

60

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH
AT HYDERABAD

O.A.No. 79/95

Date of Order: 20.10.97

BETWEEN:
M.L.N.Murthy

AND,

1. The Union of India, rep. by the Director General, Department of Posts, Dak Bhavan, New Delhi.
2. The Chief Postmaster General, A.P.Circle, Hyderabad.

... Respondents.

Counsel for the Applicant

... Mr.T.V.V.S.Murthy

Counsel for the Respondents

... Mr.V.Bhimanna

CORAM:

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

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

JUDGEMENT

X As per Hon'ble Shri R.Rangarajan, Member (Admn.) X

Mr.T.V.V.S.Murthy, learned counsel for the applicant and Mr.V.Bhimanna, learned standing counsel for the respondents.

2. The applicant in this OA who is working as Assistant Director (Admn.) under R-2 office requests for stepping up of his pay on par with junior Sri M.C.Subbareddy who is also promoted as Assistant Director (Admn.). The applicant in this OA while working as Inspector (Postal) was promoted as A.S.P. in Group-C and thereafter he was promoted to Group-B service. Sri M.C.Subbareddy his junior was also an Inspector (Postal)

TC

was promoted as A.S.P. and thereafter he was promoted to H.S.G.-I and then to Group-B service. The applicant was directly promoted from ASP ^{senior} Group-B without going through the intermediate cadre of HSG-I. As Subba Reddy was promoted to HSG-I his pay was fixed on the basis of his last pay drawn in HSG-I. The pay of the applicant was fixed with respect to his pay while working as ASP when promoted to Group-B service. Thus Sri Subba Reddy his junior happened to draw more pay in Group-B service when promoted compared to the applicant.

3. The applicant has filed representation for stepping up ~~or his pay on par~~ rejected by the impugned order No. ST/4-2/VIII, dated 31.3.94 (A-7). His case was also rejected by the D.G. by letter dated 12.8.94 which was communicated to him by R-2 by his letter dated 23.8.94 (A-10).

4. This OA is filed for setting aside the order No. ST/4-2/VIII, dated 31.3.94 (A-7), letter No. 4-29/94-SPB.II, dated 12.8.94 (A-10) of DG Department of Posts has communicated by CPMG, Hyderabad letter dated 23.8.94 (A-10) and for a consequential direction to R-1 to step up his pay on par with Subba Reddy w.e.f. 1.3.84 with all consequential service and monetary benefits including payment of arrears due on this account with interest @ 18% per annum.

5. In a similar case in OA.152/96 and batch we have held that the applicants in those OAs are not eligible to step up ~~from~~ ^{their} pay on par with their juniors if they are not posted to the intermediate cadre of HSG-I. That OA was also decided on the basis of the two Supreme Court judgements referred to in that OA. The main ^{Learn} ~~theme~~ ^{was} ~~for~~ ^{he} of the ~~dismissal~~ of the OAs that the senior is entitled for stepping up of his pay on par with his juniors only if he fulfills the conditions

.. 3 ..

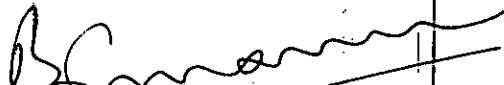
as laid down in ER 22(c). In this case the applicant has not fulfilled that condition as he did not work in the cadre, namely, HSG-I before being promoted as Group-B officer and his junior Sri Subba Reddy had worked in the cadre of HSG-I before he was promoted as Group-B officer in the postal service. Hence the directions in OA.152/96 and batch decided on 5.8.96 will squarely hold good in this OA also.

6. The learned counsel for the applicant submits that recently the Supreme Court had held in the reported case 1997 SCC (L&S) 701 (Union of India and others Vs. Jagadish and others) decided on 17.12.96 that the junior if he is drawing more pay than his senior the pay of the senior is entitled to be stepped up. The applicant further submits that the two judgements of the Apex Court referred to in OA.152/96 and batch had been superseded by the judgement in Jagadish's case. We have examined the facts of Jagadish's case. In Jagadish's case the junior was drawing the special pay while working as Senior Clerk and when he was promoted as Head Clerk his pay in the cadre of Head Clerk was fixed taking into account the special pay drawn by him in the Senior Clerk. His senior when he was promoted as Head Clerk was not drawing the special pay while working as Senior Clerk. In view of that the Apex Court directed for the stepping up of pay in Jagadish case. In the present case the facts are different. The applicant has not worked in HSG-I grade before he was promoted as Group-B services whereas Sri Subba Reddy worked in that cadre. Hence this case is easily distinguishable from Jagadish's case. Hence the direction given in Jagadish's case may not come to the rescue of the applicant's case.

R

7. The learned counsel for the applicant submits that the applicant worked as HSG-I on adhoc basis for some time but he was reverted to ASP before he was promoted as Group-B service. In that view the applicant should also be treated as having worked in HSG-I and on that basis he is entitled for stepping up not at all appealing to us. At the time of promotion the applicant had worked as ASP and not HSG-I, hence the fact that he worked on adhoc basis earlier in HSG-I will not give him any right to ask for stepping up of pay on par with his junior Subba Reddy. He also relies on the reported case 1993 (24) ATC 297 (M.L. Naurulla Vs. Union of India). In our opinion the stepping up of pay can be granted only if the fundamental rule FR 22(c) is fully complied with. If that rule is not fulfilled then the stepping up of pay cannot be ordered. Hence this contention also fails.

8. In view of what is stated above we follow the direction given in OA.152/96 and batch and on that basis we dismiss this OA also. No costs.

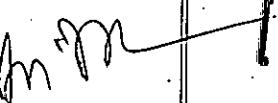

(B.S. JAI PARAMESHWAR)
Member (Judl.)

20.10.97

Dated : 20th October, 1997

(Dictated in Open Court)


(R.RAGARAJAN)
Member (Admn.)


D.R.

sd

65
••5••

Copy to:

1. The Director General, Department of Posts,
Dak Bhavan, New Delhi.
2. The Chief Postmaster General, A.P.Circle,
Hyderabad.
3. One copy to Mr.T.V.V.S.Murthy, Advocate, CAT, Hyderabad.
4. One copy to Mr.V.Bhimanna, Addl.CGSC, CAT, Hyderabad.
5. One copy to D.R(A),CAT, Hyderabad.
6. One duplicate copy.

YLR

7/11/97

(6)

TYPED BY
COMPARED BY

CHECKED BY
APPROVED BY

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD

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

AND

THE HON'BLE SHRI B.S.JAI PARAMESHWAR :
M (J)

Dated: 20-10-97

ORDER/JUDGMENT

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

in
D.A.NO. 79/95

Admitted and Interim Directions
Issued.

Allowed

Disposed of with Directions.

Dismissed

Dismissed as withdrawn

Dismissed for Default

Ordered/Rejected

No order as to costs.

YLR

II Court

केन्द्रीय प्रशासनिक अधिकार
Central Administrative Tribunal
प्रेषण/DESPATCH

- 3 NOV 1997

हृदयवाल राज्यालय
HYDERABAD BENCH