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

O.A.No.26/94.

Date: 12-4-1996.

Between:

Y. Kameswara 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

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

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

2. The applicant joined as LDC in ESI Corporation at Eluru of A.P.Region. He was promoted on adhoc basis on 9.4.1981 at Eluru and continued in that capacity till 18.7.1981 when he was posted as regular UDC at Rajamundry. The applicant contend that his junior Sri D.Madhava Rao was drawing more pay than him when he was promoted as UDC on regular basis and hence his pay has to be stepped up on par with ~~the~~ his junior from the date when his junior was drawing more pay than him in the cadre of UDC.

3. Sri D.Madhava Rao was appointed as IDC on 10.3.1977. He was promoted on adhoc basis as UDC on 1.5.1979 and he continued in that capacity till 26.10.1989 when he was regularly posted as UDC at Vizianagaram.

4. The applicant submitted a representation dt. 15.9.1993 (Annexure A.3) to the Director General, ESI Corporation for stepping up of his pay with respect to his junior Sri Madhava Rao, but that representation was rejected by impugned letter dt. 27.12.1993 (Annexure A.4) bearing No.52-A/27/17/92-Estt.I(A).

5. Aggrieved by the above, he has filed this OA praying for a direction to the respondents to step up his pay on par with his junior Sri D.Madhava Rao from the date when Sri Madhava Rao was drawing more pay as UDC in the regular capacity.

6. The learned counsel for the respondent submitted that a Memorandum dt. 27.4.1979 bearing No.52-A/22/12/79-Estt. (page-11 of the material papers filed with Reply) was issued calling for volunteers for posting them on adhoc basis as UDC and equivalent posts. As the applicant had not responded to that memorandum and his junior Sri Madhava Rao had responded to that memorandum, his junior was posted on adhoc basis as UDC and hence the applicant has no locus standi to claim higher pay fixation on par with his junior. The learned counsel for the applicant submitted that the memorandum dt. 27.4.1979 was not brought to his notice of the applicant and



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hence he did not opt for adhoc promotion in response to the said memorandum.

7. The memorandum dt. 27.4.1979 was scrutinised. It is seen that the said memorandum is addressed to only UDCs and higher categories, but not to LDC. Hence, the contention of the applicant that the said memorandum was not brought to his notice is bonafide as he was only an LDC at that time and that memorandum was addressed to UDCs and above categories. Hence, the contention that he is entitled for higher pay fixation as the memorandum dt. 27.4.1979 was not brought to his notice for opting for adhoc promotion has to be held as tenable. The learned Standing Counsel ^{in his} of the same view. In view of the above, the prayer of the applicant has to be allowed.

8. Sri Madhava Rao, junior to the applicant was promoted on adhoc basis in the year 1979. The representation by the applicant to the Director General, ESI Corporation is made only on 15.9.1993. Hence, it has to be held that this representation is belated. But fixation of pay and drawing of arrears is a continuous cause. This Tribunal consistently taking the view that when there is continuous cause, the applicant if succeeds in his OA, ~~for arrears etc.~~ he has to be ~~given~~ given arrears from one year before the filing of the O.A. Since, this OA has to be allowed, the applicant is entitled for arrears due to refixation of his pay in the cadre of UDC on par with his junior from one year prior to filing of this O.A.

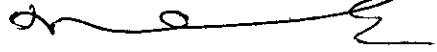
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9. In the result, the following direction is given:-

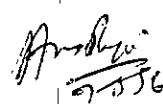
The pay of the applicant has to be notionally fixed on par with his junior Sri D. Madhava Rao, from the date when his junior was drawing more pay than the applicant in the regular cadre of UDC. The applicant is entitled for arrears from one year prior to the date of filing of this OA i.e. from 17.1.1993 (this OA was filed on 17.1.1994).

10. The OA is ordered accordingly. No costs.



(R. Rangarajan)
Member (Admn.)

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


12/4/96

Grh.


DMR

Copy to:-

1. Regional Director, EST Corporation, Adarshnagar, Hyderabad.
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.
5. One spare copy.

Rsm/-

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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH HYDERABAD

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

DATED: 12/4/96

ORDER/JUDGEMENT

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

B.A.NO.

IN
26/96

ADMITTED AND INTERIM DIRECTIONS ISSUED

ALLOWED

DISPOSED OF WITH DIRECTIONS

DISMISSED

DISMISSED AS WITHDRAWN

ORDERED/REJECTED

NO ORDERS AS TO COSTS

No Spare Copy

केन्द्रीय प्रशासनिक अधिकारण
Central Administrative Tribunal
Despatch/DESPATCH
-3 JUN 1996 No. 1
हैदराबाद बैच
HYDERABAD BENCH

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