

(37)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH  
AT HYDERABAD  
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O.A. No. 586/94.

Dt. of Decision : 8.11.94.

S. Balraj

.. Applicant.

Vs

1. Scientific Advisor to Raksha Mantri,  
Director General Research and  
Development and Secretary to Ministry  
of Defence, Govt. of India,  
South Block, New Delhi - 110 011.
  2. Director, Defence Electronics Research  
and Laboratory, (D.L.R.L.)  
Ministry of Defence, R&D Organisation,  
Chandrayanagutta, Hyderabad.
- .. Respondents.

Counsel for the Applicant : Mr. S. Laxma Reddy

Counsel for the Respondents : Mr. N.V. Ramana, Addl.CGSC.

CORAM:

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

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O.A.No.586/94

O R D E R

{ As per Hon'ble Sri A.B. Gorthi, Member (A) }

The grievance of the applicant arises from the alleged improper fixation of his pay on his promotion to the post of Tradesman-A on 15-12-1989.

2. The applicant was working as Tradesman-C when a Charge Memo dt.28-1-86 was served upon him alleging that he used improper language to some M.E.S. officials. Subsequent to the issuance of the Charge Memo, two DPCs were held, one on 15-10-87 and the second on 15-6-88 but the result <sup>in respect of the applicant &</sup> was not published on account of the progress was there in the conduct of the disciplinary proceedings, the applicant submitted a letter dt.14-12-88 requesting the Director, DLRL to close the case at the earliest. Accepting the request of the applicant the competent authority dropped the disciplinary proceedings against the applicant. Consequently the applicant was given promotion w.e.f. 15-12-89. His seniority was restored keeping in view the date on which his junior was promoted on 15-10-87. These facts are not in dispute.

3. The short contention raised by Shri S.Laxma Reddy, learned counsel for the applicant is that the pay of the applicant <sup>should be</sup> ~~may~~ be fixed notionally from the date of

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his promotion, i.e. from 15-10-87 and accordingly the applicant's pay had to be <sup>re-</sup>fixed from the date of actual promotion on 15-10-89.

4. Learned standing counsel for the respondents states that as the applicant was not exonerated and as he did not shoulder higher responsibilities in the post of Tradesman-A, he is not entitled to fixation of pay as Tradesman-A even on a notional basis.

5. The term 'exonerate' means, according to the Chambers's 20th Century Dictionary, "to free from the case the respondents by accepting the plea of the applicant and by dropping the disciplinary proceedings against him can be said to have exonerated the applicant of the charge. In the written plea submitted by the respondents it is stated that "no prima facie case is existing in the case thereby causing inordinate delay in completing the proceedings resulting uneasiness and anxiety in me". Although the applicant expressed his regret for the incident it does not in any way amount to acceptance of blame. Keeping in view the nature of the charge and the circumstances under which the respondents decided to drop the charge, I have no hesitation in holding that the applicant stood exonerated of the charge. The very fact that the respondents <sup>promoted and also</sup> restored the seniority of the applicant would further strengthen the view that I have taken.

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Copy to:-

1. Secretary, General Research and Development and Scientific Advisor to Raksha Mantri, South Block, New Delhi-011.
2. Director, Defence Electronics Research and Laboratory (D. L.R.L.), Ministry of Defence, R&D Organisation, Chandrayanagutta, Hyderabad.
3. One copy to Sri. S.Laxma Reddy, advocate, CAT, Hyd.
4. One copy to Sri. N.V.Ramana, Addl. CAT, Hyd.
5. One copy to Library, CAT, Hyd.
6. One spare copy.

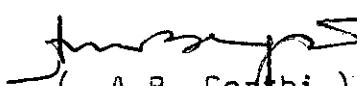
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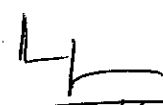
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6. A perusal of the Ministry of Personnel, Public Grievances and Pensions O.M. dt.10-4-89, Para 17.6.1 would clearly indicate that when the employee is exonerated and he is promoted, such promotion should be given to him notionally with reference to the date of promotion of his junior, but he will not be allowed any arrears ~~of~~ promotion. Shri Lakshma Reddy fairly concedes that the claim of the applicant is not for arrears of pay <sup>prior to promotion</sup> ~~as such~~ but for notional fixation of pay, so that the applicant is not put to the humiliation of drawing lesser pay than that of his junior in his promotional post.

7. The respondents having given promotion to the applicant on a notional basis w.e.f. 15-10-87, I do not find any justification for not fixing the applicant's pay also ~~the decision of the respondents, in~~ any case, is not in consonance with what ~~is~~ laid down in the Government's O.M. dt.10-4-89, referred to above. In the circumstances, the respondents are directed to fix the pay of the applicant notionally from the date of his ~~notional~~ promotion, i.e. 15-10-87. I, however, make it clear that arrears from the said date to the date of actual promotion i.e. 15-12-89 will not accrue to the applicant. Arrears accruing to the applicant w.e.f. 15-12-89 as a result of this order shall be worked out and paid to him within a period of three months from the date of ~~communi-~~ cation of this order.

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

  
( A.B. Gonthi )  
Member (Adm.)  
Open Court Dictation  
8th Nov. 1994

  
Dy. Registrar 18/11/94

OA-586/94

Typed by

Compared by

Checked by

Approved by

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
HYDERABAD BENCH HYDERABAD

THE HON'BLE MR. A. V. HINDU SAN : MEMBER (C)

AND

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

Dated: 8/11/94.

ORDER/JUDGMENT. ✓

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

O.A. NO.

in  
586/94 ✓

T.A. NO.

(W.P. NO.)

Admitted and Interim Directions  
Issued.

Allowed.

Disposed of with Directions. ✓

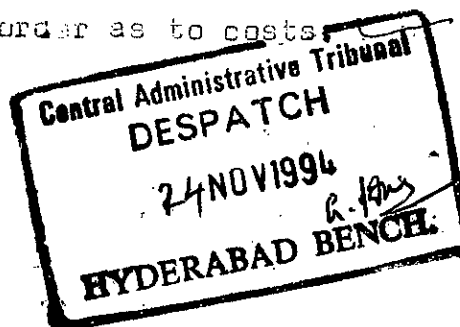
Dismissed.

Dismissed as Withdrawn.

Dismissed for Default.

Rejected/Ordered.

No order as to costs.



10/11/94