

(31)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL:HYDERABAD BENCH
AT HYDERABAD.

OA.No.100/93.

Date of order:4.8.1995.

Between:-

P.Doraiswamy

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Applicant.

And

1. General Manager, South Central Railways,
Secunderabad.
2. Chief Personnel Officer,
South Central Railways,
Secunderabad.
3. Director, IRSET,
Tarnaka Road, South Lalaguda,
Secunderabad.

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Respondents.

COUNSEL FOR THE APPLICANT:Mr.V.Krishna Rao, Advocate.

COUNSEL FOR THE RESPONDENTS:Mr.V.Bheemanna, SC for Rlys.

CORAM:

HON'BLE SHRI R.RANGARAJAN, MEMBER ADMINISTRATIVE.

(32)

O.A.NO.100/93.

JUDGMENT

Dt: 4.8.1995

(AS PER HON'BLE SHRI R.RANGARAJAN, MEMBER (ADMN.))

Heard Shri V.Krishna Rao, learned counsel for the applicant and Shri V.Bhimanna, learned standing counsel for the respondents.

2. The applicant in this OA was appointed to the Railway service on 27.8.1955. He was sent on deputation to the Indian Railways Institute of Signal ~~and~~ Engineering and Telecommunications (IRISET), Secunderabad as Instructor in the grade of Rs.700-900/2000-3200 from 23.10.1986. While he was working so, the order No.P/SG/535/SIS/Vol.II, dated 6.6.1991 was issued promoting the applicant as Signal Inspector Grade-I in the grade of Rs.2375-3500 in South Central Railway. The above said order pertaining to the applicant is extracted below:-

"Shri P.Dorai Swamy, SI/Gr.I Instructor,
IRISET/SC in scale Rs.2000-3200 (RSRP)
is promoted as SI (Spl), scale Rs.2375-
3500 (RSRP) on proforma basis and is
allowed to continue as Instructor in
IRISET/SC, till further orders."

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However, he was not relie~~d~~ from the post of Instructor.
A letter dated 10.7.1991 was addressed to him by R-3

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stating that though he has been promoted to the grade Rs.2375-3500 on proforma basis and allowed to continue in IRISSET, Secunderabad, he will be paid only in the grade of Rs.2000-3200 as there is no post of Instructor in the grade of Rs.2375-3500. Further, a letter was also written ^{to South Central Railway} on 29.8.1991 stating that his services are required in IRISSET due to administrative reasons.

3. The applicant retired from service on 31.8.91 on superannuation.

4. This OA was filed praying for direction to the respondents to fix his pay from 22.7.1991 i.e., the date from which his junior was promoted in South Central Railway as Signal Inspector Grade-I in the scale of pay of Rs.2375-3500 with all consequential benefits including revision of pension and pensionary benefits.

5. The plea taken by the respondents in continuing the applicant in the scale of pay of Rs.2000-3200 is that he did not press for his relief from IRISSET, Secunderabad when the letter dated 10.7.1991 (Page-2 of the material papers) was issued to him. It is the case of the respondents that the applicant should have pressed for his relief from IRISSET, Secunderabad when he was told that he will continue to draw the pay in the scale of pay of Rs.2000-3200.

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6. By the Office Order dated 6.6.1991, he was promoted to the grade of Rs.2375-3500 on proforma basis and allowed to continue in IRISSET, Secunderabad. Subsequent to that on 29.8.1991, R-3 requested R-2 to retain the applicant at IRISSET, Secunderabad on administrative grounds as the specialised training is to be continued and the services of the applicant are required for continuing that specialised training. This letter dated 29.8.1991 was issued two days before the date of retirement of the applicant. But even if any reply has been received from R-2 after his retirement, it will be of no use in connection with this case.

