

81

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH
AT HYDERABAD

O.A.No.1568/95

Dt.of Decision : 15-07-96.

T.Chenchaiah .. Applicant.

Vs.

1. The Union of India rep. by the Secretary, Ministry of Labour, Govt. of India, New Delhi-110 001.
2. The Welfare Commissioner, Rs Labour Welfare Organisation, for A.P., Tamil Nadu and Pandicherry, Govt. of India, Ministry of Labour at Kendriya Sadan, Hyderabad-500 195.
3. The Welfare Administrator, Labour Welfare Organisation, Govt. of India, Min. of Labour, Kalichedu S.O. Nellore District Pin Code : 524 409. .. Respondents.

Counsel for the Applicant : Mr. T.V.V.S.Murthy
Rs

Counsel for the Respondents : Mr. N.V.Raghava Reddy, ADDL.CGSC.

CORAM:-

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

ORDER

Oral Order (Per Hon'ble Shri R.Rangarajan, Member(Admn.))

Heard Mr. T.V.V.S.Murthy, learned counsel for the applicant and Mr. N.V.Raghava Reddy, learned counsel for the respondents.

2. The applicant in this OA while working as Teacher in the Secondary Grade Teacher (Matric Trained), Mica Mines Labour Welfare Organisation High School, Talupur, Kalichedu S.O. Nellore District, under the Ministry of Labour, Government of India, filed Writ Petition No.2520/78 in the High Court of A.P to implement the pay scales of Rs.290-560/- to him w.e.f., 1-1-73 as per the recommendations of the III Pay Commission. That Writ Petition was allowed compelling the respondents therein to implement the revised scales of pay of Rs.290-560/-.

B



3. The applicant thereafter submitted that the scale of pay for the Matric Trained Teachers in Railways was fixed as Rs.330-560/- and hence he requested to fix his pay in the scale of pay of Rs. 330-560/- from 1-1-73. That relief was given by the respondents themselves to the applicant herein w.e.f., 1-1-73 by an order dated 7-5-83 and the arrears due were paid also. But by the impugned order No.Rc.No.I(26)/A/78 dated 8-7-86 (Annexure A-1) R-2 had reduced the scale from Rs.330-560/- to Rs.290-560/- from 1-1-73 without any notice. Some of the Matric Trained Teachers including the applicant filed OA.No.200/86 on the file of this Bench challenging the order dated 8-7-86. That OA was disposed of by an order of this Bench dated 30-11-87 asking the respondents to dispose of the representations in this connection. In pursuance of that order the applicant herein and others submitted a representation to R-1 on 4-1-88 (Annexure A-3). Those representations were rejected by R-1 by order No.PF/KNPD/D/86 dated 10-02-88 (Annexure A-4).

4. Some other applicants filed OA.No.163/88 for restoring the pay to 330-560/- from 1-1-73. That OA was disposed of by the Judgement of this Tribunal dt.21-2-89 allowing the application and directing the respondents to pay them in the scale of pay of Rs.330-560/- from 1-1-73. The applicant in this OA is not a party to the OA 163/88 filed on this Bench whereafter the applicant filed a representation dt.10-04-89 (Annexure A-7) to restore his pay also to the grade of Rs.330-560/- w.e.f., 1-1-73 as directed by this Tribunal in OA.No.163/88. He pursued his case by submitting further representation in this connection. By

the impugned office memorandum No.PF/TC/95 dated 12-10-95 (Annexure A-15) the applicant was informed that the said pay scale of Rs.330-560/- from 1-1-73 is to be given only to the applicants in that OA and not to the applicant herein as he was not a party in that OA.

5. Aggrieved by the above, he has filed this OA to quash the order No.Rc.No.I(26)/A/78 dated 8-7-86 (Annexure A-1) issued by R-2 whereby his pay was reduced from Rs.330-560/- to Rs. 290-560/- w.e.f., 1-1-73 holding it as illegal, arbitrary and for a consequential direction to the respondents herein to restore the pay of the applicant to the pay scale of Rs.330-560/- w.e.f., 1-1-73 as was done in the case of the applicant in OA.No.163/88 on the file of this Bench and for a further direction to pay him the arrears.

