

(37)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL HYDERABAD BENCH AT HYDERABAD

O.A.NO. 166/95

Date of Order: 14-3-96

Between.

Ch.Ravi Kiran

.. Applicant

1. The Accountant General(A&E)
A.P.Hyderabad-463.
2. The Comptroller and Auditor General of India,
10, Bahadur Shah Jafar Marg,
New Delhi-2.
3. Union of India, rep. by Secretary,
Ministry of Finance,
Central Secretariat, New Delhi.

Respondents.

For the Applicant