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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

HYDERABAD BENCH : AT HYDERABAD

DA 32/91.

Dt. of Order:11-1-94.

K.Audinarayana

...Applicant

Vs.

1. The Union of India rep.
by the Secretary,
Department of Statistics,
Govt. of India, New Delhi-110 001.
2. The Director,
National Sample Survey Organisation
(FOD), New Delhi.
3. The Asst. Director,
National Sample Survey Organisation
(FOD) A.P.(East) Region,
Vijayawada-520 010.

...Respondents

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Counsel for the Applicant : Shri J.V.Lakshmana Rao

Counsel for the Respondents : Shri N.R.Devraj, Sr.CGSC

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CORAM:

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

THE HON'BLE SHRI A.B.GORTHY : MEMBER (A)

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O.A.No. 32/91

JUDGMENT

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

Heard Shri J.V.Lakshmana Rao, learned counsel for the applicant and Shri N.R.Devaraj, learned Senior Standing Counsel for the Respondents.

2. The applicant joined service in the National Sample Survey Organisation (NSS Organisation) as Assistant Superintendent on 29.8.1960 and he was promoted to the post of Superintendent on 4.4.1970. Shri N.B.Iyyengar joined that organisation as Assistant Superintendent on 28.12.1960. The pay scale of the Assistant Superintendent was revised from Rs.210-425 to Rs.250-475 with effect from 1.12.1972. The pay of the said Shri Iyyengar on the revision of the pay scale was ~~re~~ fixed at Rs.340/- with effect from 1.12.1972. He was promoted to the post of Superintendent in the pay scale of Rs.325-575 with effect from 13.12.1972 and his pay on promotion was fixed at Rs.370/- per month. But the pay of the applicant as on that date was Rs.355/-. The applicant submitted a representation on 23.12.1982 to consider stepping of his pay from Rs.840/- to Rs.870/- drawn by his junior Shri N..B.Iyyengar from 1.12.1982. By the letter dated 30.7.1983, the applicant was informed that the matter had been referred to the Department of Statistics and decision arrived at would be communicated. By the letter dated 14.1.1988, the 2nd respondent was informed by the 1st respondent that the sanction of the President was given for stepping up of the pay of the applicant from Rs.355/- to Rs.370/- with effect from 13.12.1972, the date from which Shri N.B. Iyyengar, his junior, started drawing the pay of Rs.370/- in the pre-revised scale of Rs.325-575 attached to the post of Superintendent in the Field Operations Division. But it was also stated therein that the fixation would be notional

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so far as the past period is concerned and the actual financial benefits shall accrue with effect from 14.1.1988, the date of that letter. This OA was filed praying for a direction to the respondents to pay the monetary benefits on the basis of the revised pay fixation from 13.12.1972 itself.

3. Even in the representation dated 23.12.1982, the applicant prayed for stepping up from 1.12.1982 onwards. Hence, we feel that in any case the prayer for monetary benefits from 13.12.1972 cannot be acceded to.

4. The next question that arises for consideration is as to whether there was any justification for limiting the monetary benefits from 14.1.1988, the date of the order by which the sanction for stepping up was conveyed. In this context, the respondents are relying upon the G.I., M.F.No. F.1(35)-E.III(A)/74, dated 18th July, 1974 which reads as under:-

"As a result of FR 22-C application in the revised scale:-

In order to remove the anomaly, wherein a senior Government servant promoted to a higher post before 1-1-73 draws less pay in the revised scales recommended by the Pay Commission than his junior who is promoted to the higher post after that crucial date, it has been decided that in such cases, the pay of the senior officer in the revised scale in the higher post should be stepped up to a ~~fixxx~~ figure equal to the pay as fixed for the junior officer in that higher post promoted on or after 1-1-73. The stepping up should be done with effect

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from the date of promotion of the junior officer and should be subject to the following conditions:-

- (a) Both the junior and senior officer should belong to the same cadre and the posts in which they have been promoted should be identical in the same cadre;
- (b) The unrevised and revised scales of pay of the lower and higher posts in which they are entitled to draw pay should be identical; and
- (c) The anomaly should be directly as a result of the application of the provisions of F.R. 22-C in the revised scale. For example, if even in the lower post, the junior officer was drawing more pay in the unrevised scale than the senior by virtue of ~~fix~~ fixation of pay under the normal rules or any advance increments granted to him, the provisions contained in this decision need not be invoked to step up the pay of the senior officer.

2. The orders re-fixing the pay of the senior officer in accordance with the provisions of this decision should be issued under FR 27 and the next increment of the senior officer will be drawn on completion of the required qualifying service with effect from the date of re-fixation of pay.

3. These orders take effect from the date of issue. Cases of senior drawing less pay in the

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revised scale than the junior in respect of promotion, occurring on or after 1st January, 1973, may also be regulated under these orders, but the actual benefit would be available from the date of the issue of these orders."

(Page 76 under Govt. of India orders in "Swamy's Compilation of FR & SR (Parts I & II)-6th edition)

The said OM is applicable in cases of anomaly arising on the basis of the introduction of the revised pay scales with effect from 1.1.1973 ^{as per} ~~on the basis~~ of the recommendation of the 3rd Pay Commission. But the anomaly in this case had not arisen because of the revision of the pay scales of Superintendents in this organisation which had come into effect from 1.1.1973. This anomaly had arisen due to the revision of the pay scale in the category of Assistant Superintendents in this organisation which was given effect to from 13.12.1972. Having realised the same, even in the order sanctioning for stepping up, it is stated that the said sanction was granted in relaxation of the OM dated 18.7.1974 referred to supra.

