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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL: HYDERABAD BENCH:
AT HYDERABAD

ORIGINAL APPLICATION NO.253 of 1992

DATE OF JUDGMENT: 30th April, 1992.

BETWEEN:

Dr. E.Vedavyas

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Applicant

AND

1. The Government of Andhra Pradesh,
represented by its Chief Secretary,
to Government, Secretariat,
Hyderabad, AP.
2. The Chief Secretary to Govt. of AP,
General Administration (Special.A),
Department, Secretariat,
Hyderabad.
3. The Secretary to Government of AP,
Finance & Planning (Finance Wing)
Department, Secretariat,
Hyderabad.
4. The Union of India,
represented by its Secretary,
Department of Personnel,
Government of India,
New Delhi.

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Respondents

COUNSEL FOR THE APPLICANT: Mr. G.V.L.N.Murthy

COUNSEL FOR THE RESPONDENTS: Mr. M.Jaganmohan Reddy,
Addl. CGSC

Mr. D.Panduranga Reddy,
Special counsel for the
state of Andhra Pradesh.

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Goram:

Hon'ble Shri R.Balasubramanian, Member (Admn.)

Hon'ble Shri T.Chandrasekhara Reddy, Member (Judl.)

JUDGMENT OF THE DIVISION BENCH DELIVERED BY THE HON'BLE
SHRI R.BALASUBRAMANIAN, MEMBER (ADMN.)

The case has come up for admission hearing before the Single Member Bench on 27.4.1992. None present on behalf of the applicant. As Mr. D.Panduranga Reddy, Special Counsel for the State of Andhra Pradesh, and Mr. M.Jagan Mohan Reddy, Standing Counsel for the respondents who were present sought further time for filing counter, this OA was adjourned to 3.6.1992. On the very same day (27.4.1992) after the said orders were passed, the counsel for the applicant made appearance and filed a letter to list the case for admission hearing on 29.4.1992. The said letter had been filed on 27.4.1992 by the counsel for the applicant after giving notice to the Standing counsel for the respondents. On 27.4.1992, the learned Single Member (Hon'ble Shri T.Chandrasekhara Reddy, Member (Judl)), had ordered to list the said Advocate's letter before the Division Bench on 30.4.1992

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for orders. So, the letter is listed today for orders along-
with the ~~xxx~~ OA 253/92 for admission hearing. So, after
passing orders on the said letter, the said OA is being
taken up for hearing on admission.

2. OA No.253/92 is filed by Dr.E.Vedavyas under
Section 19 of the Administrative Tribunels Act against
the Government of Andhra Pradesh and three others
including the Union of India. The prayer herein is:-

- a) to declare that the applicant is
entitled to be given the benefits of
the salary of the higher post along-
with the other benefits from the date
on which he would have normally been
promoted but for disciplinary procee-
dings and consequently,
- b) to set-aside the impugned order of the
respondent, State Government of A.P.,
issued in G.O.Rt.No.536, General Admi-
nistration (Special.A) Department,
dated 6.2.1992, insofar as it relates
to limiting the monetary benefit arising

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out of refixation to the duty periods and non-payment of arrears for the notional duty periods by declaring that Note (1) under F.R.26(aa) is inapplicable to the applicant's case, and

c) to allow the application.

2. The State Government of Andhra Pradesh issued G.O.Rt.No.536, dated 6.2.1992 in pursuance of the directions of this Tribunal dated 7.7.1989 in O.A.No. 786 of 1988. According to the said G.O., Dr. E.Vedavyas has been promoted as Principal Secretary to Government in the pay scale of Rs.7300-7600 with effect from 25.7.85 notionally and his pay also has been fixed based on this notional promotion. What had been denied to the applicant in this order is the specific decision of the Government not to pay arrears for the ^{duration of} notional promotion in terms of Note (1) under F.R. 26(aa). Aggrieved by this, the applicant has filed this application.

