

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL: HYDERABAD BENCH:
AT HYDERABAD

ORIGINAL-APPLICATION-NO.156-OF-1993

DATE-OF-ORDER: 13th-March, 1997

BETWEEN:

H.J.K.MURTHY

.. APPLICANT

AND

1. Union of India rep. by the Secretary
to Govt. of India, Ministry of Finance,
Dept. of Economic Affairs,
New Delhi,
2. The General Manager,
Govt. of India Security Printing Press,
Hyderabad 500 004,
3. Mr.N.S.Ranganath.

.. RESPONDENTS

COUNSEL FOR THE APPLICANT: N.RAMA MOHAN RAO

COUNSEL FOR THE RESPONDENTS: Mr.N.V.RAGHAVAREDDY, ADDL.CGSC
Mr.KSR Anjaneyulu for R-3

CORAM:

HON'BLE SHRI R.RANGARAJAN, MEMBER (ADMN.)

HON'BLE SHRI B.S.JAI PARAMESHWAR, MEMBER (JUDL.)

ORDER

ORAL ORDER (PER HON'BLE SHRI R.RANGARAJAN, MEMBER (ADMN.))

Heard Mr.N.Rama Mohan Rao, learned counsel for the
applicant and Mr.N.V.Raghava Reddy, learned standing counsel
for the respondents 1 and 2. None for R-3.

2. The applicant in this OA was the ^{party} respondent in OA
300/93 which was disposed of on 13.2.97. The facts of this
case have been fully explained in ^{the judgement in} OA 300/93. Hence it is
not necessary to bring out the full facts in this OA. Those
who are going through this ^{judgement} will no doubt call for OA

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[Signature]

300/93 to know the full facts. However, a short gist of the facts relevant to the present OA is given below:-

The applicant in this OA is R-3 in OA 300/93 and R3 in this OA is the applicant in OA 300/93. R-3 was promoted as Administrative Officer with effect from 15.6.89 by Diary Order No.18 dated 15.6.89. The applicant in this OA challenged that promotion by filing OA 505/89 on the file of this Bench which was disposed of on 6.7.89 by directing him to exhaust the departmental channels of appeal before approaching the judicial forum. Hence in pursuance of that direction, he filed an appeal to the Joint Secretary (C&C), Ministry of Finance on 15.7.89 challenging R-3's regularisation as Accountant from 9.8.83 and claiming seniority over R-3 and requesting his appointment to the post of Administrative Officer/Accounts Officer. That the applicant's appeal was rejected on the ground that the case of / was also considered alongwith other eligible candidates by the DPC. Thereafter, the applicant filed OA 9/90 on 28.12.89 on the file of this Bench challenging the promotion of R-3 as Administrative Officer vide Diary Order No.18 dated 15.6.89 and also against the rejection of his appeal by the Joint Secretary (C&C).

4. OA 9/90 was allowed on 11.6.90 and it was held inter alia that the regularisation of R-3 as Accountant in SPP with effect from 9.8.83 had no basis at all and that R-3 could not be regularised as an exception in the absence of the recruitment rules. Further ~~the promotion of R-3 herein as Administrative Officer vide Diary Order No.18 dated 15.6.89 was also set aside as also the decision of the JS (C&C) in rejecting the appeal of the~~

applicant. A further direction was also given to consider regularisation of the applicant and R-3 herein in accordance with the rules. It was also directed that issue of promotion to the post of Administrative Officer/Accounts Officer should be decided as-of-15.6.1989.

5. In view of the above direction, R-3 was reverted to the post of Accountant with effect from 1.8.90 in terms of the Diary Order NO.10 dated 1.8.90. Thereafter, a selection committee was convened on 22.12.92 forenoon to consider the fixation of interse seniority between the applicant and R-3 as Accountant and that committee had decided that R-3 herein is senior to the applicant as Accountant in SPP, Hyderabad. Both the applicant and R-3 were regularised with effect from 30.6.87 as Accountants placing R-3 senior to the applicant.

6. The DPC for Group-B met on 24.2.93 recommended the case of the applicant for promotion to the post of Administrative Officer.

7. This OA is filed to modify the date of promotion of the applicant as Administrative Officer to be effective from 15.6.89 as per direction in OA 9/90 instead of 24.2.93, the date from which the applicant was promoted on the basis of the DPC which met on 24.2.93 and for consequential direction to fix his pay and allowances in the post of Administrative Officer effective from 15.6.89 and on that basis declare the applicant as entitled for payment of arrears of salary and allowances from 24.2.93.

