

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL HYDERABAD BENCH HYDERABAD.

O.A.NO.1616 of 1996.

Between

Dated: 22.2.1996.

G.V.Subba Rao

...

Applicant

And

1. Senior Divisional Personnel Officer, S.C.Railway, Secunderabad Division, Sanchalan Bhavan, Secunderabad.
2. Divisional Railway Manager, S.C.Railway, Secunderabad Division, Sanchalan Bhavan, Secunderabad.

...

Respondents

Counsel for the Applicant : Sri. B.Narasimha Sharma

Counsel for the Respondents : Sri. D.Francis Paul, SC for Rlys.

CORAM:

Hon'ble Mr. R.Rangarajan, Administrative Member

Contd:...2/-

O R / D E R

I as per Hon'ble Sri R.Rangarajan, Member(Administrative) I

The applicant in this OA joined as Assistant Station Master in the grade of Rs.1400-2300 in Hyderabad Division of S.C.Railway. He applied for transfer to Sec'bad Division accepting the usual terms and conditions for such request transfer. One of the condition of request transfer is that he can be absorbed in the division of his choice only in the direct recruitment category against the quota ear-marked for direct recruitment and he will rank junior to all the permanent and temporary employees of the division to which he is transferred on his request.

2. The request of the applicant for transfer to Sec'bad division was agreed to and he was posted in the grade of Rs.1200-2040, the scale of pay for direct recruited ASM. He joined there in the above category at Sec'bad division on 20.8.1991. At the time of his relief from Hyderabad division he was drawing a pay of Rs.1400/- in the scale of pay of Rs.1400-2300. When he joined Sec'bad division his pay was fixed at the stage of Rs.1260/- in the scale of pay of Rs.1200-2040 by the order No.E/Optg/668/VEM/GVS/94 dt. 28.12.1994. The applicant claimed that his pay which he was drawing in the Hyderabad division at the time of his transfer to Secunderabad Division had to be protected in the scale of pay of Rs.1200-2040. As he was drawing Rs.1400/- at the time of relief from Hyderabad division, the applicant

22

: 3 :

claimed that he should be fixed at that stage in the scale of pay of Rs.1200-2040. As that fixation was not agreed to, he filed OA 1422/93 which was disposed of on 17.11.1994 setting aside the fixation chart dated 28.12.1994 and further directing the respondents to give pay protection to the applicant in terms of Rule 1313(a) (iii). In pursuance of the direction given by this Tribunal in the above said OA, the respondents have fixed the pay of the applicant in the grade of Rs.1200-2040 at the stage of Rs.1260/- with effect from 20.8.1991 and allowing a P.P.140/- per month so that his emoluments while joining at Sec'bad division will be same as that of the basic pay he was drawing at Hyderabad as ASM in the grade of Rs.1400-2300/-.

3. The applicant submits that granting him special pay to equalise the basic pay of Rs.1400/- is not in order and that is not contemplated in Rule 1313(a)(ii)&(iii). As per the rule, his pay should be fixed at a equivalent stage of pay in the grade of Rs.1200-2040 which he was drawing in Hyderabad Division and he should be granted further increments on that basis. As per extant rules granting him pp. is against the rule submits the learned counsel for the applicant. In another case OA 1252/94 on the file of this Bench dt. 14.11.1994 in a similar circumstances the applicant therein was given pay protection not by way of granting him PP, but fixing his pay in the lower grade at appropriate stage thereby protecting his emoluments and increment was granted to him subsequently. Hence the disposal of the present case as per the impugned order No.E/Optg./668/VEM/GVS/94 dt. 28.12.1994 is contrary to the rule and is liable to be set aside.

...48-

Copy to:

1. Senior Divisional Personnel Officer, S.C.Railway, Secunderabad Division, Sanchalan Bhavan, Secunderabad.
2. Divisional Railway Manager, S.C.Railway, Secunderabad Division, Sanchalan Bhavan, Secunderabad.
3. One copy to Sri. B.Narasimha Sharma, advocate, CAT, Hyd.
4. One copy to Sri. D.Francis Paul, SC for Rlys, CAT, Hyd.
5. One copy to Library, CAT, Hyd.
6. One spare copy.

Rsm/-

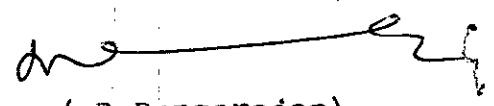
24

4. He had represented his case on the above lines to R-2 by his representation dt. 22.5.1994 (Annexure-3) but it is alleged that this representation did not find the light of the day. Hence, he has filed this OA for setting aside the impugned order No.E/Optg./568/VEM/GVS/94 dt. 28.12.1994 and for a further ~~stage~~ direction to the respondents to fix his pay at the appropriate stage in the scale of pay of Rs.1200-2040/- as per rule-1313 of IREC Volume-II with all consequential benefits.

5. The applicant was transferred to Sec'bad division and joined there on 20.8.1991. The respondents further submit that Rule-1313 has been amended some time in 1995. As the applicant was absorbed in Sec'bad division in the year 1991 his pay should be fixed in accordance with the rule that was in existence in the year 1991. Subsequent amendment cannot be taken note of for fixing his pay. The applicant submits that in a similar case OA 1252/94 on the file of this Bench, the applicant therein got his pay ~~awhile~~ fixed as per his contention in this OA, he should also be given relief on the same lines. As his representation dt. 22.5.1995 addressed to R-2 is yet to be disposed of, it is proper to give the following direction:-

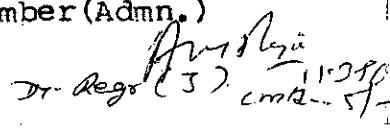
R-2 should dispose of the representation of the applicant dt. 22.5.1995 in accordance with rules for fixation, prevalent at the time of his absorption in the division to which he was transferred and also taking note of the precedences quoted above by the applicant. The representation should be disposed of within a period of 4 months from the date of receipt of a copy of this order.

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


(R. Rangarajan)
Member (Admn.)

spr/grh.

Dated 22nd Feb., 1996.
Open court dictation.


Dr. Rego (3) cmr-57

29/3/96
TYPED BY
COMPARED BY

CHECKED BY
APPROVED BY

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH HYDERABAD.

R. Ranga Rajan
HON'BLE SHRI A. B. GORTHI : MEMBER(A)

HON'BLE SHRI

DATED: 22/2/96

ORDER/JUDGMENT

M.A. NO./R.A./C.A. No.

IN

D.A. NO. 1616/95

ADMITTED AND INTERIM DIRECTIONS ISSUED

ALLOWED

DISPOSED OF WITH DIRECTIONS

DISMISSED

DISMISSED AS WITHDRAWN

ORDERED/REJECTED

NO ORDER AS TO COSTS

* * *

No Special Copy

केन्द्रीय प्रशासनिक अद्विकरण
Central Administrative Tribunal
DESPATCH
18 MAR 1996
हैदराबाद अधिकारी
HYDERABAD BENCH