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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH
AT HYDERABAD

O.A.No.520/94

Date of Order: 19.3.97

BETWEEN:

D.Sankar Rao

.. Applicant.

AND

1. The Union of India, rep. by
The Secretary, Dept. of Posts,
Ministry of Communications,
Daktar Bhavan, New Delhi-1.

2. The Chief Post Master General,
Andhra Circle, Hyderabad-1.

.. Respondents.

Counsel for the Applicant

.. Mr.J.V.Lakshmana Rao

Counsel for the Respondents

.. Mr.V.Bhimanna

CORAM:

HON'BLE SHRI R.RANGARAJAN : MEMBER (ADMN.)

HON'BLE SHRI B.S. JAI PARAMESHWAR : MEMBER (JUDL.)

J U D G E M E N T

X Oral order as per Hon'ble Shri B.S. Jai Parameshwar, M(J)X

Heard Mr.J.V.Lakshmana Rao, learned counsel for
the applicant and Mr.V.Bhimanna, learned standing counsel
for the respondents.

2. The applicant herein was appointed as L.D.C. against
ST reserved vacancy in the P&T Audit Office at Madras effective
from 12.11.58. Later he was promoted as UDC on the successful
passing of the departmental examination effective from
15.7.65. During the year 1960 he was transferred to
Hyderabad and was further promoted as Junior Accounts
Officer, Office of the Deputy Director Audit & Accounts,
Hyderabad effective from 9.1.79. He was again promoted as

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Accounts Officer w.e.f. 23.4.86 and was working in the office of the Director of Postal Accounts, Hyderabad. He completed 3 years service in the cadre of Accounts Officer. In accordance with the O.M.No.F.6 (82)-IC/91, dt. 22.9.92 (Annexure-A) he claimed for higher scale of Rs.2200-4000 on completion of 3 years of service as Accounts Officer.

3. It is further stated that during the year 1983 a charge memo was issued and that ~~adopting~~ sealed cover method was not adopted since ~~in~~ the year 1989 and at least from 22.1.92 when the sealed cover method should have been adopted. the Annexure-A order was issued. It is his case that on those ~~there~~ and that therefore he was eligible to be promoted for promotional scale of Rs.2200-4000. Hence he has filed this OA praying ~~for~~ to call for relevant records including DPC Minutes ^e and ^{to} direct the respondents to promote him from the date his juniors were promoted in May, 1989 with all consequential benefits. It is further stated that his junior by name Sri A.N.Nimji an ST candidate was promoted in preference to him.

4. Respondents have filed their counter stating that the orders for creation of ^{posts in} promotional grade in the scale of pay of Rs.2200-4000 came into force from 1.4.92. The applicant is eligible on 1.4.92 to be considered for upgraded post and for notional fixation of pay effective from 1.5.89. The D.P.C. for in September, 1993. At that time, a charge sheet was served on the applicant. As the departmental proceedings for major penalty were pending, the DPC proceedings were kept in a sealed cover and that the benefit of the promotional grade ^{will be} available to the applicant subject to the outcome of the disciplinary proceedings.

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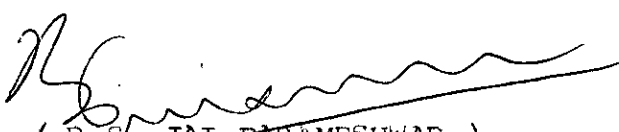
5. The contention of the respondents that the applicant is eligible for promotion only after the outcome of the disciplinary proceedings cannot be accepted for the simple reason that no disciplinary proceedings was pending either on 1.5.89 or as on 25.4.89 when the applicant completed 3 years of service as the Accounts Officer. Therefore it cannot be a ground to deny the applicant if he is otherwise eligible for promotion in the higher scale. In fact in para-5 of the O.M. dt. 22.9.92 it is stated as follows:-

"These orders shall be effective from 1.4.1992. However the benefit of fixation of pay on notional basis in the promotional scale of Rs.2200-75-2800-EB-100-4000 may be allowed w.e.f. 1.4.1987 or from the first of the month following the month in which the officer completed 3 years regular service as Audit/Accounts Officer in the scale of Rs.2375-75-3200-EB-100-3500, whichever is later, subject to the availability of posts in the promotional grade. No arrears of pay will be admissible for the period prior to 1.4.1992".

6. In view of the above said para-5 the applicant is eligible to be considered for grant of higher scale of pay in the scale of Rs.2200-4000 from 1.5.89 or from the date he became eligible to get that scale in accordance with OM dt. 22.9.92.

7. The respondents are directed to fix the pay of the applicant in the higher scale of pay in accordance with the OM dt. 22.9.92 and grant him the consequential benefits.

8. Accordingly the OA is allowed but with no costs.


(B.S. JAI PARAMESHWAR)
Member (Judl.)


(R. RANGARAJAN)
Member (Admn.)

19.3.97 Dated: 19th March, 1997

(Dictated in Open Court)