

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, HYDERABAD BENCH
HYDERABAD

OA 974/93

Dt. 29-11-94

Between

1. V. Gopalam
2. T.R.M. Rao
- Md. Sadullah
4. K.V. Rao
5. M. Ranga Nayakulu
6. G. Ramulu
7. G.S.R. Murthy
8. S.M. Basha
9. M. Koteswar Rao
10. K. Anjaneyulu

APPLICANTS

And

1. The Chief General Manager,
Telecommunications, A.p. Hyderabad
2. Union of India, represented by the
Director General, Department of
Telecommunications, Sanchar Bhavan,
New Delhi.

Respondents

Counsel for the Applicant : Shri K. Venkateswar Rao

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

CORAM

Hon'ble Justice Shri V. Neeladri Rao, Vice-Chairman

Hon'ble Shri R. Rangarajan, Member (Admn.)

16
AN

AS PER HON'BLE JUSTICE SHRI V. NEELADRI RAO,
VICE-CHAIRMAN

J U D G E M E N T

Heard Shri K. Venkateswara Rao, learned counsel for the applicants and also Shri V. Bhimanna, learned standing counsel in OA 1001/93 and Shri N.R. Devraj, learned Sr. Standing counsel in OA 974/93.

2. As the same point is involved in both the OAs, they can conveniently be disposed of by a common order. The applicants in OA 974/93 are working as Accounts Officers/Senior Accounts Officers/Asst. Chief Accounts Officers. This OA was filed praying for stepping up of their pay in the cadre of Accounts officer so as to be equal to the pay of Shri Balasubrahmanyam, who was junior in the next immediate lower cadre of Junior Accounts officer.

3. The applicants in OA 1001/93 are working as Chief Accounts officers/Asst. Chief Accounts Officers. They filed this OA claiming stepping up of their pay so as to be equal to the pay of Shri S. Rajeswara Rao in the cadre of Accounts Officer who was junior to them in the immediate category of Junior Accounts Officer.

4. The posts of Junior Accounts Officer and Accounts Officer in the Telecom. are all India cadre. The promotion from the post of J.A.O. to A.A.O is on the basis of seniority cum fitness. The avenue of promotion from Accounts Officer are to senior Accounts Officer, from there to Asst. Chief Accounts officer and from there to Chief Accounts Officer.

5. The allegations for the applicants in OA 974/93 that Shri Balasubrahmanyam was their junior in the cadre of J.A.O. and the pay of applicants was more than the

3

PA

pay of Shri Balasubrahmanyam in the cadre of J.A.O and that the applicants therein were regularly promoted to the category of A.O earlier to the date of promotion ~~xxxxxx~~ ~~xxxxxx~~ of Shri Balasubramanyam were not challenged. It is not even stated for the applicants that ad hoc promotion was offered to any of the applicants as Accounts officer on ad hoc basis. Hence the question of refusal by the applicants therein for Ad hoc promotion as Accounts officer does not arise. It is evident from the pleadings that after regular promotion of the applicants therein, their pay was less in the cadre of Accounts Officer than that of Shri Balasubramanyam on the date of his regular promotion as Accounts Officer.

6. Similar is the case with regard to the applicants in OA 1001/93 vis-a-vis Shri Rajeswara Rao. It is also not stated for the Respondents that the applicants in OA 1001/93 were offered the post of ad hoc promotion as Accounts officer before Shri Rajeswara Rao was promoted as Accounts Officer on ad hoc basis. Thus the question of refusal on the part of the applicants therein to the post of ad hoc promotion at the relevant time does not arise.

It is stated for the applicants as Under:-

It will be arbitrary when the senior has to draw less than that of his junior in the promotional cadre when the pay of that senior was more or equal to that of the junior in the immediate lower cadre. In this case the pay of the seniors was less than that of the junior in the promotional cadre and hence it is just and proper to step up the pay of the senior to that of the junior for otherwise it will be violative of article 14 of the Constitution.

7. The applicants are relying upon the judgement dated 29-10-93 of the Ernakulam Bench in OA 1156/93, the judgement dated 11-1-94 of Madras Bench in OA 1129/93, the judgement dated 19-7-94 of the Bangalore Bench in OA 349/94 and 357 to 367/94

-- 4 --

and the judgement dated 18-8-94 of the Calcutta Bench in OA.1426/93 to urge that their claims for stepping up of pay in the category of Accounts Officer in the Telecom were allowed.

