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

O.A.No.16/94.

Date: 12-4-1996.

Between:

Jaffar Khan .. Applicant

And

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
respondent and Sri N.R.Devaraj, learned Standing Counsel
for the respondent.

2. The applicant in this OA was appointed as LDC in
ESI Corporation of A.P.Region on 11.9.1979 at Hyderabad
and thereafter he was transferred to Guntur in 1981 as
stated by the respondent's counsel. He was given adhoc
promotion at Guntur itself as UDC from 24.3.1983 to 12.7.83
and again from 3.4.1989 till 15.5.1989 when his services
were regularised as UDC.

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3. The applicant claims parity of pay with respect to his junior Sri K.M.G.Ali Hyder in the cadre of UDC. Sri Ali Hyder joined as LDC on 1.10.1980 at Kunrool. He was given adhoc promotion as UDC with effect from 17.8.1983 at Yemmiganur and his services were regularised on 9.6.1989. Thus, Sri Ali Hyder, the junior to the applicant had worked on adhoc basis as UDC right from 17.8.1983 till he was regularised on 9.6.1989. He has taken advantage of higher pay fixation when he was regularised as UDC. As the applicant has worked only for short spells as adhoc UDC, his pay is fixed at a lower stage than that of his junior Sri Ali Hyder.

4. The applicant herein has submitted a representation dt.18.8.1992 to the Regional Director, ESIC, respondent herein, ^{for stepping up his pay} but the same was rejected by impugned order dt. 16.4.1993 bearing No.52-A/20/41/775-80-Estt.I.

5. Aggrieved by the above, the applicant herein has filed this OA praying for a direction to the respondents, to step up his pay with respect to his Junior Sri Ali Hyder from the date Sri Ali Hyder was drawing more pay than the applicant in regular capacity as UDC.

6. The learned Standing Counsel submits that a memorandum dt. 16.7.1981 bearing No.52-A/22/12/76-Estt. was issued calling for volunteers for posting them on adhoc basis as UDCs and other equivalent cadres in various places mentioned in that memorandum. It is stated in the memorandum that local offices are likely to be opened in those mentioned locations and a proposal



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has been sent to the headquarters for opening those branches which is expected shortly and hence the options given for adhoc promotion on the basis of the memorandum dt. 16.7.1981 will be taken into consideration for adhoc promotion. From the records it was shown to me today that number of officials of ESI Corporation had applied for adhoc promotion in the places mentioned in the memorandum dt. 16.7.1981.

who had opted for adhoc promotion and gave his willingness letter dt. 23.7.1981. Thus, it is evident that the notification dt. 16.7.1981 had been received by the Guntur office. The contention of the applicant is that the said notification was not brought to his notice and hence he could not apply for the same. But, when his colleague Sri Sankaram had applied in response to the said notification, there can be no doubt that this memorandum is not known to the —

Hence, the contention of the applicant that it was not brought to his personal notice cannot be held as tenable.

7. Further, it was held by this Tribunal in OA 753/91 dt. 2.11.1994 that "even if there was nothing on record to show that it was specifically brought to the personal notice of the applicant, we are inclined to hold that the applicant could not have been ignorant of the note~~s~~ and promotion of his junior is not a hush-hush affair."

8. In view of the fact that the colleague of the applicant i.e. Sri Sankaram at Guntur had given his option for adhoc promotion in response to the memorandum dt. 16.7.81

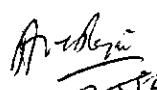
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and in view of the observation made by this Tribunal in the above referred O.A. I come to the conclusion that the applicant had failed to give his option when the notification calling for volunteers was issued. Hence, having failed to respond to the notification for giving option, he cannot, now ask for stepping up of pay with respect to his junior when the junior of the applicant had moved on adhoc basis for granting stepping up of pay to the applicant as prayed for.

9. In the result, the OA is dismissed. No costs.


(R. Rangarajan)
Member (Admn.)

Dated 12th April, 1996.
Dictated in open court.


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