

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH

AT HYDERABAD

O.A.No. 212/93

Date of Order: 16.3.1993

BETWEEN :

Smt. T. Madhubala

... Applicant.

A N D

Regional Director
Employee's States
Insurance Corporation,
Hill Fort Road,
Adarshnagar,

Counsel for the Applicant

... Mr. B. S. Rahi

... Mr. N. K. Devraj

CORAM:

HON'BLE SHRI T. CHANDRASEKHARA REDDY MEMBER (TENTH)

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Order of the Single Member Bench delivered by
Hon'ble Shri T.Chandrasekhara Reddy, Member (Jud1.).

This is an application filed under Section 19 of the Administrative Tribunals Act to direct the respondents to step up and refix applicant's pay as U.D.C. equal to the pay of his junior (P.K.K.Murthy) and to pay arrears on such refixation and to pass such other order or orders as may deem fit and proper in the circumstances of the case.

The facts giving rise to this O.A. in brief are as follows:-

2. The applicant was appointed as L.D.C. in the Corporation of respondents on 3.1.1974. The applicant was promoted as U.D.C. on regular basis on 18.7.1981. One Sri P.K.K.Murthy who is junior to the applicant was promoted as L.D.C. on 28.4.1976 in the respondents corporation. He too was promoted as U.D.C. on regular basis on 18.7.1981. As Sri P.K.K.Murthy junior to the applicant was promoted on adhoc basis as U.D.C. earlier than the applicant, the pay of the said Sri P.K.K.Murthy was fixed at a higher rate than that of the applicant when the applicant was regularly promoted as U.D.C. on 18.7.1981. As junior to the applicant was promoted on adhoc basis earlier than the applicant, and when the applicant was promoted on regular basis, an anomaly arose as the pay of the applicant was less than that of his junior Sri P.K.K.Murthy. This disparity in pay had continued. So, the present O.A. is filed by the applicant for the relief as already indicated above.

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3. Counter ^{not} filed by the respondents opposing this O.A. Today we have heard Mr. B.S. Rahi, for the applicant and Mr. V. Rajeswara Rao for Mr. N.R. Devraj, for the respondents.

4. The question of limitation is raised in the O.A. It is well settled that with regard to the fixation of pay and grant of pensionary benefits there cannot be any question of limitation as the grievance would be of continuous nature. So, in view of this position, we are of the opinion that it is not open for the respondents to raise in this O.A. the point of limitation. But no doubt, the parties that approach the Tribunal are governed by the provisions of Section 21 of the Administrative Tribunals Act, which deals with the question of limitation. As we are dealing with the case of continuous grievance, in view of the provisions of ~~the~~ ^{monetary} benefits that are to be granted to the applicant are to be restricted only for a period of one year prior to the filing of this O.A.

5. The following facts are not in dispute in this O.A. (1) The applicant, and the said Sri P.K.K. Murthy (junior to the applicant) belong to the same category and the post for which they are appointed and promoted are identical and are in the same cadre. (2) the scale of pay of the lower post (L.D.C.) and higher post (U.D.C.) in which the applicant, and the P.K.K. Murthy junior to the applicant are entitled to draw pay, are identical. Sri P.K.K. Murthy though was junior to the applicant, due to the adhoc promotion purely under fortuitous circumstances, had earned certain increments. That is how the pay of the said Sri P.K.K. Murthy, junior to the applicant had became higher than that of the applicant. But it is not in dispute that said Sri P.K.K. Murthy was regularly promoted as U.D.C. on 18.7.1981 and where as the ^{the} ~~on regular basis~~ applicant was promoted as U.D.C. on 18.7.1981. So, as the

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applicant and the said Sri Murthy were recruited into service in the respondents corporation in the same cadre and in the same grade and their pay scale is identical in all respects both in the lower grade and in the higher grade. There cannot be any doubt about the fact that the applicant herein is entitled for stepping up of his pay equal to that of Sri P.K.R.Murthy junior to the applicant w.e.f 18.7.81 on which date the said P.K.R.Murthy as already pointed out had been regularly promoted as U.D.C. So, the applicant is entitled to get his pay fixed notionally on par with his junior Sri P.K.R.Murthy w.e.f 18.7.1981. Besides the applicant will also be entitled for all notional benefits w.e.f. 18.7.81 not only in the post of U.D.C. but also in other posts in which the applicant had been promoted. But as already pointed out the applicant will be entitled to actual monetary benefits only from one year prior to the filing of this O.A. i.e. from 12.3.92 and hence a direction is liable to be given to the respondents on the lines indicated above.

6. Hence, the respondents are hereby directed to step up notionally the pay of the applicant on par with his junior Sri P.K.R.Murthy in the post of U.D.C w.e.f. 18.7.1981 and grant all notional benefits in the post of U.D.C. and the other post/posts to which the applicant was promoted. Further we direct the respondents to grant actual monetary benefits to the applicant w.e.f. 12.3.92 which is one year from the date of filing of this O.A. O.A. is allowed accordingly. The other reliefs with regard to payment of interest etc. are refused. The parties shall bear their own costs.

T. Chandrasekhar Reddy
(T. CHANDRASEKHARA REDDY)
Member (Jud1.)

Dated: 10th March, 1993

(Dictated in Open Court)

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Deputy Regd. Stamps (5)

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.K.BALASUBRAMANIAN :
MEMBER(ADMN)

AND

THE HON'BLE MR.T.CHANDRASEKHAR
REDDY : MEMBER(JUDL)

DATED: 16-3-1993

ORDER/JUDGMENT

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

in

O.A.No. 212/93

T.A.No.

(W.P.No)

Admitted and Interim directions
issued.

Allowed.

Disposed of with directions
Dismissed as withdrawn.

Dismissed

Dismissed for default.

Ordered/Rejected.

No order as to costs.

pvm