7. When the letter dated 10.7.1991 of R-3 was issued, it should have been made clear to the applicant that he will be continued in IRISSET, Secunderabad in the scale of pay of Rs.2000-3200 only and that he cannot claim promotion to the grade of Rs.2375-3500 as there is no post in the scale of pay of Rs.2375-3500 is available at IRISSET, Secunderabad. Even though the letter dated 6.6.91 states that the applicant has been promoted on proforma basis and is allowed to continue as Instructor in IRISSET, Secunderabad till further orders, he cannot get the scale of Rs.2375-3500 so far he works in IRISSET, Secunderabad. If he does not wish to continue in the grade of Rs.2000-3200, he should immediately ask for repatriation to South

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Central Railway and if such letter asking for repatriation is received, he will be relieved forthwith. If no letter asking for repatriation is received from him, he will continue to hold the pay in the scale of pay of Rs.2000-3200 only and ~~xxx~~ he cannot claim promotion to the grade of Rs.2375-3500. But the letter is very vague and did not ask for any willingness from the applicant to continue in the grade of Rs.2000-3200 nor R-3 relieved him because of the fact that there is no post in the grade of Rs.2375-3500 available in IRISSET, Secunderabad. Further correspondence clearly shows that the applicant was retained in IRISSET, Secunderabad purely on administrative grounds. From the letter dated 29.8.1991, it can be inferred that even if he ^{had} ~~was~~ given his unwillingness to continue in the grade of Rs.2000-3200 in IRISSET, Secunderabad, there is every likelihood that he would not have been x relieved from IRISSET before his date of superannuation viz., 31.8.1991 due to exigencies of service and on administrative reasons his services are required at IRISSET, Secunderabad. The whole correspondence in my opinion has been made between R-3 and R-2 just to buy time till the applicant retires. If the administration means that he should be relieved to South Central Railway, Secunderabad immediately after the receipt of his promotion order, he could have been relieved soon after the

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said ~~order~~ posting order dated 6.6.1991 has been received by R-3. In my opinion, there is no attempt made to relieve the applicant from the post of Instructor at any time and he continued as Instructor at IRISSET, Secunderabad.

8. In view of the above, I am satisfied that the applicant cannot be allowed to suffer because of his continuance in IRISSET, Secunderabad on the administrative reasons. Hence, he is entitled for proforma promotion and fixation of pay in the higher grade of Rs.2375-3500 when his immediate junior is promoted in South Central Railway. However, the higher fixation of pay will entail him only to get his pension and pensionary benefits refixed in accordance with the rules (as he did not work in higher grade in South Central Railway.

Law no arrears of pay.

9. In the result, the following direction is given:-

The applicant should be deemed to have been promoted to the grade of Rs.2375-3500 from the date his immediate junior was promoted in South Central Railway and his pay should be fixed on that basis on proforma basis. However, he will not be entitled for arrears of pay on the higher grade from the date of fixation till he retires from service.

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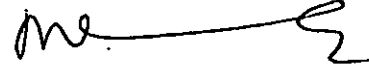
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But he is entitled for fixation of his pension and other pensionary benefits on the basis of the proforma fixation of his pay in the grade of Rs.2375-3500.

10. The OA is ordered accordingly. No costs.


(R. RANGARAJAN)
MEMBER (ADMN.)

DATED: 4th August, 1995.
Open court dictation.

vsn

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Dy. Registrar (Judl)

Copy to:-

1. General Manager, South Central Railways, Secunderabad.
2. Chief Personnel Officer, South Central Railways, Secunderabad.
3. Director, IRSET, Tarnaka Road, South Lalaguda, Secunderabad.
4. One copy to Mr. V. Krishna Rao, Advocate, CAT, Hyd.
5. One copy to Mr. V. Bheemanna, SC for Rlys, CAT, Hyd.
6. One copy to Library, CAT, Hyd.
7. One spare copy.

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OA. 100/93

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COMPARED BY

APPROVED BY

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH AT HYDERABAD.

~~THE HON'BLE MR. JUSTICE V. NEELADRI RAO~~
~~VICE CHAIRMAN~~

A N D

THE HON'BLE MR. R. RANGARAJAN: (M. ADMN)

DATED 4/8 1995.

~~ORDER/JUDGMENT:~~

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

OA.No.

in

100/93

~~TA.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.

(7)

No spare copy

