

(32)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL: HYDERABAD BENCH

AT HYDERABAD

OA.1451/95

dt. : 9-7-96

N. Narasimha Sastry

.. Applicant

versus

1. Union of India, rep.by
Secretary
Dept. of Telecom
Sanchar Bhavan
New Delhi

2. The Chief General Manager
Telecom, AP Circle
Hyderabad - 1

3. Union of Indi, rep.
by the Secretary
Dept. of Personnel & Training
New Delhi

.. Respondents

Counsel for the applicant

..TVVS Murthy
Advocate

Counsel for the respondents

..V. Bhimanna
SC for CG

CORAM

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

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Judgement

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

Heard Sri T.V.V.S Murthy, learned counsel for the applicant and Sri V. Bhimanna, learned counsel for the respondents.

2. The applicant in this OA is a PA in the office of Chief General Manager, Telecom, Hyderabad. He qualified in higher speed test in English shorthand at 120 wpm. Consequentially, he was granted an advance increment in the scale of Rs.1200-2040 with effect from 7-6-1987 vide memo No.TA:STB:49-5/II dated 2-7-1987 (Annexure-I) and his basic pay was fixed accordingly in accordance with rules by taking into account the said advance increment. Department of Personnel and Training have issued OM No. F.13/29/82-Est.(P-I) dated 4th February 1983, containing certain clarification regarding the grant of the advance increment for qualifying in higher speed test and fixation of pay. The relevant para i.e. para-3 at Annexure-A.2 is reproduced below :

"While past cases decided otherwise will not be reopened, the increments granted on or after 1-1-1986, in the revised scales will be treated as a separate element and will be only additional increments over and above the pay in the prescribed pay and not part of the scale. If the additional increments granted prior to 1-1-1986, were taken into account as part of "existing emoluments" for fixation in the revised scales, any further increments granted in the revised scales should be discontinued and payments if any already made recovered."

3. Based on the Audit objection pertaining to grant of advance increment in Visakhapatnam, Telecom Area, Respondent-2 issued certain clarification dated 14-8-89 to the letter of DOP. As per this clarification, the advance increments granted to Stenographers for acquiring

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higher speed in stenography on or after 1-1-1936 in the revised scales will be only additional increments over and above the pay in the prescribed scale and will not form part of the basic pay. This additional increment will not count as pay for allowance and as emoluments for bonus and gratuity. The letter dated 22-5-1995 also instructs the concerned official to recover the over payment if any in view of the above clarification.

4. Accordingly by impugned letter No.TA:ACA:28-1/95 dated 31-10-1995 (Annexure-A.4) an amount of Rs.6,337/- is sought to be recovered from the applicant herein.

5. Aggrieved by the above the applicant has filed this OA for setting aside the OM dated 14-8-1989 (A-2) and the consequential letter dated 22-5-95 (Annexure-3) and 31-10-1995 (Annexure-4) by holding them as illegal, arbitrary and for a consequential direction notto recover the alleged overpayment and to treat the advance increment granted to him from 7-6-1987 as part of his pay for the purpose of allowances and as emoluments for pension/gratuity.

6. By the interim direction on 29-11-1995 recovery as per the impugned order dated 31-10-1995 (Annexure-4) was stayed until further orders.

7. The applicant now states that the second meeting of the Sub-Committee of the Standing Committee of the National Council of JCM held on 7-1-95 has given certain recommendations in regard to the treatment of the advance increment paid to Stenographers. A copy of the report though unsigned was produced by the learned counsel for the applicant. The official side had made a proposal for counting of advance increment for allowances and

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pensionary benefit but not for pay fixation and requested staff side to examine. The staff side examined the proposal and reiterated their demand that the increment should count as pay for all purposes. Since there was no agreement between the staff side and official side, the ^aChairman directed to place the Sub-Committee's reports before the Standing Committee. It is not known what further decision has been taken by Standing Committee in this connection. It is possible that by now some decision could have been taken in this connection by the Department of Personnel in consultation with the staff side. Hence it is essential that the Department of Communication should check from the Department of Personnel in regard to the latest position.

8. The learned standing counsel submitted that in a similar case OA.1594/95 a direction was given to issue a ~~show cause notice~~ receiving the reply further action has to be taken in accordance with law. As this prayer and contention in this OA are similar to the one advanced in OA.1594/95 similar direction can be issued in this case also.

9. In view of the above submission and as the relief prayed for in the OA.1594/95 is also similar to the present one it is justifiable to issue a similar direction in this case also. The applicant should be given an opportunity in view of the present circumstances as explained above to submit a fresh representation to Respondent-1 taking all available contention and also including the opinion of the Sub committee of the Standing Committee of National Council of JCMs. If such a representation is received by Respondent-1 the same should be disposed of by him in consultation with the Department of Personnel after

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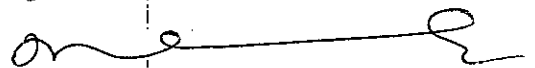
ascertaining the present position of the progress made in regard to the report of the Sub Committee as indicated above and dispose of the same as per time schedule and resort to further action in accordance with law. If the applicant is not going to submit the representation on or before 9-8-1996 Respondent-2 may revive the impugned order dated 31-10-1995.

10. In the result the following direction is given :

The impugned letter dated 31-10-1995 (Annexure-A.4) is set aside. The applicant if so advised may submit a detailed representation addressed to Respondent-1^{and} despatch the same under RPAD in addition to sending that representation through proper channel also on or before 9-8-1996 taking all available contentions including the information he has received in regard to the report of the Sub-Committee of the Standing Committee of National Council of JCMs. If such a representation is received by Respondent-1 the same should be disposed of by him in consultation with the Department of personnel within a period of six months from the date of receipt of copy of that representation. Further action in this case should be taken thereafter by respondents in accordance with rules.

11. If the applicant is not going to submit his representation as stipulated above Respondent-2 is permitted to revive the impugned order dated 31-10-1995 and recover the excess payment as indicated in that impugned order.

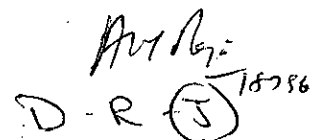
12. The OA is ordered accordingly. No costs.



(R. Rangarajan)
Member (Admn.)

Dated : July 9, 96
Dictated in Open Court

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D-R (J) 18/8/96

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O.A.No.1451/95

Copy to:

1. The Secretary, Dept. of Telecom,
Sanchar Bhavan,
New Delhi.
2. The Chief General Manager,
Telecom, A.P.Circle,
Hyderabad.
3. The Secretary, Dept. of Personnel & Training,
New Delhi.
4. One copy to Mr.T.V.V.S.Murthy, ~~xxx~~ Advocate, CAT, Hyderabad.
5. One copy to Mr.V.Bhimanna, Addl.CGSC, CAT, Hyderabad.
6. One copy to Library, CAT, Hyderabad.
7. One duplicate copy.

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APPROVED BY

THE CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH HYDERABAD

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

DATED: 9. 7. 96

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

O.A. NO. 1451ⁱⁿ/95

ADMITTED AND INTERIM DIRECTIONS ISSUED
ALLOWED
DISPOSED OF WITH DIRECTIONS
DISMISSED
DISMISSED AS WITHDRAWN
ORDERED/REJECTED ✓
NO ORDER AS TO COSTS.

VIKR

IT COURT

No spare copy

केन्द्रीय प्रशासनिक अधिकरण
Central Administrative Tribunal
ब्रेषण/DESPATCH
30 JUL 1996
हैदराबाद न्यायपीठ
HYDERABAD BENCH