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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL: HYDERABAD BENCH:
AT HYDERABAD

ORIGINAL APPLICATION NO. 838 OF 1994

DATE OF ORDER: -- 1st JULY, 1997

BETWEEN:

1. C.R. RAO,
2. P.V. SUBBA RAO,
3. V.V. SITARAMA DAS,
4. V.N. MURTHY

.. APPLICANTS

AND

1. The Chief General Manager, Telecom,
Andhra Pradesh, Hyderabad,
2. The Director General, Telecom,
Sanchar Bhavan, New Delhi,
3. Union of India represented by the
Secretary to the Ministry of Telecom,
New Delhi.

.. RESPONDENTS

COUNSEL FOR THE APPLICANTS: Mr. K. VENKATESWARA RAO

COUNSEL FOR THE RESPONDENTS: Mr. N. R. DEVARAJ, Sr. CGSC

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. K. Venkateswara Rao, learned counsel for the applicants and Mr. N. R. Devaraj, learned standing counsel for the respondents.

2. There are four applicants in this OA. The 1st applicant was posted to officiate in the Junior Administrative Grade (JA Grade) in accordance with the

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order No.371-70/90-STG-III dated 8.1.92 vide Office Memorandum No.2-3/92-SEA dated 17.3.92 (Annexure A-II at page 10 to the OA). The applicants 2 and 4 were similarly asked to officiate in the JA Grade by the letter No.TA/STA/72-26/1 dated 7.10.93 (Annexure A-IV at page 13 to the OA). The applicant No.3 was similarly asked to officiate in the JA Grade by the letter No.TAC/FC-2/17 dated 19.7.93 (Annexure A-V at page 14 to the OA). All the applicants were given the charge allowance for holding the JA Grade post in terms of the impugned order No.TA/STA/72-1/II dated 10.3.92 (Annexure A-1 at page 7 to the OA). The applicants in this OA submit that they were asked to ~~the JA Grade for over 90 days and hence they~~ are entitled for the pay and allowances applicable to ~~that~~ grade and paying them the charge allowance in terms of the impugned letter No.317-17/90-STG-III, dated 8.1.92 is irregular and cannot be sustained. They submit that they had discharged the duties for over one year in the JA Grade getting the charge allowance only. All of them ^{had} ~~were~~ retired during 1994-95. This OA was filed on 28.6.94. None of the applicants ^{had} ~~have~~ filed any representation when they were paid only the charge allowance while officiating in the JA Grade.

3. This OA is filed challenging the letter No.317-17/90-STG-III dated 8.1.92 as illegal, arbitrary and for a consequential direction to fix their pay in the scale of pay of Rs.3700-5000 of the JA Grade and pay them accordingly.

4. No reply has been filed in this OA though more than three years had elapsed after filing this OA. The

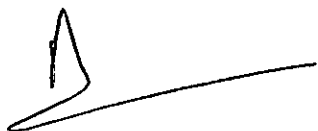
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learned standing counsel for the respondents submitted orally in this connection at the time of hearing. He submitted that the applicants were in the know of the things that they are to be paid only the charge allowance as incorporated in the letter and hence they cannot demand the pay scale of JA Grade from the date they were asked to officiate in the JA Grade. Further it was pleaded by him that the applicants have not submitted any appeal in this connection. Hence the learned standing counsel for the respondents submits that their cases have been dealt with in accordance with the existing instructions at that time and thus they cannot question the same at this late~~d~~ stage.

5. Though the respondents submit that at the late hour they questioned the validity of the order for granting them the charge allowance they have not explained as to why the reply on those lines ^{could} ~~cannot~~ be submitted in time. The only explanation given by Mr.N.R.Devaraj in this connection is that the reply has to come from Delhi and as the reply has not come, it has not been filed. It is a fact that many of the OAs filed in this Tribunal requires reply from Delhi. When the reply in those ~~case~~ ^{cases} can be filed, we do not see any reason for not filing the reply in this connection. The learned counsel for the applicants submits that as the respondents have no case, they did not file the reply intentionally. The learned counsel for the applicants further submits that non filing of the reply has to be taken as admission of the relief in this case and hence the relief should be granted to the applicants herein.

6. It was brought to our notice that the said impugned letter dated 8.1.92 had been withdrawn later in

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the year 1995, but after retirement of the applicants herein. It is not known why that letter was withdrawn. But it is not necessary for us to look into that aspect in this OA. The letter dated 8.1.92 clearly stipulates that the charge allowance is only to be paid if they are holding the officiating JA Grade posts for a period of 90 days. The applicants submit that they have worked for more than a year in this grade and hence that letter is not applicable to them.

7. The second contention of the applicants is that in a similar case, viz, in the case of one Shri G.V.Sastry, that grade was given though he was specifically asked to officiate only for 90 days. This document is enclosed as Annexure A-IX at page 17 to the OA.

8. It is also brought to our notice that earlier to 1991, the employees who were asked to officiate in the JA Grade were given the scale of pay equivalent to the JA Grade. The impugned letter had also been withdrawn after 1995. So it was contended by the applicants that only those who have asked to officiate in the JA Grade in-between 1994-95 were given the charge allowance and hence such a discrimination is not called for. This contention also needs elaborate consideration by the respondents.

9. As stated earlier, the applicants have not represented their case. When the alternative remedy is available, it has to be exhausted before approaching this Tribunal in terms of the Central Administrative Tribunal (Procedure) Rules. But that can be relaxed if the Tribunal

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feels that the alternative remedy is not effective and not considered necessary in certain cases. But in this case, we feel that there is no reason to believe that the alternative remedy is not effective. In view of the fact that the impugned letter dated 8.1.92 had already been withdrawn by the later letter of DoT as stated by the applicants, it is a fit case to refer this back to R-3 to reconsider the issue and decide ^{the request of the applicants} in a fair and equitable manner. We do not consider it necessary at this stage, especially when the applicants ^{have} ~~are~~ retired, to direct the applicants to file a representation. The OA itself is self explanatory. R-3 should treat this OA as a representation from the applicants ⁱⁿ accordance ^{with} ~~the~~ fixation of their pay in JA Grade when they were asked to officiate in that grade. As the applicants had already ~~been~~ retired it is essential that R3 should dispose of their case within a period of three months from the date of receipt of a copy of this order.

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

R-3 should consider the case of the applicants for granting them the scales of pay equivalent to Junior Administrative Grade treating this OA itself as a representation from them and dispose of the same within three months from the date of receipt of a copy of this judgement. If R-3 is going to reject their case, he should give a speaking order addressed to each of the applicants through their ^{learned} counsel before the expiry of the period indicated above.

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TYPED BY
COMPARED BY

CHECKED BY
APPROVED BY

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD

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

AND

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

DATED: 1/7/92

ORDER/JUDGEMENT

M.A./R.A/C.A.ND.

in

D.A.NO.

83 Day

Admitted and Interim directions
Issued.

Allowed

Disposed of with directions,

Dismissed

Dismissed as withdrawn

Dismissed for default

Ordered/Rejected.

No order as to costs.

YLKR

II Court.

केन्द्रीय प्रशासनिक अधिकरण
Central Administrative Tribunal

प्रेषण/DESPATCH

16 JUL 1992

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HYDERABAD BENCH