

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH
AT HYDERABAD.

O.A. No. 95/91

Date of Judgment 22-11-91

1. B.Biksham
2. M.Raghav Rao
3. A.B.Omkar
4. V.S.Somayajulu
5. S.A.Saleem
6. R.Narayana Swamy
7. V.J.R.Subrahmanyam Sastry
8. M.A.Mohiddin
9. Syed Ahmed Hussain
10. G.S.R.Sastry
11. G.Chandra Sekhara Prasad
12. P.Ramachandra Murthy
13. K.Sathiah
14. Leela Shanker
15. P.V.Narasimha Rao
16. N.V.V.Venugopala Rao
17. A.Vijaya Saradhi
18. M.Rama Mohan Rao
19. P.Sathyanarayana
20. Ch.Venkateswarlu.
21. N.V.Subba Rao
22. N.Kameswara Sarma

.. Applicants

vs.

Union of India,
represented by

1. The Secretary to Govt.,
Department of Posts,
Min. of Communications,
New Delhi.
2. The Director of Accounts
(Postal),
O/o the Chief P.M.G.,
Hyderabad.

.. Respondents

Counsel for the Applicants : Shri K.S.R. Anjaneyulu

Counsel for the Respondents : Shri N. Bhaskar Rao, Addl. Commr.

2023

Hon'ble Shri R.Balasubramanian : Member(A).

s application has been filed by Shri B.Biksham and others against the Union of India, represented by the Secretary to Govt., Department of Posts, Min. of Communications Delhi and another under section 19 of the Administrative Tribunals Act, 1985. The prayer herein is

Received 10/20/2011 ~~10/20/2011~~

to direct the respondents to refix the pay of the applicants on promotion from Junior Accountant to Senior Accountant by taking into account the special pay of Rs.35/- p.m. drawn by them and to pay arrears of pay from 1.9.85 onwards.



2. The applicants are now working as Senior Accountants in the Office of Director of Accounts (Postal), Andhra Pradesh Circle, Hyderabad. By an order dated 5.5.79 vide O.M. No.F.7(52)-E.III/78 the Govt. of India, Ministry of Finance decided that UDCs in non-Secretariat Administrative Offices attending to work of a more complex nature may be granted a special pay of Rs.35/- p.m. The Director-General, Posts & Telegraphs, New Delhi vide letter No.6-7/79-PAF dated 3.1.81 decided that the benefit of special pay of Rs.35/- p.m. granted to certain posts of UDCs in non-Secretariat Administrative Offices may be extended to the Junior Accountants in the Circle Postal Accounts Offices in accordance with the provisions of the Govt. of India, Ministry of Finance O.M. dated 5.5.79. By another order dated 1.9.87 vide O.M.No.7(35)-E.III/87 the Govt. of India, Ministry of Finance decided that the Rs.35/- p.m. paid to UDCs as special pay vide O.M. dated 5.5.79 shall be taken into account for fixation of pay on promotion subject to some conditions. Still later, by an order dated 22.5.89 vide No.7(29)-E.III/89 the Govt. of India, Ministry of Finance further decided that for persons promoted to higher posts prior to 1.9.85 otherwise fulfilling the conditions also the benefit of counting the special pay of Rs.35/- p.m. for fixation of pay would be extended. While matters stood thus, some officials at Bangalore filed O.A.No.1026/88 in the Central Administrative Tribunal, Bangalore claiming that the special pay of Rs.35/- p.m. should be taken into account for fixation of pay. The application was disposed of

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*1. C. V. R. K. Acharya,
Advocate*

on 16.1.89 holding that the benefit cannot be denied to the applicants on promotion. However, the Director-General, Posts & Telegraphs, New Delhi by his communication dated 25.7.89 rejected their case stating that in the Postal Accounts Offices these orders are applicable only for promotion to a higher functional grade like Junior Accounts Officers and above. The applicants represented against this on 30.10.89 urging the respondents to take the special pay into account for pay fixation. Not getting any reply they have filed this application.