8. The applicant had⁹ retired from service on 31.5.94. Challenge to the promotion of R-3 was allowed in OA 9/90.

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The review filed in that OA was also dismissed. In view of the above development, the applicant was promoted on 24.2.93 on the basis of the fresh DPC held on 24.2.93. The applicant also taken over the charge of Administrative Officer from 24.2.93. When the OA 9/90 was disposed of by the order dated 11.6.90, it was held in that order that the issue of promotion to the post of Administrative Officer/Accounts Officer should be decided as on 15.6.89. Though the applicant was promoted with effect from 24.2.93, it has to be related to the earlier date of 15.6.89 in view of the direction given in OA 9/90 decided on 11.6.90. Hence it has to be held that the applicant was to be notionally promoted on proforma basis with effect from 15.6.89. This would mean that the date of promotion of the applicant should be preponed to 15.6.89 from the later date of 24.2.93. The above view is also in order as the challenge to the promotion of R-3 with effect from 15.6.89 was upheld in OA 9/90 and that would mean that the applicant is deemed to be promoted from the date R-3 was promoted provided he is found fit. The applicant was found fit for promotion by the DPC immediately held on 24.2.93 after the delivery of the judgement in OA 9/90. Challenge to the promotion of the applicant as Administrative Officer by R-3 in OA 300/93 is also dismissed.

8. R-3 worked in that post right from 15.6.89. The Government cannot be asked to pay for two persons in a post. Hence it will be incongruent if a direction to pay the applicant also as Administrative Officer with effect from 15.6.89 is issued. However, the applicant having established his right to be promoted with effect from

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15.6.89, ^{the same} cannot be denied even his notional pay fixation related to the earlier period with effect from 15.6.89. It will be in order if the applicant is allowed to get his pay fixation in the grade of Administrative Officer with effect from 15.6.89 on notional basis and draw pay in the grade of Administrative Officer with effect from 24.2.93, the date from which he actually shouldered the higher responsibilities on the basis of notional pay fixation with effect from 15.6.89. It goes without saying that his pension will be drawn on the basis of the last pay drawn as per the fixation indicated above.

9. In the result, the following direction is given:-

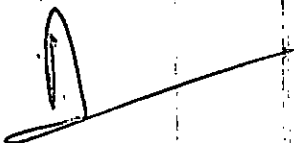
(i) The promotion of the applicant to the post of Administrative Officer should be deemed to be preponed to 15.6.89 from the actual date of promotion namely 24.2.93.

(ii) His pay in the grade of Administrative Officer should notionally be fixed with effect from 15.6.89 and his actual pay should be determined on that basis with effect from 24.2.93 when he was promoted as Administrative Officer and shouldered higher responsibilities from that date.


(iii) He is entitled to draw his pension as per the last pay drawn on the basis of his pay fixation as indicated above in accordance with the rules.


(iv) Arrears, if any, arising out of the above direction should be paid to him within four months from the date of receipt of this order.

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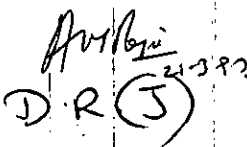
10. The OA is ordered accordingly. No order as to costs.


(B.S. JAI PARAMESHWAR)
MEMBER (JUDL.)
13.3.97


(R. RANGARAJAN)
MEMBER (ADMN.)

DATED:-13th-March,-1997
Dictated in the open court.

vsn


D.R. (J)
21.3.97

9/4/97
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TYPED BY

CHECKED BY

COMPARED BY

APPROVED BY

THE CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH HYDERABAD

THE HON'BLE SHRI R. RANGARAJAN: M(A)

AND

THE HON'BLE SHRI B.S. JAI PARAMESHWAR:
M(J)

DATED:

13/3/97

ORDER/JUDGEMENT

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

O.A.No. 156/93 in

ADMITTED AND INTERIM DIRECTIONS ISSUED
ALLOWED

DISPOSED OF WITH DIRECTIONS

DISMISSED

DISMISSED AS WITHDRAWN

ORDERED/REJECTED

NO ORDER AS TO COSTS.

II COURT

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केन्द्रीय प्रशासनिक अधिकरण
Central Administrative Tribunal
बेचन/DESPATCH

31 MAR 1997

हैदराबाद बेंच
HYDERABAD BENCH