

48

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

O.A.No.648/94.

Date: 12-4-1996.

BETWEEN:

R. Prakasa 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

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

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

2. The applicant in this OA joined as LDC on 22.3.1975 in ESI Corporation, A.P.Region. He worked on adhoc basis as UDC at Hyderabad in two spells viz. 21.4.1977 to 11.10.77 and 10.9.1979 to 18.7.1981. He was made regular UDC with effect from 18.7.1981.

3. The applicant compares his pay with that of his junior Sri P.K.R.Murthy in the cadre of UDC and prays for that his pay in the cadre of UDC should be stepped up to that of his junior Sri Murthy from the date when Sri Murthy was working as regular UDC. Sri Murthy joined

..2/-

A

(48)

as LDC at Vizianagaram on 28.4.1976. He was promoted on adhoc basis as UDC in three spells viz. from 21.4.77 to 11.10.77, 23.5.1978 to 1.9.1979 and again from 3.10.1979 till 18.7.1981 when he was regularised in the cadre of UDC. In view of his officiation on adhoc basis as UDC as aforesaid, when he was made regular in the cadre of UDC, his pay in the cadre of UDC was fixed at higher stage than that of the applicant who was also promoted as UDC on regular basis with effect from 18.7.81 at Hyderabad.

4. The applicant herein filed a representation dt. 12.7.1993 (Annexure A.3) to the Director General, ESI Corporation, New Delhi for stepping up of his pay on par with his junior Sri P.K.R.Murthy, 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 rejection, the applicant has filed this OA praying for a direction to the respondents to fix his pay on par with his junior Sri Murthy in the cadre of UDC from the date Sri Murthy was drawing more pay than the applicant in the cadre of UDC and for consequential arrears.

6. The respondents submit that a Memorandum dt. 17.3.1978 bearing No.52-A/22/12/76-Estt. and another memorandum No.52-A/22/12/78-Estt. dt. 27.4.1979 were issued calling for options for ~~the~~ posting as adhoc UDCs in various local offices of ESI Corporation from the categories viz. UDC and other equivalent and higher categories. It is

48

: 3 :

submitted that the applicant failed to respond to the said memorandum by giving option, but whereas by letter dt. 7.5.79 his junior Sri Murthy had submitted his willingness/ for adhoc posting as UDC. As he had opted in response to the above referred Memorandum, he was promoted on adhoc basis as UDC. As the applicant failed to give his option for adhoc promotion, he cannot now claim parity in pay with respect to his junior Sri Murthy.

7. The learned counsel for the applicant submit that the above memorandums were not brought to his notice at any time and hence he could not give his option on the basis of the above memorandums in the year 1978 and 1979.

I have perused both the above referred memorandums dt. 17.3.1978 and 27.4.1979. Both the memorandums indicate that options were called from UDCs and other equivalent categories for adhoc promotion. It does not show that the options were called for from LDC category also.

were issued, the applicant was in the cadre of LDC.

Hence, the contention of the applicant that it was not brought to his notice is to be held ~~good~~ as the said memorandums were addressed only to UDCs and other equivalent categories but not LDCs. Hence, adhoc promotion to Sri Murthy junior to the applicant has to be treated that it was given ignoring the right of the applicant for such adhoc promotions. In view of the above, the ~~EX is the~~ applicant is liable to get higher pay fixation as prayed for by him. The learned Standing Counsel also fairly concedes the above.

2

9. In cases of continuing cause, this Tribunal is consistently holding that the arrears are to be allowed from one year prior to the filing of the O.A. As the grievance in this O.A. is continuous cause, the applicant herein is entitled for arrears from one year prior to the date of filing of this O.A.

10. In the result, the following direction is given:

The pay of the applicant has to be notionally fixed on par with his junior Sri P.K.R.Murthy in the cadre pf U.D.C. from the date Sri Murthy was promoted on regular basis as UDC. The applicant is entitled for arrears of pay fixation as directed above from 2.6.1993 i.e. from one year prior to the filing of this O.A. (this OA was filed on 2.6.1994).

11. The OA is ordered accordingly. No costs.

(R.Rangarajan)
Member (Admn.)

Dated 12th April, 1996.

Grh.

Attested
On 11

9/10/92
TYPED BY
COMPARED BY

CHECKED BY
APPROVED BY

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH HYDERABAD

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

DATED: 12/4/96

~~ORDER/JUDGEMENT~~

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

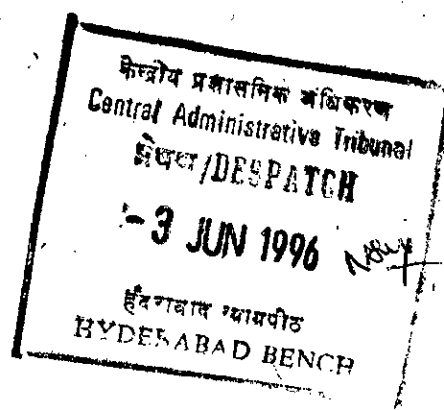
IN

B.A. NO.

6487a1

ADMITTED AND INTERIM DIRECTIONS ISSUED
ALLOWED
DISPOSED OF WITH DIRECTIONS
DISMISSED
DISMISSED AS WITHDRAWN
ORDERED/REJECTED
NO ORDERS AS TO COSTS

No spare copy



20