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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL: HYDERABAD BENCH: AT
HYDERABAD.

C.A. NO. 419/91

DATE OF JUDGMENT: 18-8-95

BETWEEN:

B.Bhoomarajam.

.. Applicant.

and

1. Union of India, rep. by its Secretary, Dept. of Personnel, Public Grievances and Pension, New Delhi.
2. The Ex.Officio Secretary, Energy, Forests, Science and Technology Department, A.P. Hyderabad.

.. Respondents.

COUNSEL FOR THE APPLICANT: SHRI, A.Suryanarayana Murthy,

COUNSEL FOR THE RESPONDENTS: SHRI N.R.Devraj, ~~SE~~
Sr/Advocate CGSC.

CORAM: Mr. I.V.Radhakrishna Murthy, Spl.Counsel for A.P.Govt.

HON'BLE SHRI JUSTICE V.NEELADRI RAO, VICE CHAIRMAN
HON'BLE SHRI R.RANGARAJAN, MEMBER (ADMN.)

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O.A.NO.419/91.

JUDGMENT

Dt: 18.8.95

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

Heard Shri A.Suryanarayananmurthy, learned counsel for the applicant, Shri N.R.Devaraj, learned standing counsel for the respondents and Shri IV Radhakrishna No.1 Murthy, learned special counsel for the respondent No.2.

2. This OA was filed praying for quashing the G.O. No.337 Energy, Forests, Environment & Science & Technology (For.II) Dept., dated 28.4.1989 so far as it is against the applicant, and ^{to} further to direct the respondents to ~~xxx~~ promote the applicant as Conservator of Forests Level-I with effect from 28.3.1983 and for granting all monetary benefits from the date on which he ~~xxx~~ has to be given promotion for the post of Conservator of Forests Level-I and Additional Chief Conservator of Forests. The applicant further prays for direction to the respondents to pay Rs.1,13,803/- towards interest for the delayed payment of pensionary benefits as detailed in Annexure-11 and for conversion of 70 days HPL ~~and~~ as commuted 35 days leave on full pay and for payment of the balance of the salary for the said period of 35 days and to redesignate him as Chief Conservator of Forests.

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3. The applicant was appointed to Indian Forest Service with effect from 1.10.1966 and he was promoted to the post of Conservator of Forests with effect from 20.5.1976. The next promotion was to the post of Addl. Chief Conservator of Forests.

4. Shri AVRG Krishna Moorthy is senior to the applicant in the category of Conservator of Forests while Shri K.Kesava Reddy is junior to him. G.O.Rt.No. 925, F.A.F.(For.II) Deptt., dated 20.8.1986 was issued promoting Shri AVRG Krishna Moorthy and Shri K.Kesava Reddy to the rank of Additional Chief Conservator of Forests. The applicant challenged the same by filing OA 233/86. While Shri AVRG Krishna Moorthy ^{was} promoted in the regular vacancy, Shri Kesava Reddy was promoted in a leave vacancy. In view of the interim order of this Bench in OA 233/86, Shri K.Kesava Reddy was not given the order of promotion. OA 233/86 was dismissed when it was submitted for the respondents that the case of the applicant also would be considered for promotion to the post of Addl. Chief Conservator of Forests. Ultimately the applicant was promoted to the said post with effect from 12.5.87 and he was given notional promotion to the said post with effect from 1.11.1986, the date on which the regular vacancy in the said post had arisen.

5. Now the applicant claims that he has to be given regular promotion to the said post with effect from 20.7.1986, the date on which the leave vacancy had arisen. It may be noted that Shri K.Kesava Reddy, junior to the

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applicant had not assumed the post of Addl. Chief Conservator of Forests on 20.7.1986 or on any date subsequent to it before the applicant was promoted to the said post. Thus it is not a case where junior to the applicant was in the rank of Addl. Chief Conservator of Forests before 12.5.1987, the date on which he assumed the said post.

6. The learned counsel for the applicant had not drawn our attention to any OM, Circular or letter whereby a promotee to the post of Additional Conservator of Forests has to be given regular promotion with effect from the date on which the vacancy existed. Thus in the absence of such a OM/circular/letter and as junior to the applicant had not worked in the said post prior to 12.5.1987, the claim of the applicant ~~xx~~ that he has to be ~~xx~~ given regular promotion to the post of Additional Chief Conservator of Forests with effect from 20.7.1986 has to be negatived.

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7. Prior to 1.1.1986 there were Conservator of Forests Level-I and II with different scales. But with effect from 1.1.1986 there was ~~xx~~ only one pay scale for Conservator of Forests. In the representation made to the respondents, the applicant ~~claims~~ that he should have been

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promoted as Conservator of Forests Level-I on 1.2.86. It was pleaded for the respondents that as there were no posts of Conservator of Forests Level-I and II with effect from 1.1.86, and as there was ^{only} one cadre of Conservator of Forests with effect from 1.1.86 the question of promoting the applicant to the post of Conservator of Forests with effect from 1.2.1986 does not arise.

8. It was further pleaded for the respondents that prior to 1.1.86, 50% of the posts of Conservator of Forests have to be treated as Conservator of Forests Level-I and after the cadre strength of Conservator of Forests, A.P.State, was enhanced from 12 to 18 as per Notification No.16016/8/86-AIS(ii)-A, August, 1986, ~~XXXX~~ nine posts of Conservator of Forests were treated as Level-I. Hence proposals were made for convening the meeting of Screening Committee to consider the case of the 20 officers including the applicant for holding the rank of Conservator of Forests Level-I. Then the Committee selected nine out of the above 20 for promotion to the post of Conservator of Forests Level-I, but the applicant does not find place therein.

