

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, HYDERABAD BENCH.

O.A.No.1236/94.

Date: August 19, 1996.

Between:

R.Peddi Reddy. .. Applicant.

and

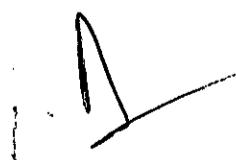
1. NGRI (National Geo-Physical Research Institute) represented by its Director, NGRI, Uppal Road, Hyderabad.
2. Council of Scientific & Industrial Research represented by its Director General, Rafi Marg, Anusandhanbhan, New Delhi. Respondents.

Counsel for the Applicant: Sri P.B.Vijaya Kumar.

Counsel for the Respondents: Sri C.B.Dessai

ORDER BY:

HON'BLE SHRI R.RANGARAJAN, MEMBER (A)



O.A.No.1236/94.

Date: August 19, 1996.

ORDER:

Sri P.B.Vijaya Kumar for the applicant. Sri C.B. Desai for the respondents.

The applicant in this O.A., joined the National Geo-Physical Research Institute as heavy Truck Driver in the scale of Rs.110-230 on 22-11-1972. ~~Exxx~~ Later he was promoted as Technician (Explosives) on 26-3-1977 in the grade of Rs.380-640. Advertisement No.1/79 was issued in the year, 1979 inviting applications for the post of Technical Assistant (Explosives), Grade 'A' in the scale of Rs.425-700. The applicant applied for the same as a Departmental candidate. He was selected and posted as Technical Assistant, Grade "A" in the scale of Rs.425--700 by the Memorandum No. NGRI-7/7/79-Rectt dated 6-2-1980 (Annexure A-II). He joined in that post on 3-3-1980. It is stated that his pay as Technical Assistant, Grade "A" in the scale of Rs.425-700 was fixed on the basis of his last pay drawn in the lower Grade as Technical Assistant, Grade II(Explosives) which was in the grade of Rs.380-640. It is further stated that his pay was fixed at the stage of Rs.440.00 in the scale of Rs.425-700 as Technical Assistant, Grade 'A' (Explosives) from the date of his taking over charge of that post. The Selection Committee while



selecting the applicant for the post of Technical Assistant, Grade 'A' recommended two advance increments to the applicant for exhibiting knowledge in wireless operation and transportation in addition to blasting works. His performance in the opinion of the Selection Committee was excellent. The applicant in the year, 1987 filed a representation for granting him two advance increments as recommended by the Selection Committee in the scale of Rs.425-700. Subsequently also he filed another representation on 1-1-1993 in the same connection. However, his representation dated 1-1-1993 was rejected by the impugned Office Memorandum No.AGRI-7/23/68-Rectt. dated 10-2-1993. In the impugned Order it has been stated in para (b) "that he was informed of the decision by O.M. dated 27-12-1988 explaining the reasons in clear detail regretting inability to accede to the request." When the applicant asked for the rejection letter dated 27-12-1988 said to have been issued to him, the rejection letter was shown but that rejection letter does not indicate the reasons for rejecting his case. Even the present impugned Memorandum also does not indicate the reasons for rejection of his request for granting him two advance increments.

3. Aggrieved by the above rejection of the relief as asked for by him, he has filed this O.A., praying for a direction to the respondents to grant him two advance increments from the date of his joining in



the post of Junior Technical Assistant (Explosives) on notional basis and the arrears from one year prior to filing of this O.A.

4. When the case was taken up for hearing, the learned Standing Counsel for the respondents submitted that in terms of Letter No.17(100)/77-EII dated 14th June, '77, the applicant is not entitled for higher fixation of pay as he is a Departmental candidate. He further explained that in the case of a Departmental candidate the fixation is done on the basis of his last pay drawn which itself will entitle him to get higher fixation. Hence, giving him two advance increments over the higher fixation due to a departmental candidate will extend to him unintended benefits and therefore, the request for grant of advance increments was rejected.

