

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH
AT HYDERABAD

O.A.No.79/93

Date of Order: 18.2.1994

BETWEEN :

P.Appa Rao

.. Applicant.

A N D

1. Union of India, rep. by
Secretary, Ministry of Finance,
Government of India, New Delhi.

2. Controller and Auditor General,
of India, New Delhi.

3. Principal Accountant General
(Audit-1), Andhra Pradesh,
Hyderabad.

.. Respondents.

Counsel for the Applicant

.. Mr.G.Ramachandra Rao

Counsel for the Respondents

.. Mr.G.Parameswara Rao &
Mr.N.R.Devraj

CORAM:

HON'BLE SHRI V.NEELADRI RAO : VICE-CHAIRMAN

51

D.A.No.79/93

Dt.of decision: 18-2-1994

Judgement

(As per the Hon'ble Sri V. Neeladri Rao, Vice Chairman)

This OA was filed praying for a direction to the respondents to fix the pay of the applicant at Rs.2,360/- as on 1-3-87 on par with his juniors. The facts which are material for consideration of this OA are briefly as under:

2. By 1-1-86 the applicant was working as Senior Auditor and the Revised Pay Scale (for short RPS) of Rs.1400-2600 was fixed for Senior Auditors which had come into effect from 1-1-86. While accepting the RPS the employees were given option either to adopt for those RPS from 1-1-86, or from the date of next increment and that option had to be exercised within three months from the date of publication of RPS of 1986. The applicant had not exercised the option within the time specified therein.
3. Again on 27-5-88, a circular was issued enabling the employees of the Central Government and Central Govt. Organisations to exercise the option as referred to above by 31-8-88.
4. The said circular was received by the Office of Port Audit Office in which the applicant was working on 13-7-88. But from 11-7-88 to 12-8-88 the applicant was on inspection duty in the Dock Labour Board, Visakhapatnam and during that period the above circular was not displayed to the notice board of Dock Labour Board. It is further case of the applicant that the said circular was not on the notice board of the Port Audit Office

SK

11/8

51

D.A.No.79/93

Dt.of decision: 18-2-1994

Judgement

(As per the Hon'ble Sri V. Neeladri Rao, Vice Chairman)

This OA was filed praying for a direction to the respondents to fix the pay of the applicant at Rs.2,360/- as on 1-3-87 on par with his juniors. The facts which are material for consideration of this OA are briefly as under:

2. By 1-1-86 the applicant was working as Senior Auditor and the Revised Pay Scale (for short RPS) of Rs.1400-2600 was fixed for Senior Auditors which had come into effect from 1-1-86. While accepting the RPS the employees were given option either to adopt for those RPS from 1-1-86, or from the date of ~~next~~ increment and that option had to be exercised within three months from the date of publication of RPS of 1986. The applicant had not exercised the option within the time specified therein.
3. Again on 27-5-88, a circular was issued enabling the employees of the Central Government and Central Govt. Organisations to exercise the option as referred to above by 31-8-88.
4. The said circular was received by the Office of Port Audit Office in which the applicant was working on 13-7-88. But from 11-7-88 to 12-8-88 the applicant was on inspection duty in the Dock Labour Board, Visakhapatnam and during that period the above circular was not displayed to the notice board of Dock Labour Board. It is ^{the} further case of the applicant that the said circular was not on the notice board of the Port Audit Office

X

after he resumed duty in the said office on 13-8-88. He made a representation on 26-9-89 requesting respondents to allow him to exercise option to come to the RPS from the date of his next increment subsequent to 1-1-86. In the alternative he prayed for stepping up of pay of Rs. 2,260/- as on 1-3-87 to be on par with his pay of his juniors. When the same was ultimately rejected on 12-2-92 this OA was filed.

5. This matter had come up for consideration before the Bench comprising Sri A.B. Gorthi, Member (Admn.), and Sri T. Chandrasekhar Reddy, Member (Judicial). While the latter held that it is just and proper to give liberty to the applicant to approach the President of India in accordance with law for redressal of his grievance by making a suitable representation, and if the applicant is aggrieved by the action of the President of India on his representation, he would be at liberty to approach this Tribunal afresh in accordance with law, the former held that the OA is liable to be dismissed. But, at the same time, Sri A.B. Gorthi, Member (A) observed that it would be open to the President of India under Rule 13 of the RPS to examine whether the relevant provisions of the rules are deserved to be relaxed specifically covering the case of the applicant, or generally covering all cases of similarly situated employees. In view of the above difference of opinion between the two learned Members, the Hon'ble Chairman referred the matter to me.

6. When Rule 13 of the RPS empowers the President of India to relax either specifically covering the case of any individual or generally covering the cases of similarly situated employees, I feel that it is just and

X

after he resumed duty in the said office on 13-8-88.

He made a representation on 26-9-89 requesting respondents to allow him to exercise option to come to the RPS from the date of his next increment subsequent to 1-1-86.

