

85

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH
AT HYDERABAD

ORIGINAL APPLICATION NO.776/92

DATE OF ORDER : 30-10-96

Between :-

M.A.Rashid

.. Applicant

And

- 1.The Director General,
Indian Council for Agriculture
Research, Krishi Bhavan, New Delhi.
2. The Director, Central Research Institute
for Dry Land Agriculture, Santoshnagar,
Hyderabad-500 659.
3. The Secretary, Ministry of Finance,
New Delhi.

.. Respondents

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Counsel for the Applicant : Shri V.Venkateshwar Rao

Counsel for the Respondents : Shri N.R.Devaraj, Sr.CGSC

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CORAM:

THE HON'BLE JUSTICE SHRI M.G.CHAUDHARI : VICE-CHAIRMAN

THE HON'BLE SHRI H.RAJENDRA PRASAD : MEMBER (A)

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(Order per Hon'ble Justice Shri M.G. Chaudhari, VC).

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Counsel for the applicant absent. Standing counsel for the respondents absent. The applicant seeks a direction to the respondents to grant him the scale of Rs.550-900 (pre revised scale) w.e.f. 1-10-75 in terms of the award of the Industrial Tribunal, Delhi in ID No.19/92 and for consequential reliefs.

2. The applicant initially was appointed to the post of Draughtsman (Civil) w.e.f. 1963 in the erstwhile Soil Conservation Research Demonstration & Training Centre, Hyderabad. Subsequently the said Centre was merged with the Co-ordinating cell of the AICRPDA (now CRIDA) w.e.f. 1-4-1975. The applicant is a Matriculate possessing a certificate in the trade of Draughtsman (Civil) issued by the Government Polytechnique, Hyderabad. He was promoted as Sr. Draughtsman w.e.f. 5.5.75 in the pay scale of Rs.425-700 (pre-revised). After the introduction of Technical Service Rules he was fitted into Grade T.II.3 in the pay scale of Rs.425-700. The Technical Service Rules were implemented w.e.f. 1-10-75 on which date ARS was introduced. These rules of the ICAR lay down the categories in which the Technical Services are grouped. Para-5.1 of the Rules laid down that the existing permanent and temporary employees will be fitted into the grades specified in para 3.1 on "point to point basis" without further screening. It also provided that persons holding positions in the merged grade of Rs.425-700 and possess qualifications prescribed for Category.II will be fitted in grade T-II-3 (Rs.425-700). Since the applicant was holding the post of Sr. Draughtsman from 5.5.75 in the pay scale of Rs.425-700 he was fitted into Gr. T.II.3 of Technical Service with effect from 1.1.75 on "point to point basis" without

further screening in the pay scale of Rs.425-700. He cannot be fitted according to the respondents in the higher scale. The question was considered by the ICAR but it found that it was not feasible to induct Technical person holding the pay scale of Rs.425-700 into Grade-T.4 (Rs.550-900).

3. Thus as a result of application of Rule 5.1 the respondents did not consider the applicant eligible to be given the higher scale of Rs.550-900 as claimed by the applicant.

4. Now from the copy of the order of the Hon'ble Supreme Court in Civil Appeal No.4729/91 Director, General Rice Research Institution, Cuttack & another versus Shri Khetra Mohan Das, it is clear that after examining the rules mentioned above their Lordships were *pleased to hold that the crucial* ~~held that the circular date~~ is 1-10-1975 on which date the rules came into force and for fitment into the necessary categories Rule 5.1 has to be applied and the existing employees should be fitted only in the grades specified in para-3.1 on point to point basis on the basis of their existing scale of pay on that date. The subsequent promotion from Gr.T-II of Category-I to Gr.T-I-3 the higher grade in the same category cannot make any difference so far as the initial fitment on 1-10-75 is concerned as contemplated under Rule 5.1. In view of the same their Lordships were pleased to set aside the decision of the Cuttak Bench of the C.A.T., wherein relief was granted to a similarly placed person. We do not think that there is any scope left to take a different view and it cannot be said that the respondents have wrongfully denied the benefit of the higher scale of Rs.550-900 to the applicant.

5. Shri V.Venkateshwar Rao, learned counsel for the applicant

88

now appears and we have heard his submissions. Firstly he submitted that this is a case of initial fitment as on 1-10-75 and not a case of promotion. That however is neither here nor there and the reply of the respondents deals only with the question of fitment.

