

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL: HYDERABAD BENCH:
AT HYDERABAD

ORIGINAL APPLICATION NO.962 of 1995

DATE OF ORDER: 11th July, 1996

BETWEEN:

P.RAM MOHAN

and

.. Applicant

1. The Regional Director,
Employees State Insurance Corporation,
Hill Fort Road, Adarshnagar,
Hyderabad 500 463,

2. The Director General (Estt.III),
ESI Corporation, Kotla Road,
New Delhi.

.. Respondents

COUNSEL FOR THE APPLICANT: SHRI T.SUDHAKAR REDDY

COUNSEL FOR THE RESPONDENTS: Mr. N.R.DEVARAJ, Sr.CGSC

CORAM:

HON'BLE SHRI R.RANGARAJAN, MEMBER (ADMINISTRATIVE)

JUDGEMENT

(AS PER HON'BLE SHRI R.RANGARAJAN, MEMBER (ADMINISTRATIVE))

None for the applicant. Heard Shri N.R.Devaraj,
learned senior standing counsel for the respondents.

2. The applicant in this OA was appointed as adhoc
LDC on 10.4.80 at Tarnaka office of ESI Corporation and he



was regularised in that capacity with effect from 1.10.1981. He was working as UDC at Tirupathi office of ESIC with effect from 30.10.1980. The applicant prays for stepping up of his pay with respect to his ~~senior~~ junior Shri K.M.G.Ali Hyder from the date Shri Ali Hyder was drawing more pay than the applicant in the regular cadre of UDC.

3. Shri Ali Hyder joined as LDC (adhoc) on 1.10.80 and he was regularised in that capacity from 1.5.82. Initially he was working in Hyderabad and in 1983 he was transferred to Kurnool. From 7.8.83 he was transferred on promotion on adhoc basis as UDC at Yemmiganur office of ESIC. When Shri Ali Hyder was regularly promoted as UDC his pay in the grade of UDC was fixed taking into account his adhoc officiation as UDC. Due to that adhoc officiation, his pay was fixed at higher stage than the applicant when he was promoted as regular UDC on 9.6.89 on which date the applicant was also promoted as regular UDC.

4. It is stated that on 16.7.81 an option letter was issued asking LDCs in the ESIC office to opt for adhoc promotion to the post of UDC. It is stated that both the applicant and Shri Ali Hyder did not respond to that option. On 16.7.81 both of them were adhoc LDCs. Hence the question of giving them adhoc promotion does not arise. But when Shri Ali Hyder, junior to the applicant, was given adhoc promotion as UDC on 7.8.83 at Yemmiganur when both of them were regular LDC, the case of the applicant should also have been considered as he is admittedly senior to Shri Ali Hyder. The applicant on 7.8.83 was at Tirupathi and his junior Shri Ali Hyder was at Kurnool. Both offices

of ESIC at Tirupathi and Kurnool are more or less nearer to Yemmiganur. In such a situation when Shri Ali Hyder was promoted as adhoc UDC without opting for adhoc UDC, the case of the applicant should also be considered for promotion as adhoc UDC as he had also not opted for adhoc UDC earlier. At least option at that time should have been called for from the applicant who is senior of Shri Ali Hyder and in case the applicant refuses at that time for adhoc promotion and posting at Yemmiganur, respondents are justified in promoting Shri Ali Hyder as adhoc UDC at Yemmiganur. The establishment rule that a senior should be considered first and on his refusal only a junior should be considered even for adhoc promotion is not followed in this case of adhoc promotion. Established rule has been given a go-bye in this case. Shri Ali Hyder was promoted arbitrarily without considering the case of his senior who is the applicant herein. In view of the above, the relief for stepping up of pay of the applicant on par with his junior Shri Ali Hyder cannot be brushed aside when Shri Ali Hyder was promoted as regular UDC.

5. In the result, the following direction is given:-

The pay of the applicant has to be stepped up on par with his junior Shri Ali Hyder from the date when Shri Ali Hyder was drawing more pay than the applicant in the regular cadre of UDC. Arrears, if any, accruing in pursuance of the above direction are restricted to one year prior to filing of this OA i.e, from 3.8.94 (this OA was filed on 3.8.95).

..5..

O.A.NO.962/95

Copy to :

1. The Regional Director,
Employees State Insurance Corporation,
Hill Fort Road, Adarshnagar,
Hyderabad - 500 463.
2. The Director General, (Estt.III),
ESI Corporation, Kotla Road,
New Delhi.
3. One copy to Mr.T.Sudhakar Reddy, Advocate,CAT,Hyderabad.
4. One copy to Mr.N.R.Devraj,Sr.CGSC,CAT,Hyderabad.
5. One copy to Library,CAT,Hyderabad.
6. One duplicate copy.

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OA 962/85
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THE CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH HYDERABAD

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

DATED: 11.7.96

ORDER/JUDGEMENT

D.A. NO./R.A./C.P. No.

in:

D.A. NO. 962/85

ADMITTED AND INTERIM DIRECTIONS ISSUED

ALLOWED

DISPOSED OF WITH DIRECTIONS

DISMISSED

DISMISSED AS WITHDRAWN

ORDERED/REJECTED

NO ORDER AS TO COSTS.

YLKR

II COURT

No Spcl Copy

