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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH

AT HYDERABAD

O.A.No.90/94

Date of Order: 13.12.94

BETWEEN:

D.Mallikharjun Rao

.. Applicant.

A N D

1. Union of India, represented by
The Secretary and the
Director General,
Department of Posts,
Government of India,
New Delhi - 110 001.
2. The Chief Postmaster General,
A.P.Circle, Hyderabad-500 001. .. Respondents.

— — —

Counsel for the Applicant

.. Mr.K.S.R.Anjaneyulu

Counsel for the Respondents

.. Mr.N.R.Devraj

— — —

CORAM:

HON'BLE SHRI A.B.GORTHI : MEMBER (ADMN.)

— — —

O.A.No.90/94

Date of Order: 13.12.94

X As per Hon'ble Shri A.B.Gorthi, Member (Admn.) X

The applicant, who was an approved G.C.S. Group 'B' Officer allotted to A.P.Circle of Department of Posts was posted as Assistant Director (PLI-II) vide the order of the Chief Post Master General, A.P.Circle, Hyderabad dated 20.12.91. He continued in that post till he was transferred and posted as A.D. (A) in the office of the Chief Postmaster General, A.P.Circle vide order dt. 2.4.92. He continued as AD (A) till the date of his superannuation on 28.2.94. His claim in this application for a direction^{is} to the respondents to grant him Rs.200/- p.m. special pay for the period that he worked as Assistant Director (PLI-II) and Assistant Director (A).

2. Heard learned counsel for both the parties.

Mr.K.S.R.Anjaneyulu, learned counsel for the applicant has in support of the claim of the applicant stated that all the previous and subsequent incumbents in the post of Assistant Directors were given the special pay whereas the applicant was denied the same. He also contended that the post of Assistant Director carried~~not~~ ^{it} with higher responsibilities for which Rs.200/- a special pay was allowed and hence the same should have been given to the applicant also. The respondents unfairly denied the special pay to the applicant on the sole and untenable ground that the applicant was G.C.S. Group 'B' Officer and not a P.S.S. Group 'B' Officer and that the special pay of Rs.200/- p.m. is admissible only to the later category of officers.

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3. Mr.N.R.Devraj, learned standing counsel for the respondents objected to the very maintainability of the OA on the ground that the applicant's grievance arose in December, 1991 when he was posted as Assistant Director (PLI-II) and when in the posting order itself it was stated that the post of Assistant Director (PLI-II) was converted from P.S.S. Group 'B' to G.C.S. Group 'B' without special pay. The applicant having known the implication of the said order kept quiet till he reached the age of superannuation and approached the Tribunal only a few days prior to his retirement.

4. It has been further contended by the respondents' counsel that as per the policy laid down by the government, it was only a P.S.S. Group 'B' Officer when posted to Circle Office would be entitled to the special pay of Rs.200/-. The said special pay was initially fixed at Rs.100/- p.m. but with the implementation of the 4th Pay Commission Recommendation it was enhanced to Rs.200/-p.m. He clarified that P.S.S. Group 'B' Officers acquired vast experience in the field and with a view to have the benefit of such experience in their new appointment as Assistant Directors, the incentive of Rs.200/- p.m. special pay was introduced. It is thus contended by the respondents that the applicant who was already a G.C.S. Officer would not be entitled to the special pay of Rs.200/- p.m.

5. From the record it is seen that the applicant submitted a representation dt. 3.4.93 praying for grant of special pay. Mr.K.S.R.Anjaneyulu submits that the applicant had been making oral representations prior to that date. In any case the fact remains that the applicant submitted his representation on 4.3.93 and also on 12.7.93 but the respondents chose not to respond to the said representations. Consequently the applicant approached the Tribunal with the

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present OA on 25.1.94. In these circumstances I am inclined to consider the case on merits rather than dismiss it on the technical ground of limitation.

6. As regards the grant of special pay, the Government instructions are very clear and they refer only to the grant of Rs.200/- p.m. as special pay to P.S.S. Group 'B' Officers when posted in Circle Office as Assistant Directors. Admittedly the applicant was a G.C.S. Group 'B' Officer and not a P.S.S. Officer and as such is not covered by the Government instructions on the subject. The argument of Mr. Anjaneyulu however is that the applicant though a G.C.S. Group 'B' Officer was in the same scale of pay as that of a P.S.S. Group 'B' Officer, i.e. Rs 2000/-3500. His contention is that when a P.S.S. Group 'B' Officer is posted as an Assistant Director and given the special pay of Rs.200/- there can be no justification for denying same benefit to a G.C.S. Officer when similarly posted as an Assistant Director. In otherwords his contention is that the applicant would be entitled to the special pay of Rs.200/- p.m. on the principle of "equal pay for equal work". We are shown the extracts of the report of the Committee for Review of special pay - June 1976, which read as under:

"Special Pay to P.S.S. Class II Officers when posted in Circle Office. (Existing Special Pay...Rs.100/-p.m.)