6. The learned counsel next submitted that when the scheme of bifurcation was introduced graduate employees were treated on a certain basis whereas non-graduates were treated differently and this discrimination was set aside by the award made by the Industrial Tribunal. Therefore according to the learned counsel the respondents cannot deny the fitment to the applicant in the higher scale as on 1-10-75.

✓ 7. The learned counsel ^{further} then submitted that Scientific person and Technical service person can not be differentiated. We are unable to accept this submission in view of the decision of the Supreme Court and Law enunciated therein on interpretation of Rules issued by Government. What transpired in the past is of no relevance.

✓ 8. The learned counsel ^{next} further submitted that the argument based on Article-14 and relating to advancement was not urged before the Supreme Court and the decision of the Supreme Court mentioned above therefore does not decide that aspect and we can independently examine the same. We find it impossible to accept this argument in view of the principle enunciated by the Supreme Court on applicability of rule 5.1. The decision was rendered on 6-10-94. It is not open to us to comment on the decision of the Supreme Court by saying that certain points were not considered.

(89)

The applicant in the case before the Cuttak Bench was inducted in the Category Gr.T-II and his pay was fixed at Rs.330-560 under the rules. His grievance was that he should be fitted on T-II.3 of Category II in the scale of pay of Rs.425-700. The said person was a Technician and under graduate. The Cuttak Bench of the C.A.T. granted him the relief of fitment in the scale of Rs.425-700 w.e.f. 1-10-75. That was set aside by the Supreme Court on the interpretation of paras 5.1 and 3.1 of the rules. Compared to the nature of that case we do not find any material difference in the position of the present applicant. He is also a Technical person and was fitted in Gr.T.II.3 of Technical Service w.e.f. 1-10-75 in the pay scale of Rs.425-700 applying para-5.1 of the rules. Once Rule 5.1 is attracted the decision of the Supreme Court is with respect ~~to~~ binding and following its ratio we hold that the decision of the respondents that he cannot be fitted in the higher grade cannot be held to be contrary to the rules.

9. The learned counsel for the applicant produced a copy of the order of this Bench in OA 991/91 with OA 1058/91 dt.1-11-94. That order proceeds on the basis that the award of the Industrial Tribunal was implemented by the respondents and since the Technical Assistants (Statistical) in IASRI, who were in position in the pre-revised scale of Rs.425-700 in T-II-3 category as on 1-10-75 have been placed in the scale of Rs.550-900 w.e.f. 1-10-75, the applicant also entitled to get the scale of Rs.550-900 w.e.f. 1-10-75. With respect, the ~~as~~ scheme of the rules particularly in para-5.1 of the rules was not taken into consideration. Simply

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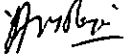
because a particular class of employees with higher qualification were given a higher scale it would not amount to discrimination if employees possessing lesser qualification were not given identical scale. ^{Thus} This in the light of the decision of the Supreme Court mentioned above we are unable to follow the earlier decision of this Bench. As the action of the respondents in respect of the applicants is ~~is~~ consistent with the decision of the Supreme Court it cannot be held to be illegal or ~~valid~~ invalid.

10. For the aforesaid reasons we hold that the applicant is not entitled to the relief as prayed by him. Consequently the O.A. is dismissed with no order as to costs.


(H. RAJENDRA PRASAD)
Member (A)


(M.G. CHAUDHARI)
Vice-Chairman

Dated: 30th October, 1996.
Dictated in Open Court.


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APPROVED BY

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

HYDERABAD BENCH AT HYDERABAD

THE HON'BLE MR. JUSTICE M.G. CHAUDHARI
VICE-CHAIRMAN

AND

THE HON'BLE MR. H. RAJENDRA PRASAD: M(A)

Dated: 30 - 11 - 1996

~~ORDER~~ / JUDGMENT

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

in

O.A.No.

776/92

T.A.No.

(w.p.)

Admitted and Interim Directions
Issued.

Allowed.

Disposed of with directions

Dismissed

Dismissed as withdrawn.

Dismissed for Default.

Ordered/Rejected.

No order as to costs.

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प्रधान न्यायाधिकरण

Administrative Tribunal

DESPATCH

9 DEC 1996

हैदराबाद न्यायपीठ

HYDERABAD BENCH