

(51)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL: HYDERABAD BENCH
AT HYDERABAD

O.A. 943/93

Date: 22.1.1997

Between:

R. Amanulla Khan

... Applicant

And

1. Union of India, rep. by
Secretary, M/o Information &
Broadcasting,
Sasthri Bhavan, New Delhi.
2. The Director General,
All India Radio,
Aakashvani Bhavan,
Parliament Street,
New Delhi.
3. The Dy. Director,
Regional Training Institute(F),
All India Radio,
Damayanthi Chambers, 3rd floor,
No.5-9-42/1/4/H,
Adarshnagar, Hyderabad-83. Respondents

Mr. V. Venkateshwara Rao

.. Counsel for applicant

Mr. N.V. Ramana

.. Counsel for respondents
(absent)

CORAM

HON'BLE MR. JUSTICE M.G. CHAUDHARI, VICE CHAIRMAN

ORDER

The applicant () retired on superannuation from the service of the respondents on 31.8.93. His grievance is that while in service and after he was promoted to the post of Administrative Officer on 8.4.85 his pay was not stepped up on par with his junior as on that date and that his claim has been wrongly rejected by the respondents by their letter dated 23.9.92. He therefore prays for quashing the said letter and for a direction to the respondents to step up his pay in the scale of Rs. 650-960 with effect from 1.9.85 and corresponding revised scale of pay of Rs. 2000-3200 with effect from 1.1.86 with all consequential benefits including arrears.

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2. The facts are simple and are not in dispute. The applicant was initially appointed as a Clerk Grade-II (LDC) on 3.3.60 with the respondents. He was promoted to the post of Accountant in All India Radio on 12.7.76 in the scale of pay of Rs. 425-700. He was further promoted as Administrative Officer with effect from 3.3.84 on adhoc basis and he was appointed on regular basis in that post with effect from 8.4.85. On that date i.e. 8.4.85, his pay was fixed at Rs. 680/- in the pay scale of Rs. 650-980. Incidentally it may be mentioned that thereafter he was promoted as Senior Administrative Officer on 14.4.88 and Inspector of Accounts initially on adhoc basis on 1.11.89 in which post he was subsequently regularised.

3. In the all-India seniority list dated 9.8.80 whereas the applicant is ranked at Sl.No. 54, his junior, one Mr. RPS Chauhan, ranked at Sl.58. The said Chauhan was promoted as Accountant on 27.12.76 which was subsequent to the promotion of the applicant on 12.7.76. Even in the seniority list of Accountants applicant ranked at Sl.No. 21 and Chauhan ranked at 32. The said Chauhan however was promoted to the post of Administrative Officer on adhoc basis on 16.9.80. The applicant was promoted as A.O. on 3.3.84, i.e. subsequent to Chauhan on adhoc basis. Both of them were regularised as A.O. on the same date, i.e. 8.4.85. The pay of applicant was fixed at Rs. 680/- on 1.9.85 in the post of A.O. whereas the pay of Chauhan was fixed at Rs. 810/-.

4. The applicant submitted representations to remove the anomaly by stepping up of his pay. However, he was informed by letter dated 23.9.92 that his request could not be granted as it was not covered under the Rules.

5. The applicant contends that as he was admittedly senior and in as much as RPS Chauhan was junior but promoted earlier to

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the post of A.O. his, i.e. the applicant's, pay ought to be stepped up on par with that of Chauhan. The applicant had produced the seniority list mentioned above. He has also produced the option exercised by him on 16.2.83 indicating the various places where he was willing to be posted on adhoc basis as A.O. He therefore submits that the decision of the respondents is illegal and arbitrary.

6. The respondents although resist the application, the only contention of substance made by them is that since the officer junior to the applicant is drawing more pay than him due to the fact that he was promoted to the higher post on adhoc basis earlier and the increased pay drawn by the junior ~~due~~ due to adhoc officiating service rendered in a higher post for a period earlier than the senior is not treated to constitute anomaly under the rules for stepping up of the pay of the senior ~~inasmuch as~~ the anomaly does not arise due to the direct application of FR 22C, ^{hence} the claim of the applicant is not tenable.

