

(30)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL HYDERABAD BENCH HYDERABAD.

O.A.NO.1122 of 1994.

Between

Dated: 16.8.1995.

M.A.Khan

...

Applicant

And

1. The Secretary, Ministry of Science & Technology, Deptt. of
2. The Secretary, Ministry of Personnel & Training, North Block, New Delhi.
3. The Surveyor General of India, PB No.37, Dehradun.
4. The Director, Survey of India, South Central Circle, Barkatpura, Hyderabad.

...

Respondents

Counsel for the Applicant : Sri. C.Suryanarayana

Counsel for the Respondents : Sri. N.V.Raghava Reddy, Addl. CGSC

CORAM:

Hon'ble Mr. A.B.Gorthi, Administrative Member

Contd:...2/-

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O.A. 1122/94.

Dt. of Decision : 16-08-95.

ORDER

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

The claim of the applicant is for a direction to the respondents to give him the benefit of FR-22-C (as it ~~existed~~ existed then) in the matter of fixation of his pay on his promotion from Store Keeper Gr-II to Stores Assistant.

2. The applicant was serving as a Store Keeper Gr-II when he was subjected to screening by DPC and promoted to the next promotional post of Stores Assistant in August 1988. The scale of pay of Store Keeper Gr-II and Stores Assistant is fixed identical at Rs. 1350-2200 (Revised with effect from 01-01-1986). Notwithstanding the fact that the pay scales of both the posts are identical the claim of the applicant is in terms of FR 22-C relevant portion of which, prior to amendment dated 30-08-1989, read as under:-

"Notwithstanding anything contained in these Rules, where a Government servant holding a post in a substantive, temporary or officiating capacity is promoted or appointed in a substantive, temporary or officiating capacity to another post carrying duties and responsibilities of greater importance than those attaching to the post held by him, his initial pay in the time-scale of the higher post shall be fixed at the stage next above the pay notionally arrived at by increasing his pay in respect of the lower post by one increment at the stage at which such pay has accrued".

After amendment which came into effect on 30-08-1989 an additional provision was incorporated at FR 22 (III) which reads as under:-

"For the purpose of this rule, the appointment shall not be deemed to involve the assumption of duties and responsibilities of greater importance if the post to which it is made is on the same scale of pay as the post, other than a tenure post, which the Government servant holds on a regular basis at the time of his promotion or appointment or on a scale of pay identical therewith."

3. As the applicant before me was promoted in August 1988 it is obvious that the amended provision as contained in FR 22 (III) would not apply to this case.

4. Shri C. Suryanarayana, learned counsel for the applicant has drawn my attention to the judgement of the Bangalore Bench of the Tribunal in OA.1111/89. In that case also the applicant was Store Keeper Gr-II promoted as Stores Assistant. The said OA was allowed by the Bangalore Bench with a direction to the respondents (Survey of India) to fix the pay of the applicant on his promotion from the post of Store Keeper Gr-II to Stores Assistant by giving him the benefit of fixation of pay under FR 22-C (as it existed then). I find no justification as to why a similar relief should not be granted to the applicant before me.

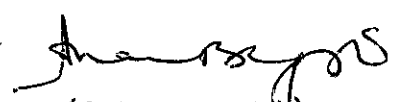
5. Shri N.V. Raghava <sup>Paddy</sup> learned counsel for the respondents states that a draft reply affidavit prepared by him <sup>yet</sup> has not been returned to him duly signed. However, he has clarified that although the department is of the view that the post of Stores Assistant does carry higher responsibility than that of Store Keeper Gr-II, the department is

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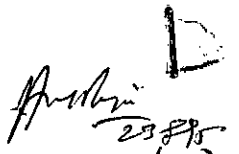
examining in detail <sup>the</sup> ~~ramifications~~ of the judgement of the Bangalore Bench of the Tribunal in DA.No.1111/89. He restrict the benefit of the judgement of the Bangalore Bench of the Tribunal to the applicant therein only.

6. I am <sup>not</sup> satisfied with the reasoning adopted by the respondents. It is settled law that similarly situated government employees should be extended the benefit of the judgement that is given in respect in one of such employees, because not doing so would offend the principle of equity and equal dispensation of justice ~~to all employees.~~

7. In the result, the DA is allowed and the respondents are directed to fix the pay of the applicant under FR 22-C as it existed prior to amendment dt. 30-08-89. Respondents shall comply with this direction within a period of three months from the date of communication of this order. No costs.

  
(A.B. Gorthi)  
Member (Admn.)

Dated : The 16th August 1995.  
(Dictated in Open Court)

  
23/8/95  
Dr. Registrar (3)

Costs -- 5/-

77-1122/ay  
TYPED BY  
COMPARED BY

APPROVED BY

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
HYDERABAD BENCH AT HYDERABAD.

HON'BLE MR. A.B. GORTHI, ADMINISTRA-  
TIVE MEMBER.

HON'BLE MR.

JUDICIAL MEMBER.

ORDER/JUDGEMENT:

DATED: 16/8/1995.

M.A./R.A./C.A.NO.

~~IN~~  
O.A.NO.

T.A.NO.

1122/ay  
(W.P.NO.)

ADMITTED AND INTERIM DIRECTIONS ISSUED.

ALLOWED.

DISPOSED OF WITH DIRECTIONS.

DISMISSED.

DISMISSED AS WITHDRAWN.

DISMISSED FOR DEFAULT.

ORDERED/REJECTED.

NO ORDER AS TO COSTS.

Rsm/-

No Spare Copy