5. The letter dated 14--6--1977 was perused. The relevant para which was relied upon for rejecting his representation is as below:

"Under the normal rules, grant of advance increments to the departmental candidates simultaneously with their promotion to the next higher grade is not permissible, especially as they shall be getting not only higher initial pay but also a higher pay scale which will open out a more promising vista in their official careers."



6. When a direct recruit from open market joins the post of a Junior Technical Assistant, Grade 'A', he is entitled for two advance increments if recommended by the Selection Committee i.e., his pay would be fixed at the stage of Rs.455/- in the grade of Rs.425-700 as the increment in that grade is Rs.15/- per annum. If the applicant had crossed that stage of Rs.455/- in the year, 1980, when he was posted as Junior Technical Assistant, Grade 'A' then the respondents can refuse grant of advance increments as he has already crossed that stage of Rs.455/-. If he has not crossed that stage of Rs.455/-, there is no justification to debar him the advance increments which will raise his pay to the stage of Rs.455/- when the Selection Committee had considered his ability and other accomplishments for grant of advance increments. When advance increments raising the pay to the stage of Rs.455/- can be granted to a fresh candidate from the open market if recommended by the Selection Committee, it does not stand to reason why that benefit of fixation of pay at the stage of Rs.455/- should be denied to the applicant having more experience compared to a person from the open market even though he is a departmental candidate. Hence, it has to be held that the above referred ground mentioned in para 2(i) of letter dated 14--6--1977 for rejecting his claim is to be read that the applicant is entitled for next higher grade granting him two

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advance increments if he has not crossed the stage of Rs.455/- i.e., the stage to which the pay of the applicant would have been risen by grant of two advance increments from the minimum scale of pay in the pay scale of Rs.425-700. In view of the foregoing the applicant herein who has been fixed at the stage of Rs.440/- only has to be given one more increment and his pay has to be fixed at the stage of Rs.455/- notionally from the date he joined as Junior Technical Assistant(Explosives),Grade 'A' with effect from 3--3--1980. It is stated that the applicant has been promoted to higher grades also and he is now working as Technical Officer, Grade 'A' in the scale of Rs.2,000--3,500. Hence his pay fixation in the higher grades also should be effected on the basis of the notional fixation of pay in the category of Technical Officer(Explosives) Grade 'A'. As the applicant filed this O.A., only on 21-9-1994 he cannot expect to get full arrears, due to delay. As the fixation of pay and drawing of increment is a continuing process, he is entitled to arrears as per the above fixation only from one year prior to filing this O.A., which is in accordance with the law laid down by this Tribunal in cases of continuing cause of action.

7. In the result the following direction is given:

The pay of the applicant in the scale of pay of Rs.425-700 as Technical Assistant Grade 'A' should be fixed at the stage of Rs.455/- notionally, if his pay on posting him

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in that post is fixed less than that stage with effect from 3-3-1980. Further drawing increments in that grade and his pay fixation in the higher grade when promoted is to be regulated on that basis. He is entitled for arrears, if any, in pursuance of the above direction only from one year prior to filing of this O.A., i.e., with effect from 21-9-1993 (this O.A., is filed on 21-9-1994)

The O.A., is ordered accordingly. No costs.



R.RANGARAJAN,
MEMBER(A)

Date: August 19, 1996.

Pronounced in open Court.

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sss.

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TYPED BY
COMPARED BY

CHECKED BY
APPROVED BY

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH HYDERABAD

THE HON'BLE SHRI R. RANGARAJAN : MCA

DATED: 19/8/96

ORDER/JUDGEMENT

~~MCA-NOR-A/T-A-Nos~~

IN
D.A. NO. 1236/96

ADMITTED AND INTERIM DIRECTIONS ISSUED

ALLOUED

DISPOSED OF WITH DIRECTIONS

DISMISSED

DISMISSED AS WITHDRAWN

ORDERED/REJECTED

NO ORDERS AS TO COSTS

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केन्द्रीय प्रशासनिक अदालत
Central Administrative Tribunal

क्रमांक/DEC/1996

128 AUG 1996

हैदराबाद न्यायालय
HYDERABAD BENCH