7. After hearing Mr. Venkateswara Rao, the learned counsel for the applicant and examining the facts of the case, I am of the view that the stand taken by the respondents in the counter is not right. This is a case where clearly an anomaly arises which is required to be removed under FR 22C as was applicable at the material time. The three requirements under the said FR read with CCS (RP) Rules 1973 ^{material} stand for deciding this case. ^{satisfied in this case} and ^{not} Firstly, both the applicant ~~the~~ the junior officer, Chauhan, belonged to the same cadre of Accountant and they have been promoted to identical posts in the same cadre, i.e. A.O. Secondly, the un-revised as well as revised scales of pay of the lower as well as the higher posts, i.e. of Accountant and ~~Advs. Officer~~ have been the same i.e. Rs. 425 and Rs. 650 respectively. Thirdly, it is not a case where Chauhan, the junior officer, was drawing more pay in the un-revised scale than the senior by virtue of fixation of pay under the ~~normal~~ rules or any advance increments granted to him so as to warrant non-invocation of the

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said rules. Thus there arose an anomaly inasmuch as the applicant who was senior on his appointment to the higher post of A.O. was drawing a lower rate of pay in that post and the junior officer in the lower grade and appointed to the higher post is drawing higher pay as on the date on which both were regularly promoted as Administrative Officers on 8.4.85.

If the circumstance that the junior was promoted earlier to the applicant were to be taken into account and the pay earned on that basis were to form the basis, then, there was no question of any anomaly being contemplated and required to be removed under the FR itself.

8. The respondents do not appear therefore to have correctly applied their mind to the anomaly that has arisen due to direct application of FR 22C. Consequently ^{hold} that the anomaly is required to be removed and relief granted to the applicant as prayed. In the result, the following order is passed:-

O R D E R

- (1) The decision of the respondents dated 23.9.92 is quashed.
- (2) The respondents are directed to step up the pay of the applicant in the scale of pay of Rs. 650-960 with effect from 1.9.85 and corresponding revised scale of pay of Rs. 2000-3200 with effect from 1.1.86 on par with Shri RPS Chauhan in the cadre of Administrative Officer and extend the consequential benefits to the applicant including arrears of difference of pay and also to revise the pensionary benefits consistently with the re-fixation of pay.
- (3) The respondents are expected to comply with these directions within a period of three months from the date of receipt of a copy of this order.

9. The O.A. is allowed in the above terms. No order as to costs.

M.G. Chaudhari
M.G. Chaudhari (J)
Vice Chairman

22nd January, 1997

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5-287
Deputy Registrar (D) ce

O.A.943/93.

To

1. The Secretary, Ministry of Information and Broadcasting, Union of India, Sasthri Bhavan, New Delhi.
2. The Director General, All India Radio, Aakashvani Bhavan, Parliament Street, New Delhi.
3. The Deputy Director, Regional Training Institute (F) All India Radio, Damayanthi Chambers, 3rd floor, 5-9-42/1/4/H, Adarshnagar, Hyderabad.
4. One copy to Mr.V.Venkateswar Rao, Advocate, CAT.Hyd.
5. One copy to Mr.M.V.Ramana, Adml.CCSC.CAT.Hyd
6. One copy to Library, CAT.Hyd.
7. One spare copy.

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APPROVED BY

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH AT HYDERABAD

THE HON'BLE MR. JUSTICE M.G. CHAUDHARI
VICE-CHAIRMAN

AND

THE HON'BLE MR. H. RAJENDRA PRASAD
MEMBER (ADMN)

Dated: - - - 199

ORDER / JUDGMENT

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

in

O.A.No.

T.A.No.

(W.P.)

Admitted and Interim Directions
Issued.

Allowed.

Disposed of with directions

Dismissed.

Dismissed as withdrawn.

Dismissed for default.

Ordered/Rejected.

to order as to costs.

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