

(61)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL::HYDERABAD BENCH::
AT HYDERABAD.

O.A.No.1008/94.

Date: 16-4-1996.

Between:

G.V.V.L. Narasimha Rao

..

.. Applicant

And

Regional Director,
ESI Corporation,
Adarshnagar, Hyderabad.

.. Respondent

Counsel for the Applicant : Sri B.S. Rahi, Advocate

Counsel for the Respondent : Sri N.R. Devaraj, Sr.CGSC

C O R A M:

THE HON'BLE SRI R. RANGARAJAN, MEMBER (ADMINISTRATIVE)

J U D G M E N T

{ as per Hon'ble Sri R. Rangarajan, Member (Administrative) }

Heard Sri B.S.Rahi, learned counsel for the applicant and Sri N.R.Devaraj, Sr.CGSC for the respondent.

2. The applicant in this OA was appointed as regular LDC at Guntur on 26.2.1971 and was promoted on adhoc basis as UDC on 10.9.1976. He continued in that capacity till 5.8.1977 when he was made regular UDC. He was further promoted on adhoc basis as Assistant/Head Clerk on 3.4.1989 and was made regular in that ~~same~~ capacity at Rajamundry with effect from 15.5.1989. The applicant compares his pay with that of one Sri K.R.M.M.Reddy who is reported to be his junior. He further prays that when he was regularly promoted as Assistant/Head Clerk Sri Reddy was drawing more pay than him in the cadre of Assistant/Head Clerk and hence his pay has to be stepped up equal to that of Sri Reddy from the date when Sri Reddy was drawing more pay than him in the regular cadre of Assistant/Head Clerk.

3. Sri Reddy was appointed as regular LDC at Sirpur-Kagaznagar from 10.10.1974. He was promoted as adhoc UDC at Adoni on 23.6.1978 and was regularised in that capacity with effect from 16.4.1979 at Adoni itself. Further Sri Reddy was promoted on adhoc basis as Assistant/Head Clerk at Adoni with effect from 21.8.1982 and was regularly posted in that capacity with effect from 19.6.1989 at Renigunta. In view of the fact that Sri Reddy was officiating adhoc promotion earlier to the applicant, his pay was fixed at higher stage compared to the applicant when he was regularly promoted as Assistant/Head Clerk.

4. The applicant herein submitted a representation dt. 28.7.1993 to the Director General, ESI Corporation, New Delhi (Annexure A.3) for stepping up of pay on par with his junior Sri K.R.M.M.Reddy when he was regularly promoted as Assistant/Head Clerk, but that representation was rejected by impugned order dt. 27.12.1993 bearing No.52-A/27/17/92-Estt.I(A) (Annexure A.4).

5. Aggrieved by the above, he has filed this OA for stepping up of pay of the applicant on par with Sri Reddy, who was drawing more pay than him in that capacity.

6. The respondents in their reply in para-3 page-3 submit that a memorandum dt. 16.7.1982 bearing No.52-A/22/176-Estt. was issued calling for options from the UDCs for promoting them on adhoc basis as Manager Gr.III/ Assistant/Head Clerk. In that memorandum there was no mention about the Station Adoni or local office Adoni for adhoc promotion, but Cuddapah was one of the stations

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for adhoc promotion. Sri Reddy gave his option for going on adhoc promotion as Assistant/Head Clerk to Cuddapah by his consent letter dt. 21.7.81 (pg.33 of material paper filed with the Reply). Though the reply statement of the respondents state that the applicant has not given his willingness, the option letter was produced ~~from the~~ ^{which was} submitted by the applicant at the time of hearing. As per the the option letter of the applicant dt. 6.8.1982, the applicant was willing to go in the capacity of Asst./Head Clerk only to Eluru and Vizianagaram. This consent letter dt. 6.8.82 of the applicant has been taken on record.

7. The respondent further states that as the applicant has not given his willingness to go to any place other than Eluru & Vijayanagaram, Sri Reddy was posted at Adhoni in the higher grade as he has given his willingness to go to Cuddapah. It is further stated that though Adhoni was not one of the stations for adhoc promotion in terms of memorandum dt. 16.7.1981 it was presumed that the applicant having given his option to be posted only at Eluru & Vizianagaram and not Cuddapah he may not like to go to Adoni which is nearer to Cuddapah. As Sri Reddy had given his willingness to go to Cuddapah he was posted at Adoni where he was already working as UDC as he had responded to the memorandum for posting him on adhoc basis as Assistant/Head Clerk at ~~Adoni~~. Cuddapah.

8. From the above statement of the respondent, it is presumed that the applicant having given his option only for Eluru & Vizianagaram, he would not have given option even to go to Adoni even if it is included in the

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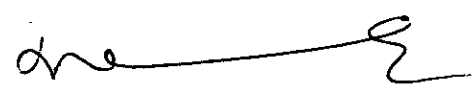
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memorandum dt. 16.7.1981 as he had not given his consent to go to Cuddapah which is mentioned in the memorandum dt. 16.7.1981 and Cuddapah is very near to Adoni. This presumption, ^{cannot be made on incorrect inference} ~~in my opinion, has force.~~ When the applicant has not given his willingness to go anywhere beyond Vijayawada towards Cuddapah & Adoni, there is a reason to believe that he would not have given his willingness to go to Adoni even if his willingness is asked for posting him at Adoni as Head Clerk/ Assistant when that vacancy arose at Adoni for adhoc promotion. In view of the fact that the applicant has not given his willingness to go anywhere except to Eluru & Vizianagaram on adhoc promotion in response to the notification dt. 16.7.1981, he cannot claim benefits which were reaped by his junior Sri Reddy because of his option to be posted to Cuddapah and was actually posted at Adoni on adhoc basis which is a nearby station to Cuddapah.

9. In view of the above, I see no merit in this O.A. Hence, the OA is dismissed. No costs.



(R. Rangarajan)
Member (Admn.)

Dated 16th April, 1996.
Dictated in the open court.


7.5.96
D. N. S.

Grh.



Copy to:-

1. The Regional Director, EST Corporation, Adarshnagar, Hyd.
2. One copy to Sri. B.S.Rahi, advocate, CAT, Hyd.
3. One copy to Sri. N.R.Devaraj, Sr. CGSC, CAT, Hyd.
4. One copy to Library, CAT, Hyd.
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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH HYDERABAD

174244

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

DATED: 16/4/46

ORDER/JUDGEMENT

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

IN-

B.A. NO.

100 Nay

ADMITTED AND INTERIM DIRECTIONS ISSUED
ALLOWED

DISPOSED OF WITH DIRECTIONS

DISMISSED

DISMISSED AS WITHDRAWN

ORDERED/REJECTED

NO ORDERS AS TO COSTS

* * *

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