

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL:HYDERABAD BENCH  
AT HYDERABAD

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ORIGINAL APPLICATION NO.303/92

DATE OF JUDGEMENT: 2-3-1993

Between

V.V.S.Sarma

.. Applicant

and

1. Director General,  
Department of Posts  
New Delhi

2. The Chief Postmaster General  
Andhra Pradesh Circle  
Hyderabad

3. The Postmaster General,  
Visakhapatnam Region, Visakhapatnam. .. Respondents

Counsel for the Applicant :: Mr ES Ramachandra Murthy

Counsel for the Respondents :: Mr NR Devraj, Sr.CGSC

CORAM:

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

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JUDGEMENT

This is an application filed under Section 19 of the Administrative Tribunals Act to direct the respondents to pay the applicant 50% of basic pay additionally for the period from 17.3.87 to 15.11.89 when he functioned as Accounts Officer, Internal Financial Advisor in the Internal Check Organisation, Savings Bank, in addition Internal Check Organisation, Savings Bank to his duties as Accounts Officer to which the applicant was posted and pass such other orders as may deem fit and proper in the circumstances of the case.

2. The facts giving rise to this CA in brief, may be stated as follows:

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3. The applicant was posted as Accounts Officer, Internal Check Organisation, Savings Bank in the office of the Regional Director of Postal Services, North Eastern Region, Visakhapatnam. The Visakhapatnam Region was carved out of Vijayawada Division on 1.10.84. For Vijayawada Division, there was no separate ~~AO~~ (ICO SB) but the Accounts Officers, Incharge was functioning for Andhra Pradesh Circle as a whole from Hyderabad, prior to the creation of visakhapatnam region. The posts of Accounts Officer, ICO(SB) was created taking into account the entire work load of Andhra circle. When the bifurcation took place, Accounts Officers (ICO SB) were distributed amongst the regions based on the Head Post Offices each region contained. Since the justification for staff is worked out based on no. of 3 inspection days for each Head Offices,

~~the~~ the Visakhapatnam region ~~justified~~ justified 54 inspection days against the standard of 144 inspection days for the sanction of one post of AO ICO(SB). However, due to administrative reasons one full fledged AO ICO(SB) was allotted to Visakhapatnam region.

~~the~~ The applicant herein was allotted to Visakhapatnam region as full-fledged AO ICO(SB) and was asked to look after the duties of AO IFA in addition to the duties as AO ICO(SB) by way of internal arrangements w.e.f.17.3.87 to 15.11.89. According to the applicant, he is entitled to be paid 50% i.e. half of his basic pay for the said period from 17.3.87 to 15.11.89 for carrying out the additional duties of Internal Financial Advisor.

4. In this regard, the applicant put in/representations on 1.11.89 followed by reminders on 21.3.90, 31.5.90, 6.12.90, 5.4.91 and 5.7.91 for payment of additional remuneration for discharging the duties of AO IFA in the post of AO ICO(SB).

The applicant was not paid any additional remuneration for the additional duties he discharged as ~~AO & IFA (SB)~~

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\*\* The counter affidavit is sworn by one Sri CP Rao, on behalf of the respondents. The Designation of the said C.P.Rao, who has sworn the counter affidavit is not make known in the counter. It is the contention of the learned counsel appearing for the applicant that as the counter affidavit is not sworn by a responsible person, the counter affidavit filed by the respondents is not valid. Mr. M. Devraji, SC for the respondents submitted that the said CP Rao, who has sworn the counter affidavit is Assistant Postmaster General representing the second respondent. In view of the submission made by the learned counsel for the respondents, we are satisfied that the counter is legal and valid as the same is sworn by a responsible person.

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AO IFA in the post of AO ICO(SB). The applicant retired on 31.7.91 on superannuation. As the applicant was not paid additional remuneration, the present OA is filed for the relief as already indicated above.

5. Counter is filed by the respondents ~~as~~ opposing this OA. \*\*\*

6. In the counter ~~filed~~ <sup>ed</sup> by the respondents, it is maintained that the claim of the applicant relates to the period from 17.3.87 to 15.11.89 and the official's 1st representation was dated 7.11.89 and that this OA should have been filed within 18 months from 15.11.89 but actually, the application ~~as was~~ filed on 18.4.92 that this OA ~~is~~ is time barred.

7. Strictly speaking ~~keeping in mind~~ <sup>in view</sup> the provisions of Section 21 of the Administrative tribunals act, the applicant should have approached this Tribunal within 18 months from 15.11.89. Admittedly, the applicant had filed this OA on 6.4.92 after the reply of the respondents on 18.10.91. As more than 1 1/2 years have elapsed by 18.10.91

~~the~~ the respondents gave a negative reply to the representation of the applicant. No doubt, the application seems to be ~~a~~ barred under the provisions of Section 21 of the Administrative Tribunals Act. But, nevertheless we proceed to dispose this OA on merits.

8. In the counter filed by the respondents, it is maintained that there was no ~~justification~~ justification for creating the post of AO ~~IFA~~ as there was no sufficient work load and the additional duties were entrusted to the applicant in view of the fact that there was no sufficient work for the applicant in the main post which he was holding.

