

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH

AT HYDERABAD

O.A.1160/93.

Dt. of Decision : 9-4-97.

E.Chandikeswara Lingam

.. Applicant.

Vs

1. The Chief Personnel Officer,
SC Rly, Rail Nilayam,
Sec'bad.
2. The Dy.Chief Mech.Engineer,
(Personnel), Carriage Repair Shop,
SC Rly, Tirupathi.

.. Respondents.

Counsel for the applicant

: Mr.G.V.Subba Rao

Counsel for the respondents

: Mr.V.Rajeswara Rao for
Mr.N.V.Ramana, Addl.CGSC.

CORAM:

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



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ORDER

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

Heard Mr.G.V.Subba Rao, learned counsel for the applicant and Mr.V.Rajeswara Rao for Mr.N.V.Ramana, learned counsel for the respondents.

2. Both the applicant and one Mr.M.Annaji Rao were promoted as Head Clerk regularly in the Tirupathi Workshop in the Mechanical Branch w.e.f., 22-7-87. It is stated that the applicant came to Tirupathi Workshop much later than Mr.M.Annaji Rao. The reason for the applicant joining the Tirupathi Workshop late was that he was relieved from Vijayawada Division late on administrative ground. Mr.M.Annaji Rao was posted to Tirupathi Workshop from Guntakal Division. In view of the fact that Mr.M.Annaji Rao was given adhoc promotion from 27-5-82 his pay was higher when he was regularly promoted compared to that of applicant in the cadre of Head Clerk. The learned counsel for the applicant submits that in a similar case in OA.521/91 decided on 19-11-92 the junior when he was drawing more pay than the senior when regularly promoted as Head Clerk was given the relief of stepping up of pay and payment of arrears. The applicant submits that as his case is similar to the OA referred to, he should also be given the same relief on par with Mr.M.Annaji Rao ^{who} is junior to him.

3. From the enclosures to the OA it is seen that as for back as 1-9-93 a memorandum was issued for fixing the pay of the applicant on par with his junior Mr.M.Annaji Rao. But it is stated that that memorandum was not given effect to. Subsequently, on 26-8-94 a reference was made to the CPO by WPO, Tirupathi in connection with the stepping up of pay of the applicant on par with his junior. The CPO vide his letter No.P.612/Mech./CRS/TPTY/26 dated 6-2-95 (Annexure-II) approved the case of stepping up of pay of the applicant in consultation with the Associated Finance and accorded concurrence for payment of Rs.19,497-00/- as

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arrear payment. But it is stated that no action has been taken in view of certain objections raised by the local finance.

4. This OA is filed praying for a direction to the respondents to extend the benefit of the judgement in OA. 521/91 dated 19-11-92 to the applicant from 27-5-82 as he is similarly situated as the applicant in OA.521/91 and consequently the stepping up of pay and payment of arrears.

5. A reply has been filed in this OA. The main contention of the respondents is that Mr.M.Annaji Rao came to Tirupathy Workshop much earlier than the applicant ~~xx xxxx xx~~ and hence he cannot demand stepping up of pay on par with him w.e.f., 27-5-82. It is further stated that this is a time barred case as the applicant has approached this Tribunal only in September 1995, whereas his pay was fixed on 22-7-87 when Mr.M.Annaji Rao's pay was more than that of the applicant. Even the judgement in OA.521/91 was delivered on 19-11-92 and he approached this Tribunal only in Sep. 1995 and hence he cannot demand the same relief as given in OA.521/91.

6. The case of the applicant was processed right from 1-9-93 as can be seen from the memorandum for fixation of pay vis-a-vis his junior Mr.M.Annaji Rao. Though the applicant was given the relief by CPO by his letter No.P.612/Mech/CRS/TPTY/26 dated 6-2-95 (Annexure-II) no action appear to have been taken by the respondents. The WPO though sent a proposal for payment of arrears to the Accounts office in pursuance of the direction given by CBO, ^{had} no further progress/taken place in this case.

