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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH : AT HYDERABAD.

* * *

O.A. 514/91.

Dt. of Decision : 29.4.1994.

Sri N.V. Subrahmanyam

.. Applicant.

Vs

1. The Secretary,
Department of Posts,
New Delhi - 110 001.

2. Chief Post master-General,
A.P. Circle, Hyderabad.

3. Director of Accounts (Postal)
Hyderabad.

.. Respondents.

Counsel for the Applicant : Mr. K.S.R. Anjanayulu

Counsel for the Respondents : Mr. N.V. Ramana, Addl. CGSC

CORAM:

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

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

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JUDGEMENT

[As per Hon'ble Shri T.Chandrasekhara Reddy, Member(Judl.)]

This is an application filed under Section 19 of the Central Administrative Tribunals Act, to direct the respondents to fix the pay of the applicant at Rs. 3300/- as on 11.7.1986 in accordance with the concordance table then in force and pass such other order or orders as may deem fit and proper in the circumstances of the case.

2. Facts so far necessary to adjudicate this OA in brief may be stated as follows:

3. The applicant was holding in PSS Group 'B' post. His substantive pay in Group 'B' post was Rs.1,100/-. The applicant was promoted on regular basis to Junior Time Scale of IPS Group 'A' and also to the Senior Time Scale vide Presidential Order dated 24.2.1986. The promotion to the Senior Time scale was on adhoc basis. The promotion of the applicant on regular basis to Junior Time Scale of IPS Gp. 'A' and to the Senior Time Scale was as per the orders of the Competent Authority dated 24.2.1986. The applicant, at present is continuing in Gp. 'A' post of IPS in the senior time scale. The pay of the applicant in the senior time scale was fixed at Rs.1300/- w.e.f. 11.7.1986. As the pay of the applicant on 11.7.86 in the old scale of IPS Gp. 'A' (senior time scale) was Rs.1300/-, equivalent stage in the revised scale according to the applicant, should be Rs.3,300/-. According to the applicant his pay had to be fixed at Rs.3,300/-, after applying FR 22(C) and also applying the concordance table as per the rules existing as on 11.7.86. But as per ~~XXXXXX~~ OM dated 10.4.87 of the Min. of Personnel Public Grievances & Pension the pay of the applicant was fixed at Rs.3200/-. According to the applicant, he is adversely affected due to the wrong

fixation of pay by the respondents at Rs.3200/- w.e.f. 11.7.86. According to the applicant, the non-fixation of his pay at Rs.3300/- w.e.f. 11.7.86 is illegal. The applicant had approached the competent authority for redressal of his grievance. But the applicant was not given his pay at Rs.3300/- in the revised scale of Rs.3000-4500/- which is the senior time scale of IPS Gp. 'A' by the competent authority. So, aggrieved by the action of the competent authority, in not giving proper stage ^{of Rs. 3300/-} in the revised scale of Rs.3000-4500/- ~~←~~ w.e.f. 11.7.86, the present OA is filed by the applicant for the relief(s) as already indicated above.

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

5. It is the case of the respondents that the pay of the applicant had been rightly fixed at Rs.3200/- as on 11.7.86 and the pay has been regulated accordingly till 1.7.92 and pursuant to which, the applicant was also paid a sum of Rs.4302/- on 14.10.92 during the pendency of the OA. ~~←~~~~→~~ The applicant is not entitled for the application of the concordance table which was dis-continued prior to 1.1.1986. When the concordance table is not applied for fixing the pay of the applicant, the applicant absolutely has no case to complain that his pay is not correctly fixed.

6. We have heard in detail Mr KSR Anjaneyulu, Counsel for the applicant and Mr NV Ramana, Standing Counsel for the respondents.

7. Ofcourse, the pay of the applicant was originally fixed at Rs.3300/- as per the OM dated 13.7.87 when the applicant was working in senior time scale ^{of} Gp. 'A' post.

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But the applicant has specifically pleaded that it is only on 24.2.1986 that he had been promoted from Gp.'B' post to Junior Time scale ^{IPS} Gp.'A' post and thereafter, to senior time scale IPS Gp.'A' ^{for} by seniority. Under CCS(Revised Pay Rules)1986, ^{for} persons working in Gp.'B' post in IPS, their pay has got to be fixed in the scale in respect of the post held by them as on 1.1.1986. The fact that as on 1.1.1986 ^{in IPS} the applicant was holding a Gp.'B' post ^{in IPS} is not in doubt at all. It is an admitted fact that the applicant had been actually promoted to Gp.'A' post in the month of July, 1986 only. If the pay of the applicant in the revised pay scale in Gp.'B' is fixed as on 1.1.1986 and afterwards, applying FR 22(C) in the promotional post in the junior time scale ^{of IPS} Gp.'A' and senior time scale of IPS Gp.'A', there is no doubt about the fact that the applicant's pay has been correctly fixed at Rs.3200/- as on 11.7.86. The use of concordance table had been dispensed as soon as the revised pay scales came into existence. It is not in dispute that an officer, working in Gp.'B' post in PSS is not entitled for the benefit of the application of concordance table. Ofcourse the pay of the applicant in senior time scale Gp.'A' post ^{as on 11-7-86} was fixed at Rs.1300 which ^{was} equivalent to Rs.3300/- applying ^{the} concordance table. \longleftrightarrow But, as already pointed out, 11.7.86 cannot be the crucial date for fixing the pay of the applicant as already indicated, 1.1.1986 is the crucial date for fixing the pay of the applicant in Gp.'B' post in which he was working actually on that date. So, the date 11.7.86 on which the applicant's pay had been fixed at Rs.3300/- originally, absolutely has no relevance. So, realising ~~the~~ the mistake that has been committed in fixing ^{in the senior scale} the pay of the applicant at Rs.3300/- in Gp.'A' post ^{as on} 11.7.86, the same had been corrected and the pay of the applicant has been fixed at Rs.3200/- as on 11.7.86 with all consequential benefits. So, the action of the responden

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in view of the facts and circumstances of the case in fixing the pay of the applicant at Rs.3200/- as on 11.7.86 appears to be legal, valid and reasonable.