3. The respondents have filed a counter affidavit and oppose the application. It is stated that the applicants were appointed as non-functional Selection Grade Senior Accountants during the period July, 1982 to July, 1985 in accordance with the orders of the Govt. of India. It is admitted that at the time of their appointment to the posts of Senior Accountants they were holding the posts of Junior Accountants and they were also drawing special pay. It is argued that the promotion of the applicants at that stage to the scale of Senior Accountants was not a normal promotion but was only a non-functional selection ^{grade}. It is, therefore, their argument that the special pay need not be taken into account while fixing pay in the non-functional Selection Grade.

4. I have examined the case and heard the learned counsels for the applicants and the respondents. I have seen the judgment dated 16.1.89 of the Bangalore Bench of this Tribunal. It covers two main aspects:

(a) whether the promotion from the cadre of Junior Accountants to Senior Accountants is a promotion or not (the respondents contend that promotion to non-functional cadre is not an actual promotion), and

(b) whether the benefit of reckoning the special pay for pay fixation should be extended to those who were

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5.1 The Bangalore Bench held as regards4(a) that on promotion from the Junior Accountants cadre to the Senior Accountants cadre the pay should only be fixed under F.R.22(c). This dispels the claim of the respondents.

5.2 As regards4(b), the subsequent letter of the Govt. of India covers the decision of the Bangalore Bench stating that the benefit of reckoning the special pay for pay fixation should be extended to those who were promoted prior to 1.9.85 also. The Bangalore Bench directed the respondents therein to fix the pay of the applicant therein on his promotion as Senior Accountant under F.R.22(c) taking into account the special pay drawn by him before his promotion. It was further ordered that this fixation would, however, be notional and he would draw the actual pay on this basis only from 1.9.85 and that no arrears would be allowed to him prior to this date. This decision was subsequently followed by the Cuttack Bench of this Tribunal in their decision dated 25.6.91 in O.A.No.23/90. Following the judgments of the Bangalore and Cuttack Benches of this Tribunal, I too hold that the applicants before me should be given the benefit of reckoning the special pay for pay fixation when they were promoted as Senior Accountants. They would be entitled to this benefit notionally only w.e.f. 1.9.85 and they shall not be entitled to any arrears prior to that date. I direct the respondents to comply with these orders within a period of three months from the date of receipt of this order.

6. The application is thus disposed of with no order as to costs.

CERTIFIED TO BE TRUE (CCP)
.....W.M. RAUNAK.....
Date.....25.11.91.....
Court Office
Central Administrative Tribunal
Hyderabad
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Verbal
Advice

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OFFICE OF THE DIRECTOR OF ACCOUNTS (POSTAL) A.P.CIRCLE: HYD-1

No.193/Admn-I/EA-II/CAT/JA.95/91

Date: 19/10/92

ORDER

In pursuance of the judgement of the Central Administrative Tribunal, Hyderabad in OA-95 of 1991 filed by Sri B.Biksham & (21) others and in accordance with the orders contained in the Postal Directorate FAX Message vide No.33(2)/91/PA (Admn-I) dated 19-10-92 orders are hereby issued for fixation of the pay of the following officials on their promotion as Senior Accountant, on a notional basis, by allowing the benefit of Special Pay of Rs.35/- granted to them in accordance with F.No.F.7(52)-E.III/78 dated 5-5-1979 read with the D.G. P&T New Delhi Lr.No.6-7/79-PAP dated 3-1-81.

S/Sri

1. B.Biksham, SA	12. P.Ramachandra Murthy, SA
2. M.Raghava Rao, SA	13. K.Sathaiah, SA
3. A.B.Omkar, SA	14. Leela Shankar, SA
4. V.S.Somayajulu, SA	15. P.V.Narasimha Rao, SA
5. S.A. Saleem, SA	16. N.V.V.Venugopala Rao, SA
6. N.Narayanaswamy, SA	17. A.Vijaya Saradhi, SA
7. V.J.R.Subramanya Sastry, SA	18. M.Rama Monan Rao, SA
8. M.A.Mohiuddin, SA	19. P.Sathyanarayana, SA
9. Syed Ahmed Hussain, A.O	20. Ch.Venkateswarulu, SA
10. G.S.K.Sastry, SA	21. N.V.Subba Rao, SA
11. G.C.S.Prasad, SA	22. N.Kameswara Sarma, SA

The above officials are entitled to this benefit (as per the CAT, Hyderabad judgement in OA 95 of 1991) notionally only w.e.f. 1-9-85 and they shall not be entitled to any arrears prior to that date. The aforesaid benefit to these officials allowed in compliance to the CAT, Hyderabad judgement cited is only provisional and is subject to the final outcome in the S.L.P. filed in the Hon'ble Supreme Court against the judgement of the Hon'ble C.A.T. Hyderabad in the said J.A. and without prejudice to any revision as per the decision of the Hon'ble Supreme Court in the S.L.P. cited.

