

30

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH
AT HYDERABAD

D.A. No. 440/91.

Dt. of Decision : 23-8-94.

Mr. K. Seetharama Sastry

.. Applicant.

Vs

1. Union of India, rep. by
its Secretary,
Ministry of Railways,
Railway Board, New Delhi.

2. General Manager,
SC Rly, Rail Nilayam,
Secunderabad.

3. Divisional Railway Manager(BG),
Rail Nilayam, Secunderabad.

.. Respondents.

Counsel for the Applicant : Mr. N.Rama Mohan Rao

Counsel for the Respondents : Mr. D.Gopal Rao, SC for Rlys.

CORAM:

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

THE HON'BLE SHRI R. RANGARAJAN : MEMBER (ADMN.)

31

O.A.NO.440/91

JUDGMENT

Dt: 23.8.94

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

Heard Shri N.Rama Mohan Rao, learned counsel for the applicant and Shri D.Gopal Rao, learned standing counsel for the respondents.

2. This OA was filed praying for a direction to the respondents to fix the pay of the applicant consequent upon his promotion as ECRC Grade-I in the pre-revised scale of Rs.455-700 in accordance with the option given by him to allow him to come on to the revised pay scale of Rs.1400-2300 with effect from 1.6.1987 and for a declaration that the applicant is entitled to all consequential benefits ~~xx~~ such as payment of arrears of salary and allowances.

3. The facts which give rise to this OA are as under:-

The applicant joined as Commercial Clerk on 2.6.1969. Later he was promoted to the post of ECRC Grade-II in the pay scale of Rs.425-640. The order dated 4.12.1984 was issued imposing a penalty of withholding one increment for two years. By the order dated 31.1.1985, the applicant was promoted to the post of ECRC Grade-I in the pay scale of Rs.455-700. But ^{due to} ~~in~~ the exigencies of service,

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32

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the applicant was not relieved from the post in which he was working at Secunderabad so as to enable him to join the promotional post at Kakinada. By the order dated 21.3.1985, the appellate authority modified the punishment by reducing the period of withholding the increment from two years to one year. The date of increment of the applicant in the pay scale of Rs.425-640 was on 1st June. The revised pay scale had come into effect from 1.1.1986. The applicant submitted an application ^{praying} that he may be permitted to come under the revised pay scales with effect from 1.6.1987. When the same was refused and when his pay was fixed in the revised pay scale with effect from 1.1.1986, this OA was filed.

4. In the revised pay scales, the common pay scale of 1400-2300 was provided for both the pre-revised scales of Rs.425-640 and 455-700. Hence, even though the applicant continued to work at Secunderabad in the lower pay scale of Rs.425-640, his pay was fixed in the revised pay scale of Rs.1400-2300 with effect from 1.1.1986.

5. It may be noted that the applicant could not move and join in the promotional post as he was not relieved. As from 1.1.1986, the posts in the pre-revised pay scales of Rs.425-640 and Rs.455-700 had

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23

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become merged, the question of relieving the applicant at Secunderabad to join at Kakinada did not arise.

5. When an employee who was promoted was not relieved due to the exigencies of service, such an employee should not be deprived of the benefit of promotion. As such, the applicant should be given notional promotion from the date on which his junior in the panel of promotion at which the applicant was promoted, reported for duty in the promotional post, and if there was no such junior to the applicant in the said panel, he should be given notional promotion from the date on which his immediate senior joined if that joining is subsequent to 31.1.1985, and if that joining is earlier, he has to be given the notional promotion from 15.2.1985. After fixing the notional pay of the applicant in the promotional post of ECRC Grade-I as on the date referred to above in the ^{pre-revised} pay scale of Rs.455-700, the pay of the applicant as on 1.1.1986 in the revised pay scale has to be fixed, if it is not so fixed earlier. As it is a case of merger of the posts in the two pre-revised scales of Rs.425-640 and Rs.455-700 from 1.1.1986, the question of permitting the applicant to come to the revised scale with effect from the date of his next increment does not arise in view of the letter No.P(R) 401/111, dated 25.9.1989. The punishment of withholding of one increment had to be given effect to from the date on which the increment accrues to the applicant in the revised pay scale.

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34

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6. The monetary benefits if any, ^{while} ~~accrues~~ on the basis of this order ^{has} ~~has~~ to be given with effect from 16.4.1990 as this OA was filed on 16.4.1991.

7. The OA is ordered accordingly. No costs.


(R. RANGARAJAN)
MEMBER (ADMN.)


(V. NEELADRI RAO)
VICE CHAIRMAN

DATED: 23rd August, 1994.
Open court dictation.


Deputy Registrar(J)CC

To vsn

1. The Secretary, Union of India,
Ministry of Railways, Railway Board,
New Delhi.
2. The General Manager, S.C.Rly,
Railnilayam, Secunderabad.
3. The Divisional Railway Manager(BG)
Railnilayam, Secunderabad.
4. One copy to Mr.N.Ramamohan Rao, Advocate, CAT.Hyd.
5. One copy to Mr.D.Gopal Rao, SC for Rlys CAT.Hyd.
6. One copy to Library, CAT.Hyd.
7. One spare copy.

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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH AT HYDERABAD

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

AND

THE HON'BLE MR. R. RANGARAJAN : M(P.D.M)

DATE. 23-8-1994

ORDER/JUDGMENT

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

in

O.A.No.

440/91

(T.A.No.

(W.P.NO

)

Admitted and Interim directions
Issued.

Allowed.

Disposed of with directions.

Dismissed

Dismissed as withdrawn

Dismissed for Default.

Ordered/Rejected

No order as to costs.

No spare copy

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