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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH : AT HYDERABAD.

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O.A. 1008/93.

Dt. of Decision : 22.3.1994.

B. Sankaraiah

.. Applicant

Vs

1. Personnel, Project Manager
South Central Railway,
Guntakal.

2. Divisional Commercial Supdt.,
South Central Railway,
Guntakal.

.. Respondents.

Counsel for the Applicant : Mr. G.V. Subba Rao

Counsel for the Respondents : Mr. G.S. Sanghi, SC for Rlys.

CORAM:

THE HON'BLE SHRI T. CHANDRASEKHARA REDDY : MEMBER (JUDL.)

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

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ORDER

As per Hon'ble Shri T.Chandrasekhara Reddy, Member (Judl.)

This is an application filed under section 19 of the Administrative Tribunals Act to direct the respondents to fix his pay on ~~not~~ par with his immediate junior Sri B.Satyanarayana and consequently pay the arrears of salary and allowances from the date ~~of~~ the said B.Satyanarayana was given higher rate of pay and to pass such other order or orders as may deem fit and proper in the circumstances -

2. The facts giving raise to this DA in brief are as follows:-

3. The applicant herein was appointed as Probationary Commercial Clerk on 3.7.1973 and on completion of training he was absorbed as Commercial Clerk. One B.Satyanarayana was also appointed as Probationary Commercial Clerk on 13.11.73 and on completion of training he was also appointed as Commercial Clerk. By fortutous circumstances, the said B. Satyanarayana who is junior to the applicant was posted to work as clerk in Transhipment Shed Guntakal which post carried an officiating allowance. The applicant at Guntakal was posted as parcel office clerk in due course. But the post of Parcel Office Clerk in Guntakal did not carry any officiating allowance like the post in the Transhipment shed at Guntakal. The applicant worked in Parcel Office Guntakal from 2.8.76 to 12.7.78, where as B.Satyanarayana worked as Transhipment Shed Clerk from 2.8.76 to 14.8.79. The said B.Satyanarayana also seems to have worked on adhoc basis as Sr.Assistant Transhipment Clerk in the higher scale of pay. So as the said B.Satyanarayana had worked as Transhipment Clerk which pos

carried officiating allowance and for some time also happened to work as Sr. Asst. Transhipment Clerk which was a promotional post from the post of Transhipment Clerk the pay of the said B. Satyanarayana was higher than that of the applicant herein. The applicant continued to work ~~as~~ ^{as} Commercial Clerk in the parcel office which is a lower post than that of the post of B. Satyanarayana worked. The applicant volunteered for a change of cadre and got posted as Ticket Collector on 15.8.79. Subsequently the applicant was considered for promotion to Sr. Ticket Collector w.e.f., 19.10.80. The said B. Satyanarayana who was junior to the applicant in the cadre of the Junior Commercial Clerk also volunteered for the post of Ticket Collector while working on a adhoc basis as Sr. Assistant Commercial Clerk. Accordingly the said B. Satyanarayana joined as Ticket collector on 15.8.79 and promoted as Sr. Ticket Collector w.e.f., 19.10.80. The applicant and the said B. Satyanarayana were promoted as Head Train Ticket Examiners. As the said Satyanarayana had worked in the post of Transhipment Clerk which post carried an officiating allowance and also as Sr. Asst. Transhipment Clerk on adhoc basis which is higher post than that of Asst. Transhipment Clerk and Jr. Commercial Clerk, the pay of the said B. Satyanarayana was higher than that of the applicant, when there was change of cadre the pay of the said Satyanarayana was fixed higher than the pay of the applicant herein in the post of Ticket Collector due to the fact that the said B. Satyanarayana was drawing higher pay than the applicant herein when the said Satyanarayana was appointed as Ticket Collector. Even though the applicant was senior to the said Satyanarayana due to the fact that the said

B.Satyanarayana had drawn certain emoluments than the applicant herein when he was working as Clerk in the Transhipment Shed and also as Sr. Assistaat transhipment Clerk an anomaly arose as the pay of the said Satyanarayana was higher than the applicant even though he was Junior to the applicant in the post of Ticket Collector. This anomaly continued in the post of Sr. Ticket Collector. At present also in the posts of Head Travelling Ticket Examiner in which the applicant and the said B.Satyanarayana are working this anomaly continues. So the applicant made a representation to the competent authority to remove this anomaly and fix the pay of the applicant on par with the said B.Satyanarayana his junior in the post of Sr. Ticket Collector/Travelling Ticket Examiner. The representation of the applicant did not find favour and so the applicant has approached this Tribunal for the reliefs as already indicated above.

4. Counter is filed by the respondents opposing this OA.

5. We have heard today Mr. Ethirajulu counsel for the applicant and Mr. G.S. Sanghi standing counsel for the respondents.