6. The respondents in the office memo.No.PF/TC/95 dated 12-10-95 (Annexure A-15) had rejected his case for fixing his pay in accordance with the judgement of this Tribunal in OA.No. 163/88 on the ground that the applicant in this OA is not a party in OA.No.163/88. In para 4 and 8 of the reply statement also, the same is reiterated as the ground for rejection of fixation of his pay in the grade of Rs.330-560/- and arrears thereon. It is also an admitted fact that the applicants in the OA.163/88 are juniors to him and because of the direction in OA.163/88 his juniors in that OA were getting more pay than the applicant herein. This Tribunal is consistantly emphasising the fact that when a direction is given and applicants who are similarly placed even if they are not party in that OA in which such direction was



given could not be forced to come to this Court for getting similar relief on the plea that the direction pertains only to the applicant in the OA. But in this case though the applicant is senior to the applicants in OA.No.163/88 and his case is also similar to one in OA.No.163/88, there is no reason for rejecting his request. Hence, the relief asked for by the applicant in this OA has to be allowed.

7. The applicant submits that he filed another OA for higher fixation than Rs.330-560/- as his juniors were given the grade of Rs.330-560/-. But that OA, the applicant himself admitted ~~was~~ ^{had} dismissed. Fixation of scale of pay for higher than Rs.330-560/- is altogether different issue and that has nothing to do with the present issue. Even that OA was dismissed by this Tribunal. Hence, there is no point for the applicant to wait for the decision in that OA before filing this OA praying for fixation in the scale of pay Rs.330-560/-. Hence delay in filing this OA on this account cannot be accepted. It is a fact that the applicant was not a party in OA.163/88. When the relief was granted to the applicant in OA.No.163/88 who were similarly placed, the applicant herein could have immediately approached this Tribunal for similar relief. But he has submitted a representation dated 10-04-89 for similar relief. When no reply was ~~not~~ given to that representation within a reasonable period he could have atleast approached this Tribunal by filing OA. Even that too he did not do. Instead he approached this Tribunal only on 18-12-95 when his representation for fixation in the grade of Rs.330-560/- was turned down by the order dated



12-10-95. Hence it has to be held that his case is barred by limitation and hence he cannot get full benefits of the arrears due to the delay in filing this OA for which he is responsible. But as the pay fixation and grant of increment thereon is a continuing process he can get arrears only one year or three years prior to filing of the OA on the basis of the circumstances of the case. It is stated that as his juniors got arrears from 18-07-86 and all of them working in the same School, he cannot get arrears much lower than his junior counterparts in the school. Considering the above plea and the circumstances of the case it will be in order if the arrears are given for three years instead of a year prior to filing of this OA as is usually directed by this Tribunal in case relief is of continuing one.

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

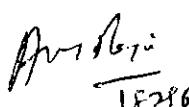
The applicant herein is entitled to the pay scale of Rs.330-560/- from 1-1-73 notionally and further notional increments thereon. He is entitled for arrears accruing in pursuance of the above direction from three years prior to filing of this OA i.e., from 18-12-92 (this OA was filed on 18-12-95). However no recovery if any contemplated should be made from the applicant's pay prior to 08-07-86.

7. The OA is ordered accordingly at the admission stage itself. No costs.


(R. RANGARAJAN)
MEMBER (ADMN.)

Dated : The 15th July 1996.
(Dictated in the Open Court)

SPR


18-07-96

DRC

(86)

..6..

O.A.No.1568/95

Copy to:

1. The Secretary, Ministry of Labour,
Govt. of India, New Delhi - 110 001.
2. The Welfare Commissioner, RS.
Labour Welfare Organisation, for A.P.,
Tamilnadu and Pandichery, Govt. of India,
Ministry of Labour at Kendriya Sadan,
Hyderabad - 500 195.
3. The Welfare Administrator, Labour
Welfare Organisation, Govt. of India,
Min. of Labour, Alichedu S.O.,
Nellore District,
Pin code: 524 409.
4. One copy to Mr.T.V.V.S.Murthy, Advocate, CAT, Hyderabad.
5. One copy to Mr.M.V.Raghava Reddy, Addl.CGSC, CAT, Hyderabad.
6. One copy to Library, CAT, Hyderabad.
7. One duplicate copy.

YLKR

1/8/96
O.A/568/95

TYPED BY
COMPARED BY

CHECKED BY
APPROVED BY

THE CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH HYDERABAD

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

DATED: 15.7.96

ORDER/JUDGEMENT

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

in
O.A. NO. 1568/95

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

केन्द्रीय प्रशासनिक अधिकारण
Central Administrative Tribunal

प्रेषण/DESPATCH

30 JUL 1996 *Neeru*

हैदराबाद न्यायालय
HYDERABAD BENCH