

(20)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH
AT HYDERABAD

D.A. No. 1139/93.

Dt.of Decision : 5-9-94.

S. Satyam

.. Applicant.

Vs

1. The Medical Superintendent,
Railway Hospital, SE Rly,
Dondaparthy, Visakhapatnam.
2. The Divl. Personnel Officer,
SE Rly, Dondaparthy,
Visakhapatnam.
3. The Divl. Railway Manager,
SE Rly, Dondaparthy,
Visakhapatnam.

.. Respondents.

Counsel for the Applicant : Mr. M. Kesava Rao

Counsel for the Respondents : Mr. V. Bhimannan, SC for Rlys.

CORAM:

THE HON'BLE SHRI A.V. HARIDASAN : MEMBER (JUDL.)

(21)

.. 2 ..

O.A.No.1139/93

Dt. 5.9.94

X As per Hon'ble Shri A.V.Haridasan, Member (Judl.) X

- - -

on 6.1.65

The applicant ~~who~~ entered service/as Safaiwale in the scale Rs.70-85 which was revised as Rs.750-940 later. In the year 1988 when he was in the next higher scale of Rs.775-1025 he was transferred to medical department and posted at Railway Hospital OP, Visakhapatnam. His pay was fixed at Rs.940/-. In the year 1992 his pay was fixed at Rs.960/-. Coming to know that his earlier colleagues as Safaiwala by name S.Dalayya and S.Ramulu who were also getting the pay of Rs.940/- like the applicant when he was transferred were getting higher pay the applicant felt aggrieved and he made a representation claiming higher fixation of pay as in the case of his ~~earlier~~ ^{while} colleagues. As there was no response to his representation on 1.11.92 he caused a lawyer notice to be issued to the respondents claiming higher fixation of pay, arrears of pay and bonus etc. It was finding no response to the lawyer notice that the applicant filed this application under Section 19 of the Administrative Tribunals Act, 1985 for a declaration that the action of the respondents in not fixing the basic pay of the applicant correctly and on par with his colleagues, who were appointed along with him is arbitrary, illegal, discriminatory and in violation of the Article 14 of the Constitution of India and for a direction to the respondents to fix the basic pay of the applicant from the year 1992 at Rs.1050/- and Rs.1150/- from the year 1993 on par with his colleagues with arrears and other consequential benefits.

..3

22

.. 3 ..

2. The respondents in their reply have contended that the applicant on 19.2.88 while working as Safaiwala in the higher scale of Rs.775-1025 made a request for a change of cadre to the Medical Wing by his letter dt. 19.2.88 (Annexure R-I) accepting bottom seniority, that on consideration of his request as permissible under the rules the applicant was given change of cadre in the scale of Rs.750-940, that his pay was fixed at Rs.940/- at the maximum of the pay that as the applicant has changed the cadre he has no right to claim parity to erstwhile colleagues Dallayya and Ramulu who continued as Safaiwalas in an entirely different cadre and unit with different avenues of promotion and therefore the applicant's grievance has no legitimate basis at all.

3. When the application came up for final hearing today it was stated that the applicant had filed a reply to the counter statements filed by the respondents, but the reply is not on record. However the counsel for the applicant submitted that the applicant did not of his own, make a request for change of cadre, but it was engineered by Mr. Gopal Rao, Sanitary Inspector with the malafide intention of appointing another person as Safaiwala in his place and that therefore the change of cadre should not affect his pay adversely.

4. I have heard Mr. M. Kesava Rao, learned counsel for the applicant and Mr. V. Bhimanna, Standing counsel for the respondents. I have also perused the pleadings and documents in this case. It is evident from the pleadings and from Annexure R-I the request made by the applicant on 19.2.88 that the applicant was allowed to change his cadre from Safaiwala to Hospital only

: 5 :

Copy to:-

1. The Medical Superintendent, Railway Hospital, S.E.Railway, Dondaparthy, Visakhapatnam.
2. The Divisional Personnel Officer, S.E.Railway, Dondaparthy, Visakhapatnam.
3. The Divisional Railway Manager, S.E.Railway, Dondaparthy, Visakhapatnam.
4. One copy to Sri. M.Kesava Rao, advocate, CAT, Hyd.
5. One copy to Sri. ~~Subramanyam, Secretary~~, CAT, Hyd.
6. One copy to Library, CAT, Hyd.
7. One spare copy.

Rsm/-

23

.. 4 ..

on the basis of his request, by order dated 29.4.88 in which it was made clear that his transfer was at his request and that no future request for retransfer to parent department would be entertained. The applicant's pay was fixed at Rs. 940/-, in the year 1988 when he was transferred in the scale Rs. 750 - 940 and until the year 1992 the applicant did not raise any grievance about that. Further the fixation was made thus because the change of cadre was permissible only in the entry grade of Rs. 750-940. Accordingly the applicant's pay was fixed at Rs. 940/- at the top of the scale. The comparision of the applicant of his pay with the basic pay of S.Dalayya and S.Ramulu is meaningless because S.Dalayya and S.Ramulu are members of a different cadre of the Sanitary department while the applicant has on change of cadre come to the medical department. Therefore, the pay structure, the avenues of promotion etc. of Dalayya and Ramulu are different from that of the applicant. Hence having chosen to come to the medical department the applicant has no right to claim that he should be compared for the purpose of fixation of pay with his earstwhile colleagues of the sanitary department. In the result I do not find any merit in this application atall. Therefore the application is dismissed without any order as to costs.

(A.V.HARIDASAN)
Member (Judl.)

Dated: 5th September, 1994

(Dictated in Open Court) *AM/ru*

Dy. Registrar (3)

sd

contd... 5) -

OA-1139/93

Typed by
Checked by

Compared by
Approved by

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH HYDERABAD

THE HON'BLE MR.A.V.HARIOSAN : MEMBER(C)

AND

THE HON'BLE MR.A.B.GORTHI : MEMBER(A)

Dated: 5/9/94

ORDER/JUDGMENT.

M.P./R.P/C.P/No.

D.A.NO.

1139/93

T.A.NO.

(W.P.NO.)

Admitted and Interim Directions
Issued.

Allowed.

Disposed of with Directions.

Dismissed.

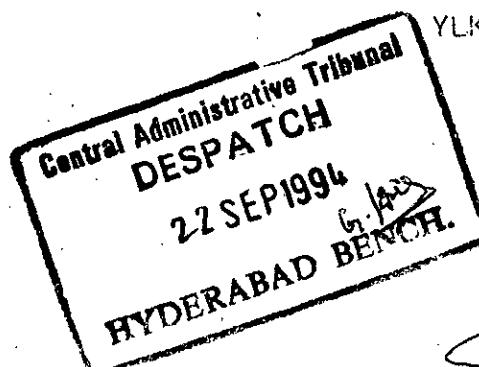
Dismissed as withdrawn.

Dismissed for Default.

Rejected/Ordered.

No order as to costs.

No Spare Copy



260