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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH
AT HYDERABAD.

O.A.No.138/92.

Date of Judgement : 19-1-95

J.Anandaiah

.. Applicant

Vs.

1. The Chief Postmaster-General, A.P.Circle, Hyderabad.
2. The Postmaster-General, Visakhapatnam, Visakhapatnam Dist.
3. The Regl. Director of Postal Services, A.P.North Eastern Region, Visakhapatnam.
4. The Sr. Supdt. of Post Offices, Visakhapatnam Division, Visakhapatnam. .. Respondents

Counsel for the Applicant :: Shri K.Venkateswara Rao

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

C O R A M:

Hon'ble Shri A.B.Gorthi : Member(A)

J u d g e m e n t

X As per Hon'ble Shri A.B.Gorthi : Member(A) X

The claim of the Applicant is for a proper fixation of his pay in the post of Postal Assistant (P.A. for short) keeping in view the increments that he had drawn and also the increments that he ought to have been paid while he worked as a Motor Vehicle (M.V. for short) Mechanic under the Respondents.

2. The Applicant was appointed as Mail Motor Service (M.M.S. for short) Cleaner in M.M.S. Visakhapatnam on 22.2.78 in the scale of pay of Rs.196-232. He was promoted as M.V.Mechanic on 22.6.79 in the scale of pay of Rs.260-6-326-8-390-10-400. He officiated as M.V.Mechanic

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till 28.8.83 except for some short intermittent breaks which the Respondents imposed without any justification. The Respondents, in fact, granted him two increments on 1.6.80 (Rs.266/-) and 1.6.81 (Rs.272/-) but thereafter denied him the increments that fell due on 1.6.82 and 1.6.83.

3. On 29.8.83 he was relieved from the post of M.V.Mechanic and was sent for training for appointment as P.A. On completion of the training for a period of two months he was appointed as a Postal Assistant in the scale of pay of Rs.260-480. On his appointment as P.A. his pay was fixed at the minimum of the scale of pay of Rs.260-480. His claim is that his pay should have been fixed at Rs.284/- in the new scale of pay.

4. The Respondents in their reply affidavit have not refuted the material facts averred in the O.A. but have stated that the Applicant was not qualified to be promoted as M.V.Mechanic on a regular basis and as such he was not entitled to any increment in the pay scale of M.V.Mechanic. They have also stated that the Applicant was reverted to his permanent grade of M.M.S.Cleaner during the short breaks. It is also stated that as the pay scales of the posts of M.V.Mechanic and P.A. are not identical, the pay fixation as was done by the Respondents cannot be said to be irregular.

5. Shri K.Venkateswara Rao, learned counsel for the Applicant has stated that in accordance with F.R.26 all duty in a post on a time-scale counts for increments in that time-scale. ^{As} ~~Admittedly~~ the Applicant ^{performed} ~~and as such~~ duty in the post of M.V.Mechanic during the period 1979-83 and as such would be entitled to annual increments.

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Although the Respondents stated that the Applicant, not being qualified for promotion to the post of M.V.Mechanic, would not be entitled to any increments in the scale of pay of M.V.Mechanic, no rule or instruction in support of such contention has been brought to my notice. It is also an admitted fact that the Applicant was, in fact, given two increments that fell due on 1.6.80 and 1.6.81. It is also on record that when the Applicant was once again promoted as adhoc M.V.Mechanic in 1982 he was informed in writing that he would not be entitled to any increments and that his past service as a Mechanic also would not count either for increments or any any other purpose. This stand taken by the Respondents has been strongly opposed by the Applicant's counsel. He has placed reliance proviso to F.R.22 which is to the effect that if a Govt. servant has previously officiated in a permanent or temporary post on the "same time-scale", then the initial pay on appointment to a substantive post shall not be less than the pay which he drew on the last occasion and that he shall count the period during which he drew the pay on such last and previous occasion for increment in the stage of the time-scale equivalent to the pay. In view of the rule position it would be seen that the Applicant would be entitled to the benefit of the said rule read with the proviso, if all the conditions stipulated in the proviso are fulfilled. On a careful examination of the facts of the case read in the light of the rule position it is seen that the Applicant will not be able to claim the benefit of the proviso to F.R.22 for the simple reason that the posts of M.V.Mechanic and P.A. do not carry the "same time-scale" of pay. The term "same time-scale" means identical scale of pay as would be evident from F.R.9(31) (b) and (c). Sub-clause 31(b) is to the effect that two time-scales are said to be identical.