In the alternative he prayed for stepping up of pay of Rs. 2,260/- as on 1-3-87 to be on par with his pay of his juniors. When the same was ultimately rejected on 12-2-92 this OA was filed.

5. This matter had come up for consideration before the Bench comprising Sri A.B. Gorthi, Member (Admn.), and Sri T. Chandrasekhar Reddy, Member (Judicial). While the latter held that it is just and proper to give liberty to the applicant to approach the President of India in accordance with law for redressal of his grievance by making a suitable representation, and if the applicant is aggrieved by the action of the President of India on his representation, he would be at liberty to approach this Tribunal afresh in accordance with law, the former held that the OA is liable to be dismissed. But, at the same time, Sri A.B. Gorthi, Member (A) observed that it would be open to the President of India under Rule 13 of the RPS to examine whether the relevant provisions of the rules are deserved to be relaxed specifically covering the case of the applicant, or generally covering all cases of similarly situated employees. In view of the above difference of opinion between the two learned Members, the Hon'ble Chairman referred the matter to me.

6. When Rule 13 of the RPS empowers the President of India to relax either specifically covering the case of any individual or generally covering the cases of similarly situated employees, I feel that it is just and

X

C.O. & C
Received
11/3/94
L

33

proper to give liberty to the applicant to approach the President of India in accordance with law for redressal of his grievance, and if he is ultimately aggrieved he is free to move this Tribunal as opined by the learned Judicial Member. In fact, even the learned Administrative Member observed that it would be open to the President to consider the case of the applicant.

7. Sri G. Ramachandra Rao, learned counsel for the applicant submitted that he already represented on 28-2-92 and 22-10-92 to R-3, and hence R-3 may be directed to submit the same to the President. But, Sri G. Parameshwar Rao, the learned counsel for the respondents is right in submitting that when those representations were submitted to R-3, it is not proper to direct R-3 to submit them to the President. Hence it is just and proper to pass the following order.

If the applicant is going to submit a representation along with copy of this order to R-1 by 31-3-94 for consideration under Rule 13 of the RPS of 1986, the same has to be considered in accordance with law. If ultimately the applicant is aggrieved, he is free to move this Tribunal under Sec.19 of the Administrative Tribunals Act, if he is so advised. The OA is ordered accordingly. No costs.

8. The office has to communicate copy of this order to R-1 by 28-2-1994.

V. Neeladri Rao
(V. Neeladri Rao)
Vice Chairman

Dt. 18-2-1994
Open Court Dictation *Ansari 5384* Deputy Registrar (J)CC.

To

1. The Secretary, Ministry of Finance, Union of India, G.O.I. New Delhi.
2. The Controller and Auditor General of India, New Delhi.
3. The Principal Accountant General (Audit-1) A.P. Hyderabad.
4. One copy to Mr.G.Ramachandra Rao, Advocate, CAT.Hyd.
5. One copy to Mr.G.Parameswar Rao, SC for AG. CAT.Hyd.
6. One copy to Mr.N.R.Devraj, Sr.CGSC.CAT.Hyd.
7. One copy to Library, CAT.Hyd.
8. One spare copy.

pvm

Ansari 5384

33

proper to give liberty to the applicant to approach the President of India in accordance with law for redressal of his grievance, and if he is ultimately aggrieved he is free to move this Tribunal as opined by the learned Judicial Member. In fact, even the learned Administrative Member observed that it would be open to the President to consider the case of the applicant.

7. Sri G. Ramachandra Rao, learned counsel for the applicant submitted that he already represented on 28-2-92 and 22-10-92 to R-3, and hence R-3 may be directed to submit the same to the President. But, Sri G. Parameshwar Rao, the learned counsel for the respondents is right in submitting that when those representations were submitted to R-3, it is not proper to direct R-3 to submit them to the President. Hence it is just and proper to pass the following order.

If the applicant is going to submit a representation along with copy of this order to R-1 by 31-3-94 for consideration under Rule 13 of the RPS of 1986, the same has to be considered in accordance with law. If ultimately the applicant is aggrieved, he is free to move this Tribunal under Sec.19 of the Administrative Tribunals Act, if he is so advised. The OA is ordered accordingly. No costs.

8. The office has to communicate copy of this order to R-1 by 28-2-1994.

V. Neeladri Rao
(V. Neeladri Rao)
Vice Chairman

Dt. 18-2-1994 *Ans 5374*
Open Court Dictation Deputy Registrar (J)CC.

To : *Mr. G. Ramachandra Rao*

1. The Secretary, Ministry of Finance, Union of India, G.O.I. New Delhi.
2. The Controller and Auditor General of India, New Delhi.
3. The Principal Accountant General (Audit-1) A.P. Hyderabad. *KMV*
4. One copy to Mr. G. Ramachandra Rao, Advocate, CAT. Hyd.
5. One copy to Mr. G. Parameswar Rao, SC for AG. CAT. Hyd.
6. One copy to Mr. N. R. Devraj, Sr. OGSC. CAT. Hyd.
7. One copy to Library, CAT. Hyd.
8. One spare copy.

pvm

Encl 2374