

66
IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH
AT HYDERABAD

ORIGINAL APPLICATION NO. 1282/95

DT OF ORDER : 06-03-1997.

Between :-

| | |
|--------------------------|---------------------|
| 1. D.Rama Shanker | 7. M.S.V.Prasad |
| 2. N.S.Prem Kumar | 8. V.V.Kodanda Rao |
| 3. K.Venugopal | 9. M.Ravi Prasad |
| 4. P.Yadagiri Rao | 10.J.Shankara Chary |
| 5. N.Keshavacharyulu | 11.V.Ramanujulu |
| 6. Mogalla Narasimha Rao | 12.M.J.Swarnalatha |

... Applicants

And

1. The Director General,
ESI Corporation, Kotla Rd,
New Delhi.
2. The Regional Director,
Employees State Insurance Corporation,
Regional Office, A.P.,
5-9-23, Hill Fort Rd,
Hyd-500 483.

... Respondents

--- --- ---

Counsel for the Applicants : Shri Y.Suryanarayana

Counsel for the Respondents : Shri N.R.Devaraj, Sr.CGSC

--- --- ---

CORAM:

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

(Order per Hon'ble Shri R.Rangarajan, Member (A)).

--- --- ---



...2.

(Order per Hon'ble Shri R.Rangarajan, Member (A)).

-- -- --

Heard Shri P.Naveen Rao for Shri Y.Suryanarayana for the applicants and Shri N.R.Devaraj, learned counsel for the respondents.

2. There are 12 applicants in this O.A. They claim parity of pay with respect of one Shri Naseer Basha when Sri Naseer Basha ^{as U.D.C} was promoted as UDC on regular basis on 3-1-94.

3. The applicants are now working as regular UDCs under respondent No.2. A post of UDC became vacant in ESI Office of Guntakal (local Office at Guntakal) on 18-5-85. Sri Naseer Basha who was locally available at than time working as LDC was promoted as UDC from 18-5-85 and he worked up to 14-5-86 when he was reverted to lower cadre of LDC. It is stated that the applicants herein were not asked their willingness for officiating as adhoc UDC at Guntakal. It is further submitted that Sri Naseer Basha got the benefit of adhoc officiation during the period of 18-5-85 to 14-5-86 in ^{his} pay fixation when he was regularly promoted as ^{U.D.C} ~~Stenographer~~ on 3-1-94. Shri Naseer Basha was a lower division clerk having qualification of Stenography. When a post of Stenographer became vacant, Sri Naseer Basha was promoted as Stenographer (Adhoc) from 22-3-89 to 22-1-92. Thereafter he was reverted back as LDC. He was regularly promoted as UDC on 3-1-94. Sri Naseer Basha got the advantage of higher pay fixation in the cadre of UDC when he was promoted as UDC regularly taking his earlier adhoc officiation as UDC from 18-5-85 to 14-5-86 and officiation as adhoc Stenographer from 22-3-89 to 24-1-92.

4. The applicants submit that they were never asked for willingness either to officiate as adhoc UDC between 18-5-85 and 14-5-86 and for adhoc officiation as Stenographer during the period from 22-3-89 to 22-1-92. In view of the adhoc officiation in the higher grade by Shri Naseer Basha who is junior to the applicants herein got the benefit of regularization he was regularly promoted as UDC on 3-1-94. The applicants in this OA pray that their pay should also be stepped up so as to be equal to that of Shri Naseer Basha when Shri Naseer Basha was promoted regularly as UDC with effect from 3-1-94.

5. They have submitted individual representations to the above effect to respondent No.2 vide their representations (pages 23 to 29 to OA). Their representations were rejected by the impugned letter No.52/A/20/11/880/82 Estt.I dt.22-6-95 (Page-34 of the OA) on the ground that Shri Naseer Basha, UDC was drawing more pay by virtue of more length of service as UDC and stepping up of the pay on par with him is not possible.

6. This OA is filed to set aside the impugned reply proceedings of respondent No.2 and for a consequential direction to step up their pay on par with Shri Naseer Basha from 3-1-94 when Shri Naseer Basha was regularly promoted as UDC.

7. The request of the applicant should be considered on two grounds. The first ground is whether the applicants are entitled for pay fixation equal to that of Sri Naseer Basha due to his adhoc promotion as UDC from 18-5-85 to 14-5-86.

8. The second ground is whether the applicants are entitled for higher fixation due to the adhoc posting of Sri Naseer Basha as Stenographer from 22-3-89 to 22-1-92.

