IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH

AT HYDERABAD

O.A.No.696/92 Date of order: 7.12.1992

BETWEEN:

Sri CH.Nageswara 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 the 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 (Kum.V.V.S.S.Papa) and to pay arrears on such refixation and to pass such other order or 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:-

The applicant was joined as L.D.C. in the respondents corporation on 1.11.1977. One Kum.V.V.S.S.Papa had also joined in service as L.D.C. in the respondents corporation on the same date on 1.11.1977. The said Kum.V.V.S.S.Papa was junior to the applicant as L.D.C. The said Kum.V.V.S.S.Papa was promoted as U.D.C. on adhoc basis from 1.6.1981 and on regular basis from 15.10.1982. The applicant herein was promoted as U.D.C. on adhoc basis from 9.7.1982 and on regular basis from 13.8.1982. Even in the cadre of U.D.Cs the applicant was senior to the said Kum. V.V.S.S.Papa. As junior to the applicant was promoted on adhoc basis eadier 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 Kum.V.V.S.S.Papa. 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.

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 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 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 Kum. V.V.S.S.Papa 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 Kum.V.V.S.S.Papa junior to the applicant are entitled to draw pay are identical. Kum.V.V.S.S.Papa though was junior to the applicant due to the adhoc promotion purely under fortuitous circumstances, had earned certain increments. Tha is how the pay of the said Kum Papa, junior to the applicant had became higher than that of the applicant. But it is not in dispute that said Kum Papa, was regularly promoted as U.D.C on 15.10.82 and where as the applicant was promoted as U.D.C. on 13.8.82. So, as the applicant and the said Kum. V.V.S.S.Papa were recruited

Copy to:-

1. Regional Director, Employees State Insurance Corporation, Hill Fort road, Adarshnagar, Hyd.
2. One copy to Sri. B.S.Rahi, advocate, CAT, Hyd.
3. One copy to Sri. N.R.Devaraj, Sr. CGSC, CAT, Hyd.
5. One spare copy.

Rsm/-

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 Kum. Papa, junior to the applicant w.e.f.15.10.82 on which date the said Kum.Papa as already pointed out had bee regularly promoted as U.D.C. So, the applicant is entitled to get his pay fixed notionally on par with his junior Kum.Papa w.e.f. 15.10.82. Besides the applicant will also be entitled for all notional benefits w.e.f. 15.10.82 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 14.8.1991 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 Kum.Papa in the post of U.D.C. w.e.f. 15.10.82 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. 14.8.1991 which is one year from the dat of filing of this O.A. O.A. is allowed accordingly. The other reliefs with regard to payment of interest are refused.

T. Chandrasekhara Reddy

(T. CHANDRASEKHARA REDDY)
Member (Judl.)

Dated: 7th December, 1992

(Dictated in Open Court)

Dy Registrar (Judl.)
28/12

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contd... 5/-

ASR (S)
28/12/ O.A. 696/92

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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: 7/12/1992

ORDER/JUDGMENT:

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

in

O.A.No. 696/92

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.

28/12/92