6. It is not in dispute that the applicant herein and Satyanarayana were appointed as Jr.Commercial Clerks on 3.7.73 and 3.11.73 respectively. It is also not in dispute that the said Satyanarayana is junior to the applicant in all respects in the cadre of Jr.Commercial Clerks. While so under fortutous circumstances while both of them were working at Guntakal, the said Satyanarayana was posted as clerk in the Transhipment Shed which post carried an officiating allowance. So in view of the officiating allowance that the said Satyanarayana was paid, even though he was working in the cadre as that of the applicant, the emoluments of the said Satyanarayana were higher than that of the applicant herein. The said

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B. Satyanarayana under similar fortutous circumstances happened to be promoted as Sr. Asst. Transhipment Clerk which is a promotional post from the post of Commercial Clerk. So in view of the promotion of the said Satyanarayana on adhoc basis as senior Transhipment Clerk, the pay of the said Satyanarayana was higher than that of the applicant who continued to be a junior to Commercial Clerk. The applicant and the said Satyanarayana were appointed as Ticket Collector. In the post of Ticket Collectors also the applicant continued to be senior to the said Satyanarayana and the seniority as in the grade of Junior Commercial Clerks was maintained in the post of Ticket Collectors. As already pointed out the same was the position in the post of Sr. Ticket Collector and at present also same in the position in the posts of Head Travelling Ticket Examiners. So as both the applicant and the said Satyanarayana were appointed in the same grade and also were appointed in the same grade as Ticket Collectors and both of them had been promoted as already pointed out as Sr. Ticket Collectors and Head Travelling Ticket Examiners at the same time the applicant is certainly entitled to receive the same pay as that of B. Satyanarayana who is junior to the applicant. We may point out the applicant was not at all responsible for appointment of the said B. Satyanarayana his junior, as Transhipment Clerk which post carried officiati allowance and also for the promotion on adhoc basis as Sr. Asst. Transhipment Clerk. Absolutely no material is placed before us to show that the applicant had been offe the post of Transhipment Clerk or that of Sr. Asst. Transhipment Clerk. The appointment of the said B. Satyanarayana seems to be at the instructions of the department strictly speaking the respondents if had gone by seniority and if the applicant had, been posted as Clerk in the Transhipment Clerk and also Sr. Asst. in the Transhipment Shed there would have been no anomaly in the

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pay of the applicant and B. Satyanarayana his junior. Because the respondents have posted the said Satyanarayana as Transhipment Clerk, and the said Satyanarayana who is junior to the applicant has been deployed as Senior Transhipment Clerk the action of the respondents had the effect of operating adversely to the interests of the applicant herein. As a matter of fact the applicant herein getting a lesser pay than that of his junior cannot be allowed to continue. In view of the facts and circumstances of the case, as already pointed out as the applicant and the said B. Satyanarayana were appointed to the same category and were promoted in the same cadre the ~~as~~ applicant and said Satyanarayana junior to the applicant, are entitled to draw identical pay. So the applicant ~~has~~ got a right for stepping up his pay equal to that of B. Satyanarayana. So the interests of justice would be met if a direction to the respondents is given to step up the pay of the applicant equal to that of Mr. B. Satyanarayana right from the date when the said B. Satyanarayana had been promoted as Travelling Ticket Examiner. The pleadings would go to show the applicant and the said B. Satyanarayana had been promoted as Travelling Ticket Examiner w.e.f 19.10.1980. So the applicant ~~has~~ got right for stepping up of his pay equal to that of B. Satyanarayana w.e.f 19.10.80. This OA is filed on 19.8.93. Bearing in mind the provision of section 21 of the Administrative Tribunals Act the applicant will be entitled to the actual monetary benefits only from one year prior to the filing of this OA i.e., from 19.8.92. In the result the respondents are directed to ~~not~~ step up

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notionally the pay of the applicant on par with his junior B.Satyanarayana in the post of TTE w.e.f., 19.10.1980 and grant the applicant notionally all consequential benefits in the post of TTE and also in the post of Head Train Ticket Examiner. Further, we direct the respondents to grant actual monetary benefits to the applicant w.e.f., 19.8.1992 which is one year from the date of filing of this OA. The OA is allowed accordingly. Parties shall bear their own costs.

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(H. RAJENDRA PRASAD)
MEMBER (ADMIN.)

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(T.CHANDRASEKHARA REDDY)
MEMBER (JUDL.)

Dated : The 22nd March 1994.
(Dictated in Open Court)

Deputy Registrar(J)CC

*Advocate
3-574*

To spr

1. The Divisional Railway Manager (Personnel)
S.C.Rly, Guntakal.
2. The Divisional Commercial Supdt., S.C.Rly, Guntakal.
3. One copy to Mr.G.V.Subba Rao, Advocate, CAT.Hyd.
4. One copy to Mr.G.S.Sanghi, SC for Rlys, CAT.Hyd.
5. One copy to Library, CAT.Hyd.
6. One spare copy.

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TYPED BY

COMPARED BY

CHECKED BY

APPROVED BY

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH AT HYDERABAD

THE HON'BLE MR.JUSTICE V.NEELADRI RAO
VICE CHAIRMAN

AND

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

THE HON'BLE MR.TOCHANDRASEKHAR REDDY
MEMBER(JUDL)

AND

H.Rajendra Prasad

THE HON'BLE MR.R.RANGARAJAN : M(ADMN)

Dated: 22-3-1994

ORDER/JUDGMENT

M.A.R.A./C.A./NO.

in

O.A.NO. 1008193

T.A.NO.

(w.p.)

Admitted and Interim Directions
Issued.

Allowed

Disposed of with directions

Dismissed.

Dismissed as withdrawn.

Dismissed for Default.

Rejected/Ordered.

No order as to costs.

