

(47)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, HYDERABAD BENCH
AT HYDERABAD.

O.A.No.1582/95.

Date of decision: 19th June, 1998.

Between:

G.S.R.K.Jogaiah. Applicant.

And

1. The Divisional Railway Manager (Personnel),
South Central Railway, Vijayawada.
2. The Chief Personnel Officer, South Central
Railway, Rail Nilayam, Secunderabad. Respondents.

Counsel for the applicant: Sri G.V.Subba Rao.

Counsel for the respondents: Mr. D.F.Paul.

CORAM:

Hon'ble Sri R.Rangarajan, Member (A)

Hon'ble Sri B.S.Jai Parameshwar, Member (J)

JUDGMENT.

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

Heard Sri G.V.Subba Rao, the learned counsel for the applicant and Sri D.F.Paul, the learned counsel for the respondents.

The applicant in this O.A. was promoted as Chief Tranship Supervisor in the scale of Rs.2000-3200 from the lower categories. Initially he was appointed as Junior Clerk on 10-5-1949. He was promoted from the scale of Rs.550-750

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to the scale of Rs.700-900 by Order No. COMML/170/1986

dated 9-7-1986 (Annexure A-III page 15 to the O.A.)

The grievance of the applicant is that his junior viz., one Sri I.V.Subba Rao who was promoted one year later than him to the scale of Rs.700-900/2000-3200 was also fixed at the scale of Rs.760/- on the date of promotion and that his pay was less than his junior Sri I.V.Subbarao and hence his pay has to be stepped up on par with his junior Sri I.V. Subba Rao.

The case of the applicant was rejected by Respondent No.1 by the impugned letter No.B/P.524/I/I/Vol.III dated 21.11.1995 (Annexure I Page 13 to the O.A.) The applicant retired from service on 30.11.1987.

This O.A., is filed to quash the letter No.B/P.524/I/I/Vol.III dated 21.11.1995 by declaring the same as arbitrary, illegal, unconstitutional and violative of the Constitution and for a consequential direction to the respondents to refix the applicant's pay in the scale of Rs.700-900/2000-3200 on promotion with effect from 1.7.1987 under F.R.22-C i.e., the date of his normal increment in the grade of Rs.550-700/1600-2660 with all consequential benefits.

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The affidavit as well as the reply do not give us any clue as to how the pay of the applicant and his junior was fixed. The main contention in the reply is that the applicant was promoted on ad hoc basis and hence he cannot opt to come to the revised scale of pay from the date of his next increment in the lower scale of pay. But the applicant submits that even his junior Sri I.V.Subba Rao was also promoted only on ad hoc basis but his pay was fixed on the basis of his option, and if his case is rejected due to the fact that he was promoted to the scale of Rs.700-900 on ad hoc basis, then the pay of his junior cannot also be fixed on the basis of his option and will be a discrimination in his case.

The applicant has filed Order No.B/P.538/I/Vol.I0.A dated 4.11.1986 (Annexure A-IV page 17 to the O.A.,) to show that his junior Sri I.V.Subba Rao was also promoted only on adhoc basis.

We asked the learned counsel for the respondents whether it is a fact that the fixation of pay of Sri I.V.Subba Rao was done on getting his option even though he was also promoted on adhoc basis, the learned counsel for the respondents could not give any satisfactory reply. This point needs further examination.

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AS per FRSR Rules prescribed under Government of India Orders, under F.R.22-C, the Rule (7) stipulates four conditions for stepping up of pay on par with his junior, if his junior is fixed at a higher stage.

We asked the learned counsel for the applicant whether his junior was drawing more pay than him when he was in the lower grade. He could not answer that question as that information is not readily available with him. However, we find from the letter No. B/P.524/I/1/Vol.III dated 3.12.1994 (Annexure 12 page 34 to the O.A.) that the pay of the junior of the applicant viz., I.V.Subba Rao was higher than the pay of the applicant right from 1973 onwards. The above observation cannot be taken note of to decide the issue, unless the details of the pay drawn by the junior of the applicant are fully known. Hence this point also needs clarification.

In view of the above, we are remitting this case back to Respondent No.1 for re-examinatining the decision concerning the two points referred to above and for giving a suitable reply to the applicant.

In case, the stepping up of pay of the applicant on par with his junior is to be accepted, then the applicant is entitled for arrears of pension on that basis from

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14.12.1994 i.e., one year prior to the filing of the O.A.,
as this O.A., was filed belatedly 8 years after his retirement.

With the above observations, the O.A., is
disposed of. Time for compliance four months from
the date of receipt of a copy of this Judgment.

No costs.

B.S.JAI PARAMESHWAR,
19.6.98

Member (J)

R.RANGARAJAN,
Member (A)

Date: 19th June, 1998.

Dictated in open Court.

dictated in open court
DR

SSS.

Copy to:

1. The Divisional Railway Manager, (Personnel),
South Central Railway, Vijayawada.
2. The Chief Personnel Officer, South Central Railway,
Railnilayam, Secunderabad.
3. One copy to Mr.G.V.Subba Rao,Advocate,CAT,Hyderabad.
4. One copy to Mr.D.F.Paul, Addl.CGSC,CAT,Hyderabad.
5. One copy to D.R(A),CAT,Hyderabad.
6. One duplicate copy.

YLKR

8/6/98
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II COURT

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APPROVED BY

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH HYDERABAD

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

AND

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

DATED: 19/6/88

ORDER/JUDGMENT

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

in

O.A.NO. 1582/85

ADMITTED AND INTERIM DIRECTIONS
ISSUED

ALLOWED

DISPOSED OF WITH DIRECTIONS

DISMISSED

DISMISSED AS WITHDRAWN

DISMISSED FOR DEFAULT

ORDERED/REJECTED

NO ORDER AS TO COSTS

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