9. Any-how, when the applicant claimed in ~~XXXX~~ his representation that he is entitled to the benefit of Conservator of Forests with effect from 1.2.86 and as there were no such posts from 1.1.86, and when it was so pleaded, the applicant had not filed any rejoinder in regard to the same, his claim for promotion to the post of Conservator of Forests Level-I has to be disallowed.

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Hence, there is no need to require the respondents to submit as to whether in fact the nine officers referred to at para 11 of the reply statement were given the benefit of pay scale of Conservator of Forests Level-I prior to 1-1-1986.

10. The applicant retired from service on 31-12-1987. The applicant submitted his pension papers ~~or without due~~ and the same were forwarded to the Government by the Department through note dated 20-11-1987. The same was received by R-2 i.e. the Secretary to the Ministry of Energy on 24-11-1987. It is stated in the reply statement that as by then the inquiry into certain charges framed against the applicant by ~~GO~~ dated 30-5-1985 was pending and as many as 11 cases of complaints were also pending at different stages, it had become necessary to finalise the action on all complaint petitions in order to issue ~~orders~~ ~~sanctioned~~ pensionary benefits to the applicant and accordingly R-2 forwarded proposals to the Pay and Accounts Officer on 2-1-1988 for preliminary scrutiny with reference to ~~the~~ particulars available with him and for onward transmission to Accountant General. It is further pleaded that PAO after preliminary scrutiny forwarded the proposals to AG on 30-1-1988 and the latter furnished the pension verification report to R-2 through his letter dated 8-3-88.

11. Hence, it is stated that provisional pension was calculated with effect from 1-1-1988 by order dated 23-1-1989. The DCRG after withholding an amount of Rs.25000/- was released on 20-3-89.

12. It is further stated that there was revision in pension and DCRG payable to the applicant after a decision

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was taken to the effect that the period of training from 1-1-1957 to 8-10-1960 should also be taken into consideration for reckoning the qualifying service for pension. Thus, there was further delay in releasing sanction orders for enhanced pension and DCRG.

13. The pension papers have to be normally submitted about six months ~~before~~ ^{before} the date of retirement. If there is any delay in ordering pension ^{and} in disbursement of DCRG even after expiry of three months from the date of retirement and if that delay is not attributable to the concerned employee it is just and proper to direct the respondents to pay interest thereon from the expiry of three months from the date of retirement. As there was delay on the part of the applicant in submitting the pension papers for they were filed in November, 1987 when he retired on 31-12-1987, a part of the delay in scrutinizing the pension papers ^{has} ~~has~~ to be attributed to the applicant. Hence it is just and proper to order interest at 10% p.a. from 1-9-1988, ^{till the date of payment} in regard to provisional pension and also DCRG as originally quantified.

14. There cannot be any ~~other~~ claim for interest in regard to the delay in payment of the commuted amount of pension, for one is entitled to full pension till ^{amount} commuted ~~is~~ is paid.

15. We feel it is not proper to order interest on the enhanced amount of pension and DCRG for the said enhancement was given only after the decision was taken by including the training period as qualifying service for pension.

16. As ultimately the applicant was exonerated, the interest of 10% which was referred ^{to} above is payable even on withheld amount of Rs.25000/- from the DCRG with effect from 1-9-1988 till the date of payment.

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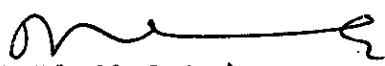
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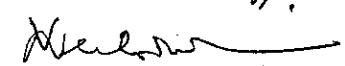
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17. It was pleaded for the respondents that the request for conversion of 70 days of Half Pay Leave into full pay leave of 35 days, was not made before retirement. The said fact was not challenged. It was not shown for the applicant that such request can be made even after retirement. Hence the above claim for the applicant is disallowed.

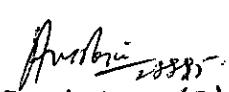
18. Ultimately, the post of Additional Chief Conservator of Forest was designated as Chief Conservator of Forests. Such new designation had come into effect even by the date of retirement of the applicant. So the applicant has to be referred to as Chief Conservator of Forests in the proceedings to be given to him.

19. The OA is ordered accordingly. No costs.//


(R. RANGARAJAN)
MEMBER (ADMN.)


(V. NEELADRI RAO)
VICE CHAIRMAN

DATED: 18th August, 1995.
Open court dictation.


Deputy Registrar (J) CC

To vsn/sk.

1. The Secretary, Dept. of Personnel, Public Grievances and Pension, Union of India, New Delhi.
2. The ExeOfficio Secretary, Energy, Forests, Science and Technology Dept. A.P. Hyderabad.
3. One copy to Mr.A.Suryanarayana Murthy, Advocate, 1-9-295/27/C, Vidyanagar, Hyderabad-44.
4. One copy to Mr.N.R.Devraj, Sr.CGSC.CAT.Hyd.
5. One copy to Mr.I.V.Radhakrishna Murthy, Spl.Counsel for A.P.C
6. One copy to Library, CAT.Hyd.
7. One spare copy.

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