ASST.CHIEF ACCOUNTS OFFICER
INCHARGE

Copy to:-

1. All officials concerned.
2. A.O/Admn-II (44 copies, for necessary action. Necessary undertaking may be obtained from the officials concerned for refund of the benefit derived by them in case the decision of the Supreme Court is repugnant to the judgement of the CAT, Hyderabad in JA No.95/91.
3. A.O/PA-I
4. The Director (PA-I), O/o. the D.G.Posts, New Delhi w.r.t. their FAX message dated 19.10.92.
5. The A.P.M.G (S&V) O/o. the C.P.M.G. Hyderabad for information
6. O.O.File (8) Spare

fzl/

Venkateswarulu
Anupam

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P. 13
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From
N.Kaneswara Sarma,
Accountant,
Office of the Manager,
Mail Motor Service,
Hyderabad 500 195.

To
The Director of Accounts (Postal),
A.P.Circle,
Hyderabad 500 001.

(Through Proper Channel)

Respected Madam,

I submit the following few lines for your kind and sympathetic consideration and for issue of favourable orders. I have been served with a copy of O.O.No.193/Admn I/EA II/CAT/OA 95/91 dated 19-10-1991 in which it has been stated vide Serial 22 that I am also entitled along with others the benefit of special pay of Rs. 35/- for fixation of Pay on promotion to Senior Accountant while working in identified post of Special Pay and also subsequently in another O.O. issued under No. O.O.216/Admn I/EA 1/Spl.Pay dated 06-11-1992 a copy of which was endorsed to me it has been clearly specified that while I was working in identified post carrying special pay of Rs. 35/- that but for proceeding an deputation to A.P.Khadi and Village Industries Hldt from 7-6-81 to 30-6-82 I would have continued to work in identified Post with special pay. I understand that all the Officials were paid arrears consequent on Central Administrative Tribunal's decision above and also their cases were considered taking into account the benefit of special pay of Rs.35/- for pay fixation. I submit in this connection that I have not been paid any arrears, or I am not aware whether the benefit of Spl. pay of Rs.35/- working in identified scales was taken into account although mine is a clear case entitled for the above benefit as directed by Central Administrative Tribunal as I have actually worked in special pay seat i.e., in Admn.,I(EC I) of DAP Hyderabad which was identified as carrying special pay and I am sorry to bring to your kind notice that I have been denied the benefit though eligible in all respects and a lot of injustice was done by the authorities. Hence I am appealing to your goodself to kindly look in to the issue for redressal of my above grievance and help me at the fog end of my carrier so that I shall get some pensionary benefits for which I shall be ever grateful to you; respected Madam.

Thanking You Madam

obtaining copy submitted to
serve delay.

Yours faithfully,
N. Kaneswara Sarma
(N. KAMESWARA SARMA)
(Retd. 21/11/1994)

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OFFICE OF THE DIRECTOR OF ACCOUNTS (POSTAL) A.DHRC CIRCLE, HYDERABAD

No:O.O. No:216/Admn.I/EA.I/Spl.Pay

Dated:6.11.92.

OFFICE ORDER

Sri N. Kameswara Sarma while working as JA in an identified post with a special pay of Rs.35/- P.M. Proceeded on deputation to the A.P. Khadi & Village Board w.e.f. 7.6.81. Subsequently the official was promoted to the cadre of SA w.e.f. 1.7.82. It is certified that the official would have continued to work in an identified Post with the Special Pay but for his proceeding on deputation during the period from 7.6.81 to 30.6.82.

This issues with the approval of ACAO I/C.

Accounts Officer/Admn.I

Copy to:

1. the official.
2. AAO/Admn.II(2 copies)
3. Spare.

1. *relief*
2. *Anscre*