(135)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH

AT HYDERABAD

O.A.No.619/92 Date of Order: 4.1.1993 .

BETWEEN :

Sri P.Eswara Rao .. 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 Respondent .. Mr.N.R.Devraj

CORAM:

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

..2

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

This is an application filed under Section 19 of th Administrative Tribunals Act to direct the respondents to step up and refix applicant's pay as U.D.C. equal to the pay of his junior (P.K.R.Murthy) and to pay arrears on such refixation and to pass such other orderor 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:-

2. The applicant was appointed as L.D.C. in the Corporation of respondents on 1.8.1975. The applicant was promoted as U.D.C. on regular basis on 7.9.1979. One Sri P.K.R.Murthywho is junior to the applicant was appointed as L.D.C. on 28.4.76 in the respondents corporation. He too was promoted as U.D.C. on regular basis on 18.7.81. As SriP.K.R.Murthyjunior to the applicant was promoted on adhoc basis as U.D.C. earlier than the applicant, the pay of the said SriP.K.R.Murthy was fixed at a higher rate than that of the applicant when the applicant was regularly promoted as U.D.C. on 7.9.79. 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 aroses as the pay of the applicant was less than that of his junior SriP.K.R.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.R.

3. Counter is filed by the respondents opposing this O.A. Today we have heard Mr.B.S.Kahi, for the applicant and Mr.V.Rajeswara Rao for Mr.N.R.Devraj, for the respondents.

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 in 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 to be granted to the applicant are to be restricted only for a period of one year prior to the filing of this O.A.

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 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 18.7.1981 and where as the applicant was promoted as U.D.C. on 7.9.1979. . So, as the

Copy to:-

1. Regional Director Employees State Insurance Corporation, Hill Fort road, Adarsh Nagar, Hyderabad.

2. One copy to Sri. B.S.Rahi, advocate, CAT, Hyd.

3. One copy to Sri. N.R.Devaraj, Sr. CGSC, CAT, Hyd.

4. One spare copy.

Rsm/-

applicant and the said Sri P.K.K.Murthywere recruited 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 SriP.K.K.Murthy junior to the applicant w.e.f.18.7.81 on which date the saidP.K.K.Murthy as already pointed out hasbeen 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.K.Murthy w.e.f. 18.7.81 . Besides the applicant will also be entitled for all notional benefits w.e.f.18.7.81 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 22.7.91 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 SriP.K.K.Murthyin the post of U.D..C w.e.f. 18.7.1981 and grant all notional benefits in the post of U.D.C. and the other post/posts to which the applicant was promoted. Further, we direct the respondents to grant actual monetary benefits to the applicant w.e.f.22.7.1991which 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. The parties shall bear their own costs.

T. Chandrasekhara Reddy

(T.CHANDRASEKHARA REDDY)
Member (Judl.)

Dated: 4th January, 1993

(Dictated in Open Court)

13/1/93

Deputy Registrar (Judl)

ASR 13/1/93 O.A. 619/92

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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
CHECKED BY APPROVED BY
HYDERABAD BENCH

HYDERABAD

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH: AT HYDERABAD

THE HON'BLE MR. V.C.

AND

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

AND

THE HON'BLE MR.T.CHANDRASEKHAR REDDY:M(J)

AND

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

Dated: 4/1/ 1993

~~ORDER~~/JUDGMENT:

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

~~in~~ 619/92

O.A.No.

~~T.A.No.~~ (~~W.P.No.~~)

Admitted and Interim Directions issued

Allowed

Disposed of with directions

Dismissed

Dismissed as with drawn

Dismissed for default

M.A.Ordered/Rejected

No order as to costs.

pvm.

13/1/93