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if the minimum, the maximum, the period of increment and the rate of increment of both the time-scales are identical. Sub-clause 31(c) is to the effect that a post is said to be on the same time-scale as another post on a time-scale if the two time-scales are identical. It is thus apparent that the term "same time-scale" of pay referred to in the proviso to F.R.22 would mean that the scale of pay of both the posts will have the same minimum and maximum and also the rates of increment will be similar. In the instant case, as per the facts stated in the O.A. itself, the scale of pay of the M.V.Mechanic and that of the Postal Assistant cannot be said to be the same, except for the fact that the minimum of both the scales is at Rs.260/- there is no other similarity either in the rate of increment or the maximum of the pay scale. In view of this, the Applicant cannot claim the benefit of fixation of pay under the proviso to F.R.22.

6. As regards his claim for fixation of pay under F.R.22(c), it cannot be allowed on the simple ground that the post of Postal Assistant is not a promotional post for a M.M.S.Cleaner/M.V.Mechanic.

7. Shri K.Venkateswara Rao, learned counsel for the Applicant finally urged that the Respondents having promoted the Applicant to the post of M.V.Mechanic and having taken work from him in that post cannot deny him the annual increments due to him in the scale of pay of M.V.Mechanic. Admittedly, these increments fell due on 1.6.82 and 1.6.83. I am not inclined to rake up this old issue at this belated stage. As regards the increments already paid to the Applicant, the Respondents have stated in their counter affidavit that the increments which were paid to the Applicant on 1.6.80 and 1.6.81 are liable

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to be recovered. The reason advanced in support of such contention is that the Applicant was not adequately qualified to be promoted to the post of M.V.Mechanic, but, as already noticed, there is nothing on record to suggest as to how the Applicant was not qualified and, if so, how he came to be promoted to that post again and again during the period 1979-83. In these circumstances it would be unfair and unreasonable if the Respondents attempt to recover the increments already paid to the Applicant.

8. Subject to the above observations, this O.A. is dismissed without any order as to costs.

A. B. Gorthi
(A. B. Gorthi)
Member(A).

Dated: 19 January, 1995.
Dictated in Open Court.
br.

Anil Rao ²⁰⁻¹⁻⁹⁵
Deputy Registrar(Judl.)

Copy to:-

1. The Chief Postmaster General, A.P.Circle, Hyderabad.
2. The Postmaster-General, Visakhapatnam, Visakhapatnam District.
3. The Regl. Director of Postal Services, A.P.North Eastern Region, Visakhapatnam.
4. The Sr. Supdt of Post Offices, Visakhapatnam Division, Visakhapatnam.
5. One copy to Sri. K.Venkateswara Rao, advocate, CAT, Hyd.
6. One copy to Sri. N.V.Ramana, Addl. CGSC, CAT, Hyd.
7. One copy to Library, CAT, Hyd.
8. One spare copy.

Rsm/-

DA/13842
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APPROVED BY

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH

THE HON'BLE MR. A. V. HARIDASAN : MEMBER (J)

AND

THE HON'BLE MR. A. B. GORTHI : MEMBER (A)

DATED : 19/1/95

ORDER/JUDGEMENT.

~~M.A.R.P/C.P.No.~~

in
D.A. NO. 13842

Admitted and Interim directions
issued

Allowed

Disposed of with Directions

Dismissed

Dismissed as withdrawn

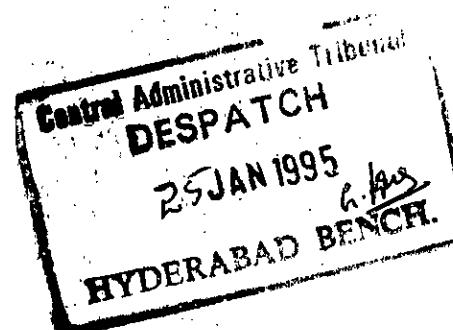
Dismissed for Default.

Rejected/Ordered

~~No order as to costs.~~

YLKR

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