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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH

AT HYDERABAD

OA.1202/93

decided on : 30-11-94

BETWEEN

B.S.L. Kameswari

: Applicant

and

1. The Central Provident Fund
Commissioner
9th Floor, Mayuri Bhavan
Connaught Place
New Delhi

2. The Additional Central Provident
Fund Commissioner, South Zone
Barkathpura, Hyderabad

3. The Regional Provident Fund
Commissioner, Andhra Pradesh
Barkathpura, Hyderabad : Respondents

Counsel for the applicant : N. Ram Mohan Rao,
Advocate

Counsel for the respondents : Vilas Afzulpurkar
SC for PF Commission

HON. MR. JUSTICE V. NEELADRI RAO, VICE CHAIRMAN

HON. MR. R. RANGARAJAN, MEMBER (ADMN.)

O.A.No.1202/93.

Date: 30.11.1994.

J U D G M E N T

[as per Hon'ble Mr. Justice V. Neeladri Rao, Vice-Chairman]

Heard Sri N. Rama Mohan Rao, learned Counsel for the applicant and Sri Vilas V. Afzalpurkar, learned Standing Counsel for respondents.

2. This OA was filed praying for declaration that the action of the respondents in not treating and conferring parity of treatment on the applicant in the matter of regular promotion as Head Clerk (Section Supervisor) with effect from 11.1.1991, the date on which her juniors were so promoted on regular basis is unconstitutional, unsustainable and arbitrary and for consequential direction to the respondents to treat the applicant as having been promoted on regular basis as Head Clerk in Andhra Pradesh Region with effect from 11.1.1991, and for assigning her appropriate rank in the seniority list of regular Head Clerks of Andhra Pradesh Region on that basis and for all other benefits; and for further direction to the respondents to re-fix her pay and allowances in the category of Head Clerk with effect from 30.9.1992 after arriving at notionally from the stage it stopped in the category of Head Clerk on 2.12.1985 when she was relieved in A.P. Region and for consequential direction to pay her salary and allowances at the revised rates from 30.9.1992 onwards.

3. The facts which are relevant and material are not in controversy and they are as under:-

The applicant joined service as L.D. Clerk on 5.11.1968 in Employees Provident Fund Organisation (EPF for short) in Andhra Pradesh Region. In due course, she was

promoted as U.D.C. on 22.2.1973. She was further promoted as Head Clerk on adhoc basis on 11.11.1992. She submitted an application on 26.2.1985 seeking transfer to the Regional office, Madras. The Director (Personnel & Training) through Memo dt. 7.11.1985 permitted her transfer subject to the following conditions:-

- (i) The pay of the applicant will remain the same as in the post of Head Clerk in the Regional Office, Hyderabad (later on it was corrected by way of corrigendum wherein it was stated that the pay of the applicant will be fixed in the scale of pay applicable to the UDC from the time she joins in Madras Region),
- (ii) She is not entitled to the TA or joining time and she will be placed as the junior-most UDC in Madras Region, and
- (iii) She is permitted to retain her lien in the Regional office, A.P.Region, Hyderabad.

3. The applicant was relieved in A.P.Region on 2.12.1985 and she joined in Madras Region on 9.12.1985. When her juniors in the A.P.Region were promoted as Head Clerk on regular basis with effect from 11.1.1991, the applicant was asked to exercise her option to come over to A.P.Region by way of promotion in the post of Head Clerk or she may continue as UDC in Madras Region. Then, the applicant opted to come over to A.P.Region. On 5.8.1992 an order was issued posting the applicant as UDC in Andhra Pradesh Region and ~~then~~ she joined on 14.8.1992 as UDC in A.P.Region. On ²⁹⁻~~30-~~9.1992, the applicant was promoted as Head Clerk in Andhra Pradesh Region and she assumed that post on ²⁰⁻⁹⁻⁹²~~the same day~~. When the applicant's claim for preponing the date of her regular promotion to 11.1.1991 the date on which her juniors were promoted on regular basis, was rejected, this OA was filed.