P.S.S. Class II officers when posted as Asst. Director of Postal Services in the Circle Office are being granted special pay of Rs.100/-p.m. vide P&T Directorate letter No.P.E.9-9/50 dated 6-8-50. The original file is stated to be not traceable. It is, however, understood that the following are the main considerations for which the special pay was sanctioned:-

a) The Asst. Director of Postal Services in the Circle Office is given higher responsibilities than those attached to the P.S.S. Class II officer

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in the field; he helps in interpreting and supervising interpretation of the policies laid down by the Directorate.

- b) He exercises certain financial powers on behalf of the Head of the Circle under the internal delegation of such powers.
- c) He also exercises certain administrative powers on behalf of the Head of the Circle and issues decisions in regard to certain matters which are outside the powers of the Divisional Superintendent.

All these considerations continue to exist even now. Therefore, we are of the opinion that sanction of special pay to the P.S.S. Class II officer posted as Asst. Director of Postal Services in Circle Office, is fully justified."

7. The above extracts would clearly indicate that the special pay was sanctioned essentially for the reason that the Assistant Director of Postal Services in the Circle Office has higher responsibilities and helps in interpreting and supervising interpretation of the policies laid down by the Directorate. He exercises certain important financial and administrative powers on behalf of the Head of the Circle. Obviously the applicant too while holding the post of Assistant Director in the Circle Office shouldered those higher responsibilities and exercised the important financial and administrative powers attached to the said post. It is from this point of view I find that the applicant is entitled to equal pay for equal work and that to deny him the same would amount to such discrimination as is violative of Article 14 of the Constitution.

8. It is well settled that the principle of equal pay for equal work is no longer an abstract doctrine and that it is a vital and vigorous doctrine accepted throughout the world. (Randhir Singh v. Union of India 1982 3 SCR 298 prefers). Further the Supreme Court had the occasion,

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Copy to:

1. The Secretary and Director General,
Dept. of Posts, Government of India,
New Delhi - 110 001.
2. The Chief Post Master General,
A.P.Circle, Hyderabad - 500 001.
3. One copy to Mr.K.S.R.Anjaneyulu, Advocate, CAT, Hyderabad.
4. One copy to Mr.N.R.Devraj, Sr.CGSC, CAT, Hyderabad.
5. One copy to Library, CAT, Hyderabad.
6. Copy to All the Benches, as per the list CAT, Hyderabad.
7. Copy to All the Reporters as per the list of CAT, Hyderabad.
8. One spare copy.

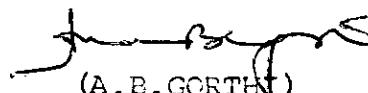
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in Bhagwati Prasad v. Delhi State Mineral Development Corporation AIR 1990 SC 371, that the principle of equal pay for equal work would be attracted even when the concerned candidate did not possess the required qualification but had gained sufficient experience to take on the higher responsibilities.

9. Though the applicant did not belong to P.S.S. Group 'B' the respondents themselves chose the applicant for appointment firstly as Assistant Director (FLI-II) and thereafter as Assistant Director (A) in the Circle Office. Having placed the applicant in that post and having taken the work from him in the said post it would not be fair on the part of the respondents to deny him the special pay of Rs.200/-p.m. which was being given to similarly placed officers of the P.S.S. Group 'B'. Accordingly the CA is allowed. The applicant will be entitled to the special pay of Rs.200/-p.m. for the period that he worked as Assistant Director in A.P.Circle. However, arrears of special pay accruing to the applicant will be limited and paid to him for the period from 1st January, 1993 (i.e., one year prior to the filing of this application) till the date of his superannuation.

10. The respondents shall comply with the above order within a period of 3 months from the date of communication. No order as to costs.


(A.B.GORTHI)
Member (Admn.)

Dated: 13th December, 1994

(Dictated in Open Court)

sd


Deputy Registrar (S)

Contd..

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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH HYDERABAD

THE HON'BLE MR.A.M.HARIDASAN : MEMBER (D)

AND

THE HON'BLE MR.A.S.GORTHI : MEMBER (a)

DATED: 13-12-94.

ORDER/JUDGMENT.

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

in
O.A.NO. 90/94
T.A.NO.

Admitted and Interim Directions
issued.

Allowed.

Disposed of with Direction.

Dismissed.

Dismissed as withdrawn

Dismissed for default

Rejected/Ordered

No order as to costs.

No SPARE COPY

YLR

