

(21)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, HYDERABAD BENCH
AT HYDERABAD

D.A. No. 577/92

T.A. No.

Dt. of Decision: 7.12.92

Smt. L.Jayasri Petitioner

Mr.B.S.Rahi Advocate for
the Petitioner
(s)

Versus
Regional Director, Employees State Insurance
Corporation, Hyderabad.

Respondent.

Mr. N.R.Devraj Advocate for
the Respondent
(s)

CORAM:

THE HON'BLE MR. T.CHANDRASEKHARA REDDY, MEMBER (JUD L.)

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?
• 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.)

av1/

T.C.R.

(HTCSR)

M(J)

22/12/92

(22)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH

AT HYDERABAD

O.A.No.577/92

Date of Order: 7.12.1992

* BETWEEN :

Smt. L.Jayasri

.. Applicant.

A N D

Regional Director,
Employees State Insurance
Corporation, Hill Fort Road,
Adarsh Nagar,
Hyderabad - 500 463.

.. Respondent.

Counsel for the Applicant

.. Mr. B.S.Rahi

Counsel for the Respondents

.. Mr. N.R.Devraj

CORAM:

HON'BLE CHIEF JUDGE

T - C - A - S - J

Order of the Single Member Bench delivered by
Hon'ble Shri T.Chandrasekhara Reddy, Member (Judl.).

This is an application is filed under Section 19 of the Administrative Tribunals Act to direct the respondents to step up and refix applicant's pay as U.D.C. equal to the pay of her junior (P.K.R.Murthy) and to pay arrears on such refixation and to pass such other order or orders as may deem fit and proper in the circumstances of the case.

The facts giving rise to this O.A. in brief are as follows:-

The applicant was appointed as L.D.C. in the respondents corporation on 12.6.1975. The applicant was promoted as U.D.C. on regular basis on 18.7.1981. One Sri P.K.K.Murthy who is junior to the applicant was appointed as L.D.C. on 28.4.1976 in the respondents corporation. He too was promoted as U.D.C. on regular basis on 18.7.1981. As Sri P.K.K.Murthy junior to the applicant was promoted on adhoc basis as U.D.C. earlier than the applicant, the pay of said Sri P.K.K.Murthy was fixed at a higher rate than that of the applicant when the applicant was regularly promoted as U.D.C. on 18.7.1981. As junior to the applicant was promoted on adhoc basis earlier than the applicant and when the applicant was promoted on regular basis an anomaly arises as the pay of the applicant was less than that of his junior Sri P.K.K.Murthy. This disparity in pay had continued. So, the present O.A. is filed by the applicant for the relief as already indicated above.

T. C. N. f

not

3. Counter is filed by the respondents opposing this O.A.

4. The question of limitation is raised in the O.A. It is well settled that with regard to the fixation of pay and grant of pensionary benefits there cannot be any question of limitation as the grievance would be of continuous nature. So, in view of this position, we are of the opinion that it is not open for the respondents to raise this O.A., the point of limitation. But no doubt, the parties that approach the Tribunal are governed by the provisions of Section 21 of the Administrative Tribunals Act, which deals with the question of limitation. As we are dealing with the case of continuous grievance, in view of the provisions of Section 21 of the Administrative Tribunals Act, the monetary benefits that are granted to the applicant are to be restricted only

5. The following facts are not in dispute in this O.A. (1) The applicant and the said Sri P.K.R.Murthy junior to the applicant belong to the same category and the post for which they are appointed and promoted are identical and are in the same cadre. (2) the scale of pay of the lower post (L.D.C.) and higher post (U.D.C.) in which the applicant and the P.K.R.Murthy junior to the applicant are entitled to draw pay are identical. Sri P.K.R.Murthy though was junior to the applicant due to the adhoc promotion purely under fortuitous circumstances, had earned certain increments. That is how the pay of the said Sri P.K.R.Murthy junior to the applicant had became higher than that of the applicant. But it is not in dispute that said Sri P.K.R.Murthy was regularly promoted as U.D.C on 18.7.81. and where as the applicant was promoted as U.D.C. on 18.7.81. So, as the applicant and the said Sri P.K.R.Murthy were recruited

T - C - N - S - F

Copy to:-

1. Regional Director, Employees State Insurance Corporation, Hill Fort road, Adarshnagar, Hyd-463.
2. One copy to Sri. B.S.Rahi, advocate, CAT, Hyd.
3. One copy to Sri. N.R.Devagaj, Sr, CGSC, CAT, Hyd.
4. One spare copy.

Rsm/-

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into service in the respondents corporation in the same cadre and in the same grade and their pay scale is identical in all respects both in the lower grade and in the higher grade. There cannot be any doubt ^{about} the fact that the applicant herein is entitled for stepping up of his pay equal to that of Sri P.K.R.Murthy junior to the applicant w.e.f. 18.7.81 on which date the said P.K.R.Murthy as already pointed out has been regularly promoted as U.D.C. So, the applicant is entitled to get his pay fixed notionally on par with his junior Sri P.K.R.Murthy w.e.f. 18.7.1981. Besides the applicant will also be entitled for all notional benefits w.e.f. 18.7.1981 not only in the post of U.D.C. but also in other posts in which the applicant had been promoted. But as already pointed out the applicant will be entitled to actual monetary benefits only from one year prior to the filing of this O.A. i.e. from + 13.7.91 and hence a direction is liable to be given to the respondents on the lines indicated above.

6. Hence, the respondents are hereby directed to step up notionally the pay of the applicant on par with his junior Sri P.K.R.Murthy in the post of U.D.C. w.e.f. 18.7.1981 and ~~in other posts in the post of U.D.C. and the~~ other post ^{intd} to which the applicant was promoted. Further, we direct the respondents to grant actual monetary benefits to the applicant w.e.f. 13.7.1991 which is one year from the date of filing of this O.A. O.A. is allowed accordingly. The other reliefs with regard to payment of interest are refused.

O.A. is taken on board at request of Mr.B.S.Rahi and Mr.N.L.Devraj.

T - C - H - A - D - R - A - S - E - K - H - A - R - A - R - E - D - D - Y
(T.CHANDRASEKHARA REDDY)
Member (Jud1.)

Dated: 7th December, 1992
(Dictated in Open Court)

By Registrar

S.G

(on 12 - 57 -