8. But the learned standing counsel for the Respondents is relying upon G.I.M.F. O.M. No. F.2 (78) E III (A)/66 dated the 4th February, 1966 wherein it is stated that the stepping up can be allowed only if the following 3 conditions are satisfied.

- (a) Both the junior and senior officers should belong to the same cadre and the posts in which they have been promoted or appointed should be identical and in the same cadre.
- (b) The scales of pay of the lower and higher posts in which they are entitled to draw pay should be identical.
- (c) The anomaly should be directly as a result of the application of F.R 22-C. For example, if even in the lower post the junior officer draws from time to time a higher rate of pay than the senior by virtue of grant of advance increments, the above provisions will not be officer.

As it is not a case of anomaly arising due to fixation of the pay of either Shri Balasubramanyam or Shri Rajeswara Rao under FR 22(C), the applicants are not entitled to the stepping up in the terms of the O.M. dated 4-2-66.

9. This is not a case where the applicants are contending that the anomaly had arisen as a result of the application of FR 22(C). The applicants are contending that it will be arbitrary if the pay of the senior in the promotional cadre is less than that of his junior when the pay of that senior was more than that of the pay of the said junior in the immediate lower cadre and it will be violative of article 14 of the Constitution if the stepping up under those circumstances is not going to be ordered. The said

-/-.....5

16/ AAW

08

contention for the applicants which was same for the applicants in the various OAs of the Benches of the C.A.T. referred to above was accepted, and as we do not find any reason to differ from the same, these OAs for stepping up have to be ordered.

10. While the Bangalore Bench limited the monetary benefit from 3 years prior to the date of filing of the OAs, the Ernakulam, Madras and Calcutta Benches have not passed any order limiting the monetary benefits for any specific period while ordering the stepping up. But as the stepping up claim in the OA 1129/93 on the file of Madras Bench was only from 1-1-90, it amounts to the ordering of the monetary benefit for 3 years or 3 years and odd.

10. Whenever it is a case of continuous right, this Bench was limiting the monetary benefit from one year prior to the date of filing of the OA. But the applicants herein belong to the ALL INDIA cadre. As they happen to be within the jurisdiction of the Hyderabad Bench, they filed the OAs in this Bench. But if they happen to be within the jurisdiction of Bangalore Bench by the date of filing of these OAs, they would have got the monetary benefit for 3 years prior to the date of filing of the OA. So we feel that even though generally this Bench (Hyderabad Bench) is limiting the monetary benefits from one year prior to the date of filing of the OA in case of continuous right, as the applicants belong to the All India cadre and as the Bangalore Bench limited it from 3 years prior to the date of filing of the OA and for the reasons referred to above, we feel it a case where the monetary benefit has to be given from 3 years prior to the dates of filing of the respective OAs.

----/----6

AN

09

1. In the result, the stepping up as prayed for in the OA 974/93 is allowed in regard to the applicants therein. But the monetary benefit is limited from 1-9-90 (this OA was filed on 13-8-93). The OA is ordered accordingly. No costs.
2. The stepping up as prayed for in the OA 1001/93 is allowed in regard to the applicants therein. But the monetary benefit is limited from 1-9-90 (this OA was filed on 17-8-93). The OA is ordered accordingly. No costs./

CERTIFIED TO BE TRUE COPY.
.....
Date.....
Court Officer
Central Administrative Tribunal
Hyderabad Bench
Hyderabad

- To
1. The Chief General Manager,
Telecommunications, A.P.Hyderabad.
 2. The Director General, Union of India,
Dept.of Telecommunications,
Sanchar Bhavan, New Delhi.
 3. ^{Two} One copy to Mr.K.venkateswar Rao, Advocate, CAT.Hyd.
 4. One copy to Mr.v.Bhimanna, Addl.CGSC, CAT.Hyd.
 5. One copy to Library, CAT.Hyd.
 6. One spare copy.

pvm

Case No.	OA 974/93 & 1001/93
Date of filing	29.11.93
Copy sent to	Mr. K. Venkateswar Rao, Advocate, CAT, Hyd.

16
AN