3. When the case was taken up for hearing today, Mr. G.V.L.Narasimha Rao, learned counsel for the applicant took us through the Judgment of the Hon'ble Supreme Court in, Union of India etc. etc., Vs. K.V.Jankiraman etc. etc., reported in AIR 1991 Supreme Court 2010. In the said

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Judgment, their lordships have stated that where the authority denies arrears of salary or part of it, it will record its reasons for doing so. In the instant case before us, while authorities had denied arrears, they have not stated reasons for the same. On this point, Mr. G.V.L. Narasimha Rao took us ^{— through} the Judgment dated 12.11.1991 of the Hon'ble Supreme Court in Civil Appeal No.4566 of 1989. From the order of the Hon'ble Supreme Court, it is evident that all delays in this case are on the part of the respondents only. In the face of this, when we asked the respondents, if there is any reason for denying the arrears for the notional promotion, Mr. M. Jagan Mohan Reddy for the respondents stated that the applicant had not asked for the arrears specifically in the earlier OA 786/88 and the Judgment in that case also did not specify payment of arrears for the notional promotion period. While issuing orders dated 6.2.1992 the respondents had not only given him notional promotion with effect from 6.2.1992 but also the pay fixation on that basis. It would, therefore, only be in fitness of things that they proceed ^{ed} further and grant ^{ed} arrears unless there was any blame on the part of the applicant, in terms of Supreme Court Judgment. At this stage, Mr. D. Panduranga Reddy appearing for the State Government drew our attention to the fact that the applicant had not made any representation on this point against the G.O dt. 6.2.1992. G.O. dt. 6.2.92 had been issued by the Government itself under the autho-

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rity of the Chief Secretary to the Government of Andhra Pradesh. Moreover, there (is) no service rule (which) requires a representation against this order. We, therefore, do not accept this contention of Shri D. Panduranga Reddy.

3. Mr. D. Panduranga Reddy again wanted time to file counter. The Bench observed that as early as on 24.3.1992 when the case came up for admission hearing, it was clearly indicated to the respondents that the case is likely to be disposed of at the admission stage itself and the respondents (may) be ready with all the relevant records pertaining to this OA on the said date i.e., on 3.4.1992. Since the respondents were not ready on 3.4.1992, the case was further adjourned to 27.4.1992 ^{with} ~~on~~ a clear indication that proper orders would be passed in the OA on that date. In spite of this, respondents have not come forth with the counter and the applicant is not to suffer on this more score when he is due to retire shortly.

4. As indicated earlier, we are of the opinion that in the absence of any specific and acceptable reasons from the respondents' side, the applicant is entitled for the arrears also for the notional promotion period i.e., from 25.7.1985 till the date he actually assumes the charge in pursuance of the G.O. dated 6.2.1992. With the

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above directions, we allow this OA at the admission
stage itself with no order as to costs.

(Dictated in the open Court).

R. Balasubramanian
(R. Balasubramanian)
Member (Admn.)

T. Chandrasekhara Reddy
(T. Chandrasekhara Reddy)
Member (Judl.)

Dated: 30th April, 1992.

L
Deputy Registrar (J)

Fssr

To

1. The Chief Secretary to Govt.
Govt. of A.P. Secretariat, Hyderabad.
2. The Chief Secretary to Govt. of A.P.
General Administration (Special A) Dept.,
Secretariat, Hyderabad.
3. The Secretary to Govt. of A.P. Finance & Planning
(Finance Wing) Dept. Secretariat, Hyderabad.
4. The Secretary, Union of India,
Dept. of Personnel, Govt. of India, New Delhi.
5. One copy to Mr. G.V.L.N. Murthy, Advocate
2-1-566/B/1. Nallakunta, Hyderabad.
VSN
6. One copy to Mr. M. Jaganmohan Reddy, Addl. CGSC. CAT. Hyd.
7. One copy to Mr. D. Panduranga Reddy, Spl. Counsel for A.P. Govt.
CAT. Hyd.
8. One spare copy.

pvm.

Hyd. 7/4/92

TYPED BY

COMPARED BY

CHECKED BY

APPROVED BY

THE HON'BLE MR.

V.C.

AND

THE HON'BLE MR. R. BALASUBRAMANIAN: M(A)

AND

THE HON'BLE MR. T. CHANDRASEKHAR REDDY;
MEMBER (JUDL)

AND

THE HON'BLE MR. C. J. ROY : MEMBER (JUDL)

Dated: 30-4-1992.

ORDER / JUDGMENT

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

IN

O.A. No.

253/92

T.A. No.

(W.P. No.)

Admitted and interim directions
issued

Allowed

Disposed of with directions

Dismissed

Dismissed as withdrawn

Dismissed for Default.

M.A. Ordered/Rejected.

No order as to costs.

pvm.