7. It is an admitted fact that Mr.M.Annaji Rao is junior to the applicant as can be seen from the memorandum ~~xxxxx~~ No.TP/P.535/MS(NP) dated 7-4-89 (Annexure-VI). In a similar case the applicant Mr.G.Ramamohan Rao in OA.521/91 when prayed for stepping up of pay on par with his junior Mr.Kamaraju the same was granted by this Tribunal in the OA for reasons stated therein. We find that the present case is also similar. Because

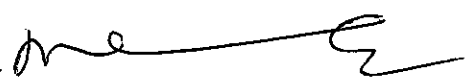
of this fact only that the CPO had asked the WPO to settle his case for stepping up of pay and also payment of arrears. The WPO can have no further alternative left to him except to implement the orders of the CPO as the CPO is the final authority in this case and his order was also issued with the concurrence of the associated finance.

8. In view of what is stated above, I am of the opinion that the applicant has made out a case to grant the relief. But he cannot demand any arrears earlier to his promotion as Head Clerk in the Tirupathi Workshop as he was not an employee of the Workshop right from 1982 onwards. It is ^{immaterial} ~~in material~~ whether he was relieved late due to administrative reason. If he is not relieved in time to join Tirupathi Shop he should have taken action at that time even if it required to approach a judicial forum. Even notional fixation of pay on par with his junior from 1982 onwards cannot be granted for the reason mentioned above and also due to the fact that both of them belong different units before coming to Tirupathi Shops. As can be seen from the proceedings the applicant and his junior Mr.M.Annaji Rao were promoted as Head Clerk only w.e.f., 22-7-87. Hence, the pay of the applicant should be stepped up on par with Mr.M.Annaji Rao in the cadre of Head Clerk w.e.f., 22-7-87 and his pay fixed if he is promoted to the higher grade on that basis.

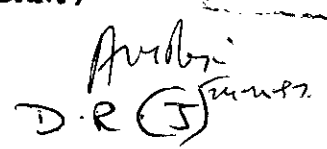
9. In the result, the following direction is given:-

The pay of the applicant as Head Clerk in Tirupathi Shop should be stepped up on par with Mr.M.Annaji Rao w.e.f., 22-7-87. If the applicant is promoted to the higher grade then his pay fixation in the higher grade should be regulated on that basis. The applicant is entitled for arrears on that basis w.e.f., 22-7-87. Time for compliance is four months from the date of receipt of a copy of this order.

10. The OA is ordered accordingly. No costs.


(R. RANGARAJAN)
MEMBER (ADMN.)

Dated : The 9th April 1997.
(Dictated in the Open Court)


D.R. (J) Kumar

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Copy to:

1. The Chief Personnel Officer, South Central Railway, Railnilayam, Secunderabad.
2. The Dy. Chief Mechanical Engineer, (Personal), Carriage Repair Shop, South Central Railway, Tirupathi.
3. One copy to Mr. G. V. Subba Rao, Advocate, CAT, Hyderabad.
4. One copy to Mr. N. V. Ramana, Addl. CGSC, CAT, Hyderabad.
5. One copy to D. R. (A), CAT, Hyderabad.
6. One duplicate copy.

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APPROVED BY

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH HYDERABAD

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

AND

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

DATED: 9/4/97

ORDER/JUDGEMENT

R.A/C.P/M.A.No.

in

O.A.No.

1160/95

ADMITTED INTERIM DIRECTIONS ISSUED
ALLOWED

DISPOSED OF WITH DIRECTIONS

DISMISSED

DISMISSED AS WITHDRAWN

ORDERED/REJECTED

NO ORDER AS TO COSTS

YLKR

II COURT

केन्द्रीय प्रशासनिक अधिकरण
Central Administrative Tribunal

ब्रेवरी/DESPATCH

30 APR 1997

हैदराबाद न्यायपीठ
HYDERABAD BENCH