

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL HYDERABAD BENCH
AT HYDERABAD

O.A.NO. 148 of 1994.

Between

Dated: 17.2.1995.

Dr. A.Eswara Prasad

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Applicant

And

1. The Union of India, rep. by under Secretary Ministry of Labour, Jaisalmer House(Single Storey Hutments), Mansingh road, New Delhi.
2. Welfare Commissioner, Labour Welfare Organisation, Kandriya Sadan, Sultan Bazar, Hyderabad.

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Respondents

Counsel for the Applicant

: Sri. P. Krishna Reddy

Counsel for the Respondents

: Sri. K.Bhaskar Rao, Addl.

CORAM:

Hon'ble Mr. A.V.Haridasan, Judicial Member

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

Contd:...2/-

O.A. No. 148/94

Date of Order: 17.2.95

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

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The grievance of the applicant is against the

the post of Chief Medical Officer.

2. The applicant while working as Senior Medical Officer in the Beedi Workers Welfare Fund Dispensary, Siddipet was promoted as the Chief Medical Officer in the scale of pay of Rs.3700-125-4700-150-5000 by order dated

said orders stated that on promotion to the post of Chief Medical Officer the pay of the applicant should be fixed under FR.22(I) (a) (1). Consequently the pay of the applicant was fixed at Rs.3825/- in the scale of Rs.3700-5000. Under normal course he was eligible for annual increment on 1.3.92 but in view of the fact he was given the promotion w.e.f. 1.12.91 his date of next increment was determined as 1.12.92 and not as 1.3.92.

3. The respondents in their brief counter have not refuted the afore-stated ^{but} facts, they clarified that as the applicant was promoted w.e.f. 1.12.91 his date of next increment was correctly fixed as 1.12.92. They further contended that the applicant had not exercised his option within the stipulated period of one month from the date of promotion to have his pay fixed from the date of promotion initially at the stage of the time scale of the new post above the pay in the lower grade from which he was promoted, which could be re-fixed in accordance with the rules on the date of accrual of next increment in the pay

scale of the lower post. As the applicant had not exercised the option his date of next increment was fixed as 1.12.92.

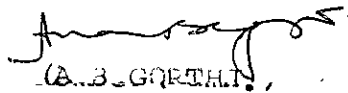
4. Learned counsel for the applicant has contended that the applicant was totally unaware of the rule position requiring him to exercise his option within the period of one month from the date of ^{promotion &} communication. Consequently an employee who is junior to the applicant and who exercised such option is now receiving higher salary than that of the applicant. Our attention has been drawn to clarification '1' printed at page 65 of Swamy's Compilation of FRSR Part I Rules (1993 Edition). The clarification is to the effect that as it was often found that employees did not know their right to exercise the option in the matter of fixation of their pay on their promotion, the order promoting the government servant~~s~~ itself must mention that the promotee has to exercise the option within one month. A very valid and important clarification contained in the departmental instruction has obviously not been followed by the respondents herein while promoting the applicant. From this point of view we find considerable merit in the contention of the learned counsel for the applicant that the applicant should not be made to suffer for the negligence on the part of the department.


5. In view of the above we find merit in this OA and the same is allowed. In view of the above we set aside the order dated 13.12.93 whereby the request of the applicant to ^{condone &} ~~contend~~ the delay in exercising the option was rejected. The applicant shall be deemed to have exercised his option for fixation of his pay with the date of next

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increment accruing to him w.e.f. 1.3.92. The O.A. is ordered accordingly. The respondents shall refix the pay with all consequential benefits within 3 months from the date of communication of the order. No order as to costs.


(A.B. GORTALI)


Member (Judl.)

Dated: 17th February, 1995

(Dictated in Open Court)

sd


Deputy Registrar (Judl.)

Copy to:-

1. Secretary, Ministry of Labour, Union of India, Jaisalmer House (Single Storey Hutmens), Mansingh road, New Delhi.
2. Welfare Commissioner, Labour Welfare Organisation, Kandriya Sadan, Sultan Bazar, Hyderabad.
3. One copy to Sri. P. Krishna Reddy, advocate, CAT, Hyd.
4. One copy to Sri. K. Bhaskar Rao, Addl. CGSC, CAT, Hyd.
5. One copy to Library, CAT, Hyd.
6. One spare copy.

Rsm/-

DA 148ay

TYPED BY
CHECKED BY

COMPARED BY
APPROVED BY

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH

THE HON'BLE MR.A.V.HARIDASAN : MEMBER(J)

AND

THE HON'BLE MR.A.B.GORTHY : MEMBER(A)

DATED : 17/2/95

ORDER/JUDGEMENT.

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

in
O.A.No. 148ay

Admitted and Interim directions
issued

Allowed

~~Disposed of with Directions~~

Dismissed

Dismissed as withdrawn

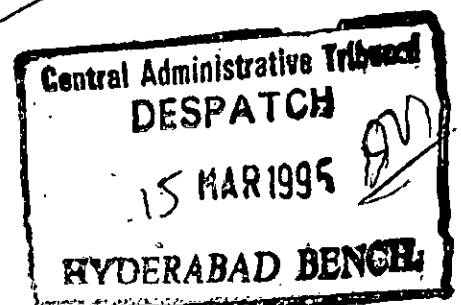
Dismissed for Default.

Rejected/Ordered

~~No order as to costs.~~

No spare copy

YLKR



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