9. The learned counsel appearing for the applicant drew our attention regarding the duties the applicant ~~is~~ said to have performed in the additional post of AO IFA. According to the applicant, the duties which he had performed were

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ardous in nature which required compensation by way of additional remuneration. The contention of the respondents is that the applicant had no sufficient work not only in the post of AO ICO (SB) but also in the post of AO IFA and that the applicant had been only attending to his routine duties in the additional post. Even though the applicant had been put in the additional charge of the post of AO IFA there is no material absolutely to show that the duties which the applicant was discharging were of onerous nature as requiring additional remuneration.

10. Admittedly, the applicant had not been appointed to hold the dual charge of the two posts by the competent authority. However, if the applicant had been placed in the additional charge of AO IFA by the Head of the Department, it would have been open for the applicant to claim additional remuneration for discharging additional duties in the additional post. The applicant appears to have been looking after the routine duties of AO IFA as an internal arrangement made by Director of Postal Services, North Eastern Region, Visakhapatnam who admittedly, is not the Head of the Department.

11. We may quote here FR 49(i) which reads as follows:

"FR 49: The Central Government may appoint a Government servant already holding a post in a substantive or officiating capacity to officiate as a temporary measure, in one or more of other independent posts at one time under the Government. In such cases, his pay is regulated as follows:

(i)      xxx      xx      xx      xx  
            xxx      xx      xx      xx  
            xxx      xx      xx      xx

(ii)     where a Government servant is formally appointed to hold dual charges of two posts in the same cadre in the same office carrying identical scales of pay no additional pay shall be admissible irrespective of the period of dual charge;

Provided that if a Govt. servant is appointed to an additional post which ~~xxxxxx~~ carries a special pay, he shall be allowed such pay."

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So, the posts of AO IFA and AO ICO(SB) are equal posts even if the applicant had been appointed to the additional post of AO IFA. no special pay will be admissible irrespective of the period of dual charge. Admittedly, the additional post does not carry any special pay. So, in view of FR 49(2)(ii), the applicant will not be entitled to any additional remuneration as claimed by him.

12. The learned counsel appearing for the applicant very strenuously contended that the applicant performed onerous duties and hence, the applicant is entitled for 50% of his basic pay as remuneration. As already pointed out, we are not convinced of the arguments that the applicant has performed onerous duties in the post of AO IFA.

13. The learned counsel appearing for the applicant also relied on FR9(25) which reads as follows:

"FR9(25):SPECIAL PAY means an addition, of the nature of pay to the emoluments of a post or of a Government servant granted in consideration of-

(a) the specially arduous nature of the duties

or

(b) a specific addition to the work or responsibility

~~On the strength of F.R. 9(25), it is contended that the applicant had performed arduous duties in the additional post of AO IFA in addition to his regular duties as AO ICO(SB) and hence, the applicant is not entitled for any special pay contended by the counsel for the applicant.~~

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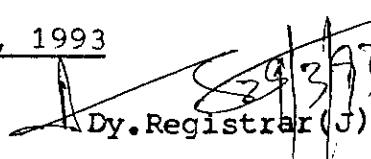
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14. The learned counsel appearing for the applicant relied on the decisions reported in 1980(2) SLR 599 and 1987(1) SLR 345 and contended that on the basis of the said decisions that this is a fit case where the applicant has got to be ordered some remuneration inview of the onerous duties he has discharged in the additional post. We have gone through the said decisions carefully . These decisions are not applicable to the facts of this case. The applicant, as already pointed out, has claimed 50% of his basic pay for the period he had performed the duties of AO, IFA. It may be pointed out, that a Government servant has no legal right to have his additional pay fixed at a particular rate, unless there is a statutory right to the same. Hence, we see no merits in this OA and this OA is liable to be dismissed and is accordingly dismissed leaving the parties to bear their own costs.



(T.CHANDRASEKHARA REDDY)  
Member(Judl.)

Dated: Second March, 1993

  
Dy. Registrar (J)

To mvl

1. The Director General, Dept.of Posts, New Delhi.
2. The Chief Postmaster General, A.P.Circle, Hyderabad.
3. The Postmaster General, Visakhapatnam.
4. One copy to Mr.E.S.Ramachandra Murthy, Advocate  
43 Law Chambers, High Court of A.P.Hyderabad.
5. One copy to Mr.N.R.Devraj, Sr.CGSC.CAT.Hyd.
6. One ~~spare~~ copy to Deputy Registrar (J)CAT.Hyd.
7. ~~One~~ copy to All Reporters as per standard list of CAT.Hyd.
8. ~~One~~ copy to Hon'ble Mr.T.Chandrasekhara Reddy, Member (J) CBT, Hyderabad.
9. One Spare copy.

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B.R. Dandia  
29/3/93

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APPROVED BY

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
HYDERABAD DIVISION 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: 2-3-1993

ORDER/JUDGMENT:

R.P./C.P/M.A. No. →

in

C.A. No. 303/92

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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