5. But the learned counsel for the respondents is relying upon the para-3 of the OM dated 18.7.1974 to urge that whenever stepping up is ordered, monetary benefits should be given from the date of the issue of the order sanctioning stepping up. ~~But we are~~ unable to accede to the said contention. Even that para-3 contemplates that the monetary benefits should be given from 18.7.1974, the date of issual of the said OM and it cannot be stated that the said benefit should be given to the respective employees from the dates of respective orders issued in regard to stepping up. The interpretation which is sought to be

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placed for the respondents cannot be held as just and proper. An order in regard to stepping up ^{with reference} ~~in regard~~ to a junior employee may be given earlier to the date of the order in regard to the stepping up of his senior. Then, it will lead to another anomaly & for, senior gets ~~some~~ monetary benefits from a date ~~later~~ than the date from which the junior gets monetary benefits. Assume a case where a head of the one seniority unit may be ~~from~~ very prompt in ^{passing} ~~placing~~ such orders while the head of the another seniority unit may be slow in passing such orders. The employees of the latter unit should not be made to suffer for the laxity on the part of the head of the unit when the same benefit is applicable for ^{employees of} both the units. Generally, whenever the claim in ~~xxxx~~ a proceeding is accepted, the monetary benefits ^{is} being given from the date on which the proceeding is filed or from a date earlier, and only in exceptional cases such a benefit ~~would~~ will be given from a later date. No such exceptional circumstances had arisen in this case. When the representation was made as early as in 1982 and when the period of about five years and odd ^{was} taken for the final decision, the applicant cannot be made to suffer when that such a long time is not due to any act or omission on his part. So, even on general principles, it has to be held that the monetary benefit ^{is} has to be given from the date of the representation.

6. ^{with} Yet the another contention that was raised for the respondents is that the order dated 14.1.1988 should be treated as a package and the applicant cannot claim the benefit of stepping up by ignoring the order in regard to the date from which the monetary benefit has to be given.

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6/10/88

To

1. The Secretary, Union of India,
Dept. of Statistics, Govt. of India, New Delhi-1.
2. The Director, National Sample Survey Organisation,
(FOD) New Delhi.
3. The Assistant Director, National Sample Survey Organisation
(FOD) A.P. (East) Region, vijayawada-010.
4. One copy to Mr. J. v. Lakshmana Rao, Advocate
Flat No. 301, Balaji Towers, New Bakaram, Hyderabad.
5. One copy to Mr. N. R. Devraj, Sr. CGSC. CAT. Hyd.
6. One copy to Library, CAT. Hyd.
7. One spare copy.

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It is clear that there was an anomaly of a senior who was promoted earlier got less pay, than the junior who was promoted later getting higher pay, even though that junior was getting less pay than the pay of the senior when both of them were in the lower cadre. The stepping up was ordered because of the said anomaly. Then when there are no special circumstances ^{for} limiting the monetary benefit from about five years and odd after the representation was made, it is not just and proper to urge that the applicant has either to accept ~~xxxxxxx~~ the order in toto and if he is not going to accept, he will not be entitled to the benefit of stepping up. If in fact stepping up was not sanctioned, the applicant would have approached the court or Tribunal then itself and he would have got the monetary benefit from the date of the representation. Hence, we feel that the said contention is not tenable.

7. In the result, the monetary benefit arising out of stepping up which was conveyed as per the letter dated 14.1.1988 has to be given with effect from 23.12.1982, the date of representation of the applicant.

8. The OA is ordered accordingly. No costs.

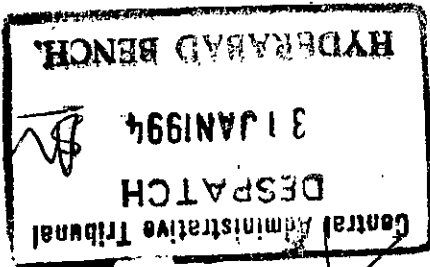
(Signature)
(A.B.GORTHY)
MEMBER (ADMN.)

(Signature)
(V.NEELADRI RAO)
VICE CHAIRMAN

DATED: 11th January, 1993.

(Signature)
Deputy Regi

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No order as to costs.
Rejected/Ordered.
Dismissed for default.
Dismissed as withdrawn.
Dismissed.
Disposed of with directions.
Allowed.
Admitted and interim directions
issued.

M.A./R.A./C.A.No.
O.A.No. 32/91
T.A.No. (W.P.)

~~ORDER/JUDGMENT:~~

Dated: 11-1-1994

THE HON'BLE MR. R. RANGARAJAN : MEMBER(A)
AND
THE HON'BLE MR. T. CHANDRASEKHAR REDDY
MEMBER(J)
AND
THE HON'BLE MR. A. B. GORTHI : MEMBER(A)
AND
THE HON'BLE MR. JUSTICE V. NEELADRI RAO
VICE-CHAIRMAN

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH : HYDERABAD

APPROVED BY

CHECKED BY

COMPARED BY

TYPED BY