

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL HYDERABAD BENCH HYDERABAD.
O.A.NO. 601 of 1995.

Between

B.Danam I.A.S.

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Applicant

And

1. The State of Andhra Pradesh, rep. by its Chief Secretary, Secretariat, Hyderabad.
2. Union of India, rep. by its Secretary, Ministry of Personnel and Training, Government of India, New Delhi.

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Respondents

Counsel for the Applicant : Sri. P.Harinatha Gupta

Counsel for the Respondents : Sri. V.Bhimanna, Addl. CGSC.

: Sri. I.V.R.K.Murthy, SC for the STATE of A.P.

CORAM:

Hon'ble Mr. A.B.Gorathi, Administrative Member

Contd:...2/-

X As per Hon'ble Shri A.B.Gorthi, Member (Admn.) X

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The applicant who is an I.A.S. Officer of 1971 batch and ^{due} ~~there~~ to be promoted to Super Time Scale in 1987 but because of a pending disciplinary case against him he was not thus promoted on the due date but was only promoted w.e.f. 11.4.90. Subsequently as the disciplinary proceedings were dropped he was given promotion to Super Time Scale notionally from 7.3.87. The claim of the applicant is for payment of arrears of salary in the Super Time Scale from 7.3.87 to 11.4.90 when he was actually promoted.

2. Heard learned counsel for both the parties. The facts in this case are not disputed. The only question put forward in this case is whether under the circumstances the applicant would be entitled to arrears of pay and allowance.

3. Mr. Harinatha Gupta, learned counsel for the applicant urged that as the applicant was exonerated of the charges and no penalty whatsoever was imposed the respondents had no justification in denying the applicant the arrears of salary.

4. Refuting the claim of the applicant Mr. I.V.R.K.Murthy, learned counsel for State of A.P. stated that as per extant instructions arrears of pay were not to be paid for the period of notional promotion preceding the date of actual promotion for the simple reason that the applicant did not perform duties for the said period in the promotional post.

5. The issue in hand stands decided unequivocally by the Appex Court in Union of India vs. K.V.Janakiraman

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(AIR 1991 SC 2010) to which my attention has been drawn by the applicant's counsel. There is, well established principles have been reiterated by the Supreme Court:- ~~two~~

Firstly that when an employee is completely exonerated and is not vested with the penalty even of censure he should not be deprived of any benefits including the salary of the promotional post, and secondly that in certain circumstances the concerned authorities must be vested with the powers ~~of outside~~ ^{to decide}, whether the employee ~~at all~~ deserves ^{due} his salary for the intervening period and if he does not the extent to which he deserves.

6. In the instant case apart from the fact that it is evident from the record that the charges against the applicant were dropped and that the applicant thus stood exonerated, there is not even a whisper that the applicant was responsible in any way of delaying the proceedings. The competent authority should have therefore taken these factors into consideration in deciding the question of grant of arrears ~~to the~~ ^{of} salary ~~of~~ ^{to} the applicant.

7. The contention raised in the reply affidavit filed by the respondents that the instructions contained in the Department of Personnel and Training letter No. 20011/12/92-AIS (II) dated 8.11.93 with regard to payment of arrears of salary and allowances in the case of an employee exonerated of the charges are prospective and cannot be applied to the applicant's case is neither reasonable ^{nor} ~~or~~ justified. There ^{all} was, ~~yet~~ no point of time, any rule or instruction that where an employee is totally exonerated he can be, with impunity, denied the salary due to him. This aspect of service juris-prudence has been reiterated in Janakiraman's case.

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8. In the result, we set aside the respondents' order denying the applicant's pay and allowances for the period from 7.3.87 to the date of his actual promotion. The respondents are now directed to reconsider the case of the applicant keeping in view the fact that the applicant was totally exonerated of the charges, and that as per the judgement of the Supreme Court the applicant would be entitled to the benefit of arrears of salary of the promotional post unless there are other circumstances for which the respondents are justified in passing a different/appropriate order. The respondents shall comply with the above directions within a period of 3 months from the date of communication of this order.

9. O.A. is ordered accordingly. No costs.

Amma
(A.B.GORTHI)
Member (Admn.)

Dated: 25th January, 1996

(Dictated in Open Court)

Amma - 2/96
Dy. Registrar (Judl.)

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Copy to:-

1. The Chief Secretary, Secretariat, A.P.State, Hyderabad.
2. The Secretary, Ministry of Personnel and Training, Union of India, Government of India, New Delhi.
3. One copy to Sri. P.Harinatha Gupta, advocate, H.No.16-11-741, C/A/5, S.B.H. Colony, Moosarambagh, Hyd.
4. One copy to Sri. V.Bhimanna, Addl. CGSC, CAT, Hyd.
5. One copy to Sri. I.V.R.K.Murthy, SC for A.P.State, CAT, Hyd
6. One copy to Library, CAT, Hyd.
7. One spare copy.

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601/96
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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH HYDERABAD.

HON'BLE SHRI A.B.GORTHI : MEMBER(A)

HON'BLE SHRI

DATED: 25/1/96

ORDER/JUDGMENT

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

D.A. NO.

IN

601/96

ADMITTED AND INTERIM DIRECTIONS ISSUED

ALLOWED

DISPOSED OF WITH DIRECTIONS

DISMISSED

DISMISSED AS WITHDRAWN

ORDERED/REJECTED

NO ORDER AS TO COSTS

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