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

O.A.No.660/94.

Date: 11-4-1996.

Between:

B.N.Murthy 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) }

applicant and Sri N.R.Devaraj, Sr.CGSC for respondent.

2. The applicant in this OA joined ESI Corporation of A.P.Region as L.D.C. on 2.6.1976 at Eluru. He was promoted as adhoc UDC on 14.4.1980 and as regular UDC on 18.7.1981. He claims parity of pay with respect to his junior Sri D.Madhava Rao who had also joined ESI Corporation, A.P.Region as LDC on 10.3.1977 at Chittivalasa. Sri Madhava Rao was promoted as adhoc UDC on 1.5.1979 at Vizianagaram and was made regular UDC in the same place on 26.10.1981. As per the gradation list of UDCs of A.P. Region as on 31.3.1986 (Annexure A.5) the applicant herein

..2/-

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is placed at Sl.No.145 and the said Sri Madhava Rao is placed at Sl.No.154.

3. In view of the fact that his junior was drawing more pay in the cadre of UDC, the applicant herein submitted a representation to the Director General, ESI Corporation, New Delhi by representation dt. 16.9.1993 (Annexure A-3), ^{to step up his pay} but that representation was rejected by impugned letter dt. 27.12.1993 bearing No.52-A/27/17/92-Estt.I(A).

4. Aggrieved by the above, the applicant herein has filed this OA praying for a direction to the respondents to fix his pay equal to that of his junior Sri Madhava Rao in the cadre of UDC from the date Sri Madhava Rao was drawing higher pay than him in the category of UDC in ESI Corporation, A.P.Region.

5. The respondents submit that a Memorandum dt. 27.4.1979 bearing No.52-A/22/12/79-Estt. was issued calling for options from the volunteers for posting them as HC/UDC-Cashier/UDC-Incharge/UDC at various offices ~~of the places~~ in A.P.Region. The applicant did not give his willingness to go over as adhoc UDC, ^{and hence} his prayer ~~is~~ now cannot be considered. But, on perusal of the ^{it} addressed only to UDCs and equivalent cadres. As the applicant herein was LDC at that time, it was not addressed to him. Hence, he could not have given his willingness on the basis of the memorandum dt. 27.4.79. In view of this, contention of the respondent that the applicant failed to give his willingness in response

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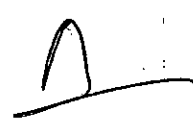
to the memorandum dt.27.4.1989 and hence he was not given adhoc promotion, cannot be accepted and this contention is also untenable. In view of this the said contention is rejected.

6. The applicant herein was promoted as adhoc UDC on 14.4.1980 and there is no question of giving his willingness to go as adhoc UDC for the memorandum issued later than 14.4.1980, as the applicant was in that grade already. His junior Sri Madhava Rao was promoted on adhoc basis as UDC on 1.5.1979 at Vizianagaram. The applicant was also working as LDC at Eluru a place very near to N Vizianagaram.

Hence, there is no question of promoting his junior as adhoc UDC without promoting the applicant on adhoc basis as UDC when both of them were working at a place nearer to each other. No reason has been given in the reply filed by the respondent for discriminating the applicant for promoting him as adhoc UDC when his junior was promoted. Hence, the applicant is right in his prayer for refixation of his pay on par with his junior when he was regularly promoted as UDC.

7. In view of what is stated above, the application has to be allowed, and the consequential benefits also should be given to the applicant. But the promotion was not granted until 16.9.1993. Hence, this OA has to be treated as belated one, but the benefits ^{to} arise out of this fixation is continuous one and hence, it has to be held that ^{his} ~~this~~ grievance is ^a continuing one.

...4/-




This Tribunal is consistently taking the view that in case of continuous causes, the applicant is entitled for arrears ^{from} ~~for~~ one year before filing of the O.A. In view of the above, ~~the~~ ^{from} applicant is entitled for arrears ~~for~~ ^{from} one year prior to the filing of this OA.

8. In the result, the following direction is given to the respondent:

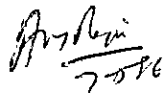
The pay of the applicant should be stepped up notionally on par with his junior Sri Madhava Rao from the date on which the pay of Sri Madhava Rao was fixed at higher stage than the applicant in the cadre of UDC on regular basis. The applicant is entitled for arrears from 31.5.1993 i.e. ~~from~~ ^{from} one year prior to the date of filing of this O.A. (this OA was filed on 31.5.1994)

9. The OA is ordered accordingly. No costs.


(R.Rangarajan)
Member (Admn.)

Dated 11th April, 1996.
Dictated in open court.

Grh.


7-5-96
DNC/L

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Copy to:-

1. The Regional Director, ESI 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/-

TYPED BY
COMPARED BY

MA-6674
2/17/66
CHECKED BY
APPROVED BY

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH HYDERABAD

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

DATED: 11/4/66

ORDER & JUDGEMENT

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

IN

B.A. NO.

6674

ADMITTED AND INTERIM DIRECTIONS ISSUED

DISPOSED OF WITH DIRECTIONS

DISMISSED

DISMISSED AS WITHDRAWN

ORDERED/REJECTED

NO ORDERS AS TO COSTS

* * *

केन्द्रीय प्रशासनिक अधिकरण
Central Administrative Tribunal
प्रेषण/DESPATCH

- 3 JUN 1966

हैदराबाद न्यायपीठ
HYDERABAD BENCH