9. It is an admitted fact that the applicants are seniors to Shri Naseer Basha. It is also admitted that Shri Naseer Basha was promoted on adhoc basis locally at Guntakal when a vacancy during the period from 18-5-85 to 14-5-86 arose and the options of the seniors to work onadhoc basis were not called for. Hence the applicants being senior to Sri Naseer Basha cannot be denied of higher pay fixation even if the promotion of Sri Naseer Basha as UDC from 18-5-85 to 14-5-86 is on adhoc basis. In view of that, the applicants are entitled to the higher fixation of pay to the extent Sri Naseer Basha obtained benefit as adhoc UDC in the above period, when he was regularly promoted as UDC. The above proposition is also accepted by the respondents as can be seen from the page-5 of the reply. Hence there is no controversy in regard to the direction to be given in this connection.

10. Sri Naseer Basha worked as Stenographer on adhoc basis which is equivalent to that of UDC cadre between 22-3-89 to 22-1-92. The applicants submitted that they being seniors and knowing stenography should have been offered that post of Stenographer in which Sri Naseer Basha during the above referred period was promoted on adhoc basis. But there is no material to prove except the verbal statement of the applicants that they possess the Stenography qualification and that they are also eligible to be considered for promotion as Stenographer. If they possess the Stenography qualification earlier to 22-3-89 when Sri Naseer Basha

70

was offered promotion of adhoc Stenographer and that fact was notified to the respondents viz., Respondent No.2 before that date then the applicants may have a case for higher fixation. But it is not stated anywhere either in the OA or in the rejoinder that the above fact was known to the respondents earlier to 22-3-89. Hence it cannot be said that the applicants have fulfilled their obligations in notifying the departments before hand in regard to their stenography qualification. Even if they have informed the department the same should have been recorded in the service book and then ^{on 9} ~~as~~ the applicants are entitled for higher fixation of pay with Shri Naseer Basha when Sri Naseer Basha was regularly promoted as UDC with effect from 3-1-94. It may be possible that applicants would have notified regarding their Stenography qualification to the respondents earlier to 22-3-89 and the administration could have failed to enter the same in the records. In that case the applicants can now produce sufficient and acceptable proof of having informed the administration regarding the stenography qualification earlier to 22-3-89 and that proof can be verified by the respondents and on verification if that statement is found correct, then applicants are entitled for relief even if such a qualification is not entered in the service book. Under the above circumstances the following directions are given :-

"The benefit of higher fixation obtained by Sri Naseer Basha due to his adhoc working as UDC from 18-5-85 to 4-5-86 has to be extended to the applicants also if the applicants are drawing less pay than Sri Naseer Basha when Sri Naseer Basha was regularly promoted as UDC with effect from 3-1-94;



(ii) If the stenography qualification of the applicants has been recorded in the service book of the applicants earlier to 22-3-89 or if applicants have proved to the satisfaction of the respondents that they have intimated their stenography qualification earlier to 22-3-89 then all the applicants or those applicants who fulfilled the above conditions are entitled to the benefit of higher fixation obtained by Sri Naseer Basha due to his adhoc promotion as Stenographer with effect from 22-3-89 to 22-1-92 if their pay is less than Sri Naseer Basha on the date when Sri Naseer Basha was regularly promoted as UDC.

11. The time for compliance is three months from the date of receipt of a copy of this order.
12. The O.A. is ordered accordingly. No costs.



(R.RANGARAJAN)
Member (A)

Dated: 6th March, 1997.
Dictated in Open Court.

Amra 17/3/97
Dy. Reg. No. 132

av1/

Copy to:-

1. The Director General, E.S.I. Corporation, Ketla road, New Delhi.
2. The Regional Director, Employees State Insurance Corporation, Regional Office, A.P. 5-9-23, Hill Fort road, Hyd.
3. One copy to Sri. Y.Suryanarayana, advocate, CAT, Hyd.
4. One copy to Sri. N.R.Devaraj, Sr. CGSC, CAT, Hyd.
5. One copy to Deputy Registrar(A), CAT, Hyd.
6. One spare copy.

Ram/-

5499

6

TO THE CLERK

RECEIVED

TYPED BY

CHECKED BY

COMPARED BY

APPROVED BY

THE CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH HYDERABAD

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

AND

THE HON'BLE SHRI B.S. JAI PARKASHWAR:
M(D)

DATED:

6/3/97.

ORDER/JUDGEMENT

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

O.A. NO.

IN
1282195

ADMITTED AND INTERIM DIRECTIONS ISSUED
ALLOWED

DISPOSED OF WITH DIRECTIONS

DISMISSED

DISMISSED AS WITHDRAWN

ORDERED/REJECTED

NO ORDER AS TO COSTS.

II COURT

YLKR

केन्द्रीय प्रशासनिक अधिकारण
Central Administrative Tribunal
DESPATCH

24 MAR 1997

हैदराबाद न्यायालय
HYDERABAD BENCH