4. ~~An~~ Order bearing No.AP/Adm.II/HC(Regular)/(SQ)/94 dated 28.11.1994 was issued by R-3. The operative portion of the said order is as under:-

"Accordingly, Smt.B.S.L.Kameswari is promoted to the post of Head Clerk on a long term (regular) basis notionally with effect from 11.1.1991 i.e. the date on which the officials junior to her promoted as such and her seniority in the cadre of Head Clerk is retained at Sl.No.96 of recast seniority list of Head Clerk circulated vide this office Circular No.AP/Adm.II/Snty/(HC)/94/758 dt. 9.6.1994. She is entitled for fixation of pay notionally as per rules. However, monetary benefits shall be given only from the date on which she actually assumed the charge of the post of Head Clerk i.e., from 30.9.1992."

It is thus clear that the applicant was given notional promotion with effect from 11.1.1991, the date on which the ~~official~~ juniors to her were promoted as such. It is also made clear therein that her seniority in the cadre of Head Clerk is retained at Sl.No.96. It is even stated ^{for applicant} that the ~~immediate~~ junior of the applicant who was promoted as Head Clerk on 11.1.1991 is shown at Sl.No.97 in the seniority list. Thus, it is clear that the rank of the applicant was properly shown in the seniority list so as to be in accordance with the date of her notional promotion as ^{on} 11.1.1991. Thus, there cannot be any apprehension that her turn for promotion will not be determined on the basis of her promotion as Head Clerk on 11.1.1991.

5. It is also stated in the above order that the applicant is entitled to monetary benefits with effect from 30.9.1992

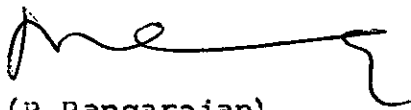
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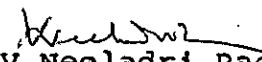
(49)

on refixation of her pay in the category of Head Clerk due to preponement of her promotion as Head Clerk to 11.1.1991 on notional basis. As the applicant assumed the charge in the post of Head Clerk on regular basis on 30.9.1992 and ^{give pending} ~~the ante-dating~~ of her promotion was only on notional basis, it is stated that the monetary benefits will be given from 30.9.1992. It means that the difference in pay on re-fixation due to the preponement of promotion on notional basis will be given from 30.9.1992, the date on which the applicant assumed the charge of the post of Head Clerk on regular basis. Even the relief claimed in the OA is to that effect.

6. As the order dt. 28.11.1994 issued by the respondents is in regard to both the reliefs claimed in this O.A., no further directions need be issued.

7. Accordingly, the O.A. is disposed of. No costs./


(R. Rangarajan)
Member (Admn.)


(V. Neeladri Rao)
Vice Chairman

Dated 30th Nov., 1994.
Dictated in the open court.


Deputy Registrar(J)CC

Grh.

Note: The order No. AP/Adm. II/HC(Regular)/(SQ)/94 dt. 28.11.1994 issued by R-3 may be treated as a part of record.

To

1. The Central Provident Fund Commissioner,
9th Floor, Mayuri Bhavan, Cannaught Place, New Delhi.
2. The Additional Central Provident Fund Commissioner,
South Zone, Barkatpura, Hyderabad.
3. The Regional Provident Fund Commissioner,
A.P. Barkatpura, Hyderabad.
4. One copy to Mr. N. Rammohan Rao, Advocate, CAT. Hyd.
5. One copy to Mr. Vilas Afzulpurkar SC for P.F. CAT. Hyd.
6. One copy to Library, CAT. Hyd.
7. One spare copy.

pvm

TYPED BY

CHECKED BY

COMPARED 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. R. RANGARAJAN : M(ADMIN)

DATED: 30-11-1994

~~ORDER~~/JUDGMENTN:

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

in

O.A.No.

1202/93

T.A.No.

(w.p.)

Admitted and Interim directions
issued.

Allowed.

Disposed of with directions.

Dismissed.

Dismissed as withdrawn

Dismissed for default.

Ordered/Rejected

No order as to costs.

DVM

No spare copy

