

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH
AT HYDERABAD

O.A.No.400/92

Date of Judgement: 15.2.1993

BETWEEN:

K.N.Murthy

.. Applicant.

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The Comptroller and
Auditor General of
India, 10, Bahadurshan
Zafar Marg, New Delhi.

.. Respondent.

Counsel for the Applicant

.. Mr.I.Dakshina Murthy

Counsel for the Respondents

.. Mr.G.Parameswara Rao

CORAM:

HON'BDE SHRI T.CHANDRASEKHARA REDDY, MEMBER (JUDL.)

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

This is an application filed under Section 19 of the Administrative Tribunals Act to direct the respondents to pay arrears to the applicant from 1.1.1986 to 30.11.1986 with reference to Next Below Rule under Fundamental Rules as the applicant is entitled for the same.

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

The applicant is an I.A. & A.S. Officer working under the control of the Comptroller and Audit General of India. The applicant was formerly working as Member, Audit Board at Bangalore in the year 1982. The applicant was sent on deputation to Andhra Pradesh State Electricity Board, Hyderabad as Member (Accounts) on 1.12.1986. The applicant was given proforma promotion as Additional Deputy Comptroller and Auditor General of India on the principle of Next Below Rule. But the applicant continued to work as Member (Accounts) of Andhra Pradesh State Electricity Board. The applicant retired on 31.1.1987 on superannuation. During the year 1985 a new post was introduced called as Principal Accountant General which post carried a special pay of Rs.250/- As per the recommendations of the IV Pay Commission become operative and available during 1986 the post of Principal Accountant General was given scale of pay of Rs.7300-100-7600 effective from 1.1.1986 when orders were issued in 1987. After retirement of the applicant. After the retirement of the applicant, the applicant had been given notional promotion in the said post of Principal Accountant General w.e.f. 1.1.1986 in the scale of Rs.7300. The Comptroller and Auditor General as per his order dated 15.1.1991 held that the applicant had a right to

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officiate as Principal Accountant General against the promotional post and that it had been decided to extend the benefit of the same. But the actual monetary benefits were not given to the applicant from 1.1.1986 upto 30.11.1986 though pensionary benefits were given to the applicant on the basis of the scale of pay of Rs.7300-100-7600.

3. Pursuant to the decision, the pay of the applicant was fixed notionally w.e.f. 1.1.1986 in the scale of pay of Rs.7300-100-7600 with actual monetary benefits of revised pension and pensionary benefits but without any arrears of pay, perquisites or any other benefits. According to the applicant the denial of arrears of pay is against the Next Below Rule under the Fundamental Rules, as his juniors were promoted to the said post of Principal Accountant General. The applicant gave a representation to the respondents on 28.2.1991 for redressal of his grievance. The said request was rejected by the Comptroller and Audit General of India as per his letter dated 5.6.1991. As against the order in the letter dated 5.6.1991 a further representation dated 8.11.1991 was made by the applicant, which was also rejected by the respondents as per the letter dated 23.1.1992. Hence this O.A. is filed by the applicant for the arrears of pay from 1.1.1986 to 30.11.1986 in the post of Principal Accountant General.

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

5. In the counter, the respondents have maintained that the applicant retired from service in January 1987 much before the orders of the Government of India accepting the recommendations of pay commission were received and that the applicant had never worked in the department as Principal Accountant General and in view of this position that the

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applicant is not entitled to the arrears of pay and other consequential benefits in the post of Principal Accountant General from 1.1.1986 to 30.11.1986.

6: We have heard Mr.I.Dakshina Murthy, Advocate for the applicant and Mr.G.Parameswara Rao, Standing Counsel for the respondents.

7. Admittedly the applicant had never worked in the post of Principal Accountant General for the period from 1.1.1986 to 30.11.1986. During the period from 1.1.1986 to 30.11.1986 the applicant had been working as Member Accounts in the A.P.S.E.B. after earning proforma promotion as Additional Deputy Audit General in his parent department on the Principle of Next Below Rules. But even though the applicant had not worked in the promotional post as Principal Accountant General as some of the juniors of the applicant Smt.Indira Menon and Shri J.D.Sud had approached C.A.T., New Delhi for their promotion to the post of Principal Accountant General and had obtained favourable orders from the Principal Bench, New Delhi, the said Smt.Indira Menon and Mr.J.D.Sud were given notional promotion w.e.f. 1.1.1986 and without any arrears of pay and with actual monetary benefits with regard to the pension and pensionary benefits from the date of the retirement. So, the applicant had been treated on par with the said Smt.Indira Menon and Shri J.D.Sud and the same benefits were extended to the applicant. As already been pointed out, as the applicant had never worked in the post of Principal Accountant General, the applicant is not entitled to the actual arrears of pay in view of the said post. It is the contention of the learned counsel for the applicant even if the applicant had been promoted as Accountant General he would have worked as a Member Accounts on deputation in the A.P.S.E.B. and the work which the applicant would have turned out after promotion would have been the same which (he

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had turned out as Member Accounts of A.P.S.E.B. and in view of this position that there is no justification to deprive the applicant the actual arrears of pay for the said period from 1.1.1986 to 30.11.1986. But it has got to be remembered that the applicant was given promotion as Accountant General only after retirement. By 1.1.1986 the applicant had not been promoted to the post of Accountant General. So, even though the applicant might have been turned out the same work as Member Accounts in the A.P.S.E.B. which the applicant might have turned out if he was promoted as Principal Accountant General, on the principle of Next Below Rule in the absence of the promotion order while in service it is not open to the applicant to claim arrears of pay from 1.1.1986 to 30.11.1986. We see no justification on the part of the applicant in view of the facts and circumstances of the case in claiming actual monetary benefits in the higher post from 1.1.1986 to 30.11.1986 for which he had not been promoted for the said period prior to 1.1.1986 or in any event prior to the date 30.11.1986. So, we see no merits in this O.A. and hence this O.A. is liable to be dismissed and accordingly dismissed. The parties shall bear their own costs.

T. C. R. (T. CHANDRASEKHARA REDDY)
Member (Judl.)

Dated: 15 February, 1993

S. S. R. (S. S. R.)
Deputy Registrar (J)

To sd

1. The Comptroller and Auditor General of India,
10, Bahadurshah Zafar Marg, New Delhi.
2. One copy to Mr. I. Dakshina Murthy, Advocate, 10-1-18/25
Shyamnagar, Hyderabad.
3. One copy to Mr. G. Parameswar Rao, SC for A.G.CAT.Hyd.
4. One spare copy.

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APPROVED BY

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH AT HYDERABAD

THE HON'BLE MR. V. NEELADRI RAO : V.C.

AND

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

AND

THE HON'BLE MR. CHANDRA SEKHAR REDDY : MEMBER (J)

AND

THE HON'BLE MR.

DATED: 15-2-1993

ORDER/JUDGMENT:

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

in

M.A. No. 400/92

T.A. No.

(W.P. No.)

Admitted and Interim directions issued.

Allowed

Disposed of with directions

Dismissed as withdrawn

Dismissed

Dismissed for default

Rejected/Ordered

No order as to costs.

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