due to the reduction of staff in various cadres following the decision of the Govt. of India, to wind up the establishment of Dandakaranya Project. As a result, the office of the Director (T&W). Ambaguda which qualified 3 such posts earlier carrying a special pay of Rs.35/- (which was revised to Rs.70/- in the Revised Pay Scales) could become eligible for one post only w.e.f. 1.10.86. It is the case of the respondents that the applicant being junior most among the three recipients of the said special pay became ineligible for the same and so, the said special pay had been withdrawn. So, due to the depletion of UDC posts carrying a special pay of Rs.35/-, (which was revised to Rs.70/- in the revised pay scales), the action of the respondents in withdrawing the special pay of the applicant, on the grounds that the applicant was junior most at Ambaguda is certainly valid. The grievance

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of the applicant as already spelt out is, that there is no justification in denying the said special pay of Rs.35/- to him and that, he should have been the person who should have been paid the special pay of Rs.35/- on the ground^s that he being more competent among the three who was given the special pay of Rs.35/- at Ambaguda.

7. A copy of the Govt. of India decision issued vide OM No.F.7(52)-E.III/78 dated 29.11.82 issued by Min. of Finance Deptt. of Expenditure is filed before us. The said OM states that the selection is to be made by the controlling authority on the suitability of a particular officer to handle the work in a post identified as carrying discernible ~~and placed before us~~ and responsible duties of complex nature^s. The said clarification is given under FR 9. From the said decision of the Government of India, it becomes amply evident that seniority-cum-fitness would not be the criterion for filling up such posts. In the counter also, it is specifically pleaded that seniority-cum-fitness would not be the criterion for filling up such posts which are identified to be attached with complex nature of duties. So, at the place of ambaguda, where the applicant was working, as already pointed out, there were three such posts which got depleted to one due to the reduction of strength of staff. The three persons who were the recipients of the said special pay of Rs.35/- (which was revised to Rs.70/- in the Revised Pay Scales), appear to be equally efficient. Under these circumstances, as could be seen from the counter, the senior most UDC amongst the three recipients, was given the benefit of the said special pay of Rs.35/- (which was revised to Rs.70/- in the Revised Pay scales) in the aforesaid office. So, all things being equal the senior most person among the UDC at Ambaguda seems

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T - C. A. M. J.

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to have been retained for receiving the said benefit of Rs.35/- which in the revised scale is Rs.70/-. So, in view of this position, it cannot be said that the applicant is in any way discriminated or has been denied the said benefit of Rs.35/- (which was revised to Rs.70/- in Revised Scales) without any basis. The applicant ~~was~~ seen become ineligible for the special pay of Rs.35/- due to the depletion of posts right from October, 1986 onwards. So, when the applicant was promoted w.e.f. 1.7.87, as he was not drawing the special pay of Rs.35/- (which was revised to Rs.70/- in the revised scales) the respondents were justified in not taking into consideration his special pay of Rs.35/- (revised to Rs.70/- in the revised pay scales) for the benefit of fixation of the pay of the applicant in the promotional post. So, we do not find the action of the respondents in this case, in any way being not valid. So, 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.

T - C — — —
(T. CHANDRASEKHARA REDDY)
Member (Judl.)

Dated: 3. - 7 - 1992

Deputy Registrar (J) 7/2/92

mvl

To

1. The Secretary, Ministry of Home Affairs,
Dept. of Internal Security,
Jaisalmer House, Mansingh Road, New Delhi-6.
2. The Chief Administrator, Dandakaranya Development Authority,
Project Head Quarters, Koraput, Orissa.
3. The Assistant Director, National Sample Survey Organisation
Field Operations Division, A.P. East Region, Vijayawada.
4. One copy to Mr. J.V. Lakshmana Rao, Advocate
Flat No.301, Balaji Towers, New Bakaram, Hyd.
5. One copy to Mr. N.R. Devraj, Sr. CGSC.CAT.Hyd.
6. One spare copy.

pvm.

Shanti Dev
7/10/92

TYPED BY

COMPARED BY

CHECKED BY

APPROVED BY

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH

THE HON'BLE MR.

AND

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

AND

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

AND

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

Dated: 30-9-1992

ORDER / JUDGMENT

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

in

O.A. No. 97/91

T.A. No.

(W.P. No.)

Admitted and interim directions
issued

Allowed.

Disposed of with directions.

Dismissed

Dismissed as withdrawn.

Dismissed for default HYD BENCH.

M.A. Ordered / Rejected

No orders as to costs.

Central Administrative Tribunal
13 OCT 1992

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