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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL: HYDERABAD BENCH
AT HYDERABAD

OA.1271/95

dt. 7 August, 96

Between

B. Uppalaiah

Applicant

and

1. The Director General of Mines Safety
Dhanbad, Bihar State 826001

2. The Admn. Officer and DDO
Southern Zone, O/o Dy. Director General
of Mines Safety,
Adarsh Nagar, Hyderabad 500463 : Respondents

Counsel for the applicant

: K.G.Krishnamoorthy
Advocate

Counsel for the respondents

: K. Ramulu, SC for
Central Government

CORAM

HON. MR. R. RANGARAJAN, MEMBER (ADMN.)



Judgement

Oral order (per Hon. Mr. R. Rangarajan, Member (Admn)

Heard Sri K.G. Krishnamurthy for the applicant and Ms. Shyama for Sri K. Ramulu for the respondents.

2. The applicant while working as an LDC under R-2 was promoted as Group Clerk on 22-9-1986 and was posted under the same respondent. As can be seen from the Statement of pay fixation at Annexure-I his pay on promotion on 22-9-1986 was fixed at Rs.1260/-. However, it is stated that Audit in its Inspection Report dated 19-4-1995 had objected to the fixation of pay of the applicant under FR 22(C). In view of the above objection pay fixation of the applicant was reexamined and the impugned order 17(4)94-Admn.I/1054 dated 20-6-1995 (A-2) was issued refixing his pay at the stage of Rs.1230/- in the scale of pay of Rs.1200-2040 as Group Clerk with effect from 22-9-86.

3. This OA is filed for setting aside the impugned letter dated 20-6-1995 (Annexure-2) and consequential direction to the respondents to continue to pay him at the stage of Rs.1260/- in the pay scale of Rs.1200-2040 with effect from 22-9-1986 with all consequential benefits.

4. An interim direction was given in this OA on 20-6-95 directing the respondents not to make any recovery in pursuance of the order dated 20-6-95.

5. The main contention of the applicant in this OA for upholding the earlier fixation of his pay at the stage of Rs.1260/- in the pay scale of Rs.1200-2040 are as follows :
i) The pay of the applicant so fixed by the order dated 30-10-86 (Annexure-1) has been done correctly as per his pay in LDC adhering to FR.22(C). Hence, refixation as

per impugned order dated 20-6-1995 is uncalled for.

ii) Some of the employees who were promoted alongwith him were also fixed in the higher grade similar to the pay fixation done to the applicant herein. Hence, reducing the pay of the applicant only whereas similarly situated people are unaffected, leads to discrimination. He relies on the Apex Court judgement reported in 1994 SCC (L&S) 1320 (Bhagwan Shukla Vs. Union of India) in this connection.

iii) No notice was issued to him before refixing his pay at lower stage. Hence, it is violation of statutory rule in this connection.

6. Reply has been filed. The reply does not touch the various contention raised in this OA. However, learned counsel for the respondents submitted that the refixation was necessitated on account of the objection raised by audit. Hence, there is nothing wrong in refixing the pay on the basis of factual position in accordance with rules. Hence, ^{there's} nothing wrong in issuing letter dated 20-6-1995 refixing his pay.

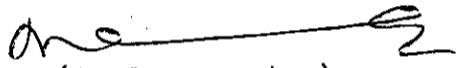
7. Whenever revision of pay takes place lowering the earlier fixation the respondents ought to give notice to the affected employee and hear his case in this connection. The principle of audi alterum partem has to be enforced. Since in this case the applicant was not given a chance to explain his case while refixing his pay at lower stage, the impugned letter dated 20-6-95 cannot be sustained. Hence, it has to be set aside. However, liberty is also to be given to the respondents to issue the show cause notice to the applicant and on that basis decide the issue in regard to revision of his pay in accordance with law. While deciding the issue after receiving reply, the respondents should keep in mind

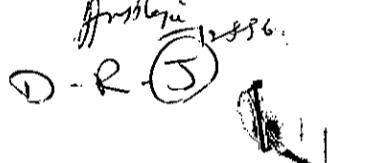
(31)

in regard to the grievance of the applicant that no action has been taken in ~~regard to~~ ^{fixing the pay} the similarly placed employees when they were promoted to the Group clerk.

8. In the result the impugned letter No.17(4)94-Admn.I/1054 dated 20-6-1995 (Annexure-2) is set aside. However, the respondents are at liberty to issue a show cause notice to the applicant in case his pay has to be revised. The revision of pay may be decided on receiving reply from the applicant to the show cause notice taking due note of pay fixation in similarly situated employees of the organisation.

9. The OA is ordered accordingly. No costs.


(R. Rangarajan)
Member (Admn.)


Dated : August 7, 96
Dictated in Open Court

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D.A. NO.1271/95

Copy to:

1. The Director General of Mines Safety, Dhanbad, Bihar State- 826 001.
2. The Admn. Officer and DDO, Southern Zone, O/Offy. Director General of Mines Safety, Adarshnagar, Hyderabad - 500 463.
3. One copy to Mr.K.G.Krishna Murthy, Advocate, CAT, Hyderabad.
4. One copy to Mr.K.Ramuloo, SC for Central Government, CAT, Hyderabad.
5. One copy to Library, CAT, Hyderabad.
6. One copy for duplicate,

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C.R.S.
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THE CENTRAL ADMINISTRATIVE TRIBUNAL,
HYDERABAD BENCH HYDERABAD

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

DATED: 7.8.96

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

in
D.A. NO. 1271/95

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 Spare Copy