8. The case of the applicant is that he had put in five years of service in Gp.'B' post even prior to 24.2.1986 and as such, he is entitled to be promoted to Gp.'A' post prior to 1.1.1986 and get his pay fixed in Gp.'A' post as on 11.7.86. The applicant might have completed five years of service prior to 1.1.1986. But, actually, the date of promotion of the applicant to the Junior Time Scale Gp.'A' post in IPS is 24.2.1986. The date of promotion of the applicant ^{from Gp.'B' post} is not disputed by the applicant. ^{Hence,} The applicant having completed five years of service prior to 1.1.1986 absolutely has no relevance with regard to the fixation of his pay.

9. The applicant also had based his argument on the ^{explanatory note in the} OM dated 13.7.87 that he has got a right to get his pay fixed at Rs.3300/- w.e.f. 11.7.86. The explanatory note ^{to} the OM dated 13.7.87 absolutely has no relevance in view of the facts and circumstances of the case. It is contended that the applicant became vested with the right to receive the pay of Rs.3300/- being equivalent to Rs.1300/- in accordance with the rules and instructions applicable as on 11.7.86. As already pointed out, the Central Civil Services (Revised Pay) Rules, 1986 had come into effect on 1.1.1986. The said rules are framed under the Proviso to Article 309 of the Constitution of India, by the President. The said rules have got full statutory force. As already pointed out, in fixing the pay of an employee with regard to Group 'B' ^{post} in IPS the relevant date ^{be} would be the date the employee in Group 'B' in IPS was holding as on 1.1.1986. Hence, the OM dated 13.7.87 on which the applicant has based his arguments has no application in giving any relief to the applicant.

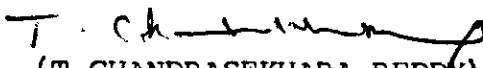
T. C. R.

10. The learned counsel for the applicant had relied on a decision reported in AIR 1994 SC 55 K.Narayanan and others Appellants Vs State of Karnataka and others Respondents wherein it is laid down retrospective application of rules is violative of Articles 14 and 16. It is the contention of the applicant that his pay has to be fixed at Rs.1300/- in the senior time scale which works out to Rs.3300/ on application of the concordance table as the applicant became vested with the right to draw the said pay of Rs.3300/- w.e.f. 11.7.86, and that, any rules bringing down the pay of the applicant from Rs.3300/- is violative of Article 14 and 16 of the Constitution. The main question in this case is what was the post occupied by the applicant as on 1.1.1986 and whether the pay is correctly fixed ~~or not~~ in the promotional post of Junior Time Scale Gp.'A' and senior time scale in Gp.'A' in the IPS. We had already held that the pay of the applicant is correctly fixed both in the Gp.'B' post as on 1.1.1986 and also in the promotional posts without the application of the concordance table, as the applicant ^{was} ~~is~~ not entitled for the application of concordance table for his pay fixation, ~~when~~ as he was working in Gp.'B' post and as the concordance table ceased to be in force w.e.f. 1.1.1986,

11. In the counter of the respondents it has been maintained specifically that the pay of the applicants in OA Nos.520/91 and 555/91 ^{on the files of this Tribunal} had been fixed at Rs.3200/- according to the clarificatory orders dated 24.8.92 of the Postal Directorate and as the pay of these applicants were fixed correctly the said OA were dismissed as not pressed by the applicants therein and the applicant herein who is similarly placed to the applicants in OAs 520/91 and 555/91 cannot have higher benefit ^{in fixation of his pay} than the applicants in OA 520/91 and 555/91.

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We have gone through the files pertaining to OAs 520/91 and OA 555/91 filed on the files of this Tribunal. The prayer of the applicants in OA 520/91 and 555/91 *mutatis mutandis* are identical to the prayer of the applicant herein. Ofcourse, the said OAs had not been decided on merits. Nevertheless, the applicants in OAs 520/91 and 555/91 had admitted the pay fixation from the corresponding dates as correct. On merits, in this case, we are satisfied that the applicant herein, is not entitled to any differential treatment from that of the applicants in OA 520/91 and 555/91. There are 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.CHANDRASEKHARA REDDY)
Member(Judl.)


(A.B. GORTHI)
Member(Admn)

Dated: 29 April 94


Deputy Registrar(J)CC

To mvl

1. The Secretary, Dept.of Posts, New Delhi-1.
2. The Chief Postmaster General, A.P.Circle, Hyderabad.
3. The Director of Accounts (Postal) Hyderabad.
4. One copy to Mr.K.S.R.Anjaneyulu, Advocate, CAT.Hyd.
5. One copy to Mr.N.V.Ramana, Addl. CGSC.CAT.Hyd.
6. One copy to Library, CAT Hyd.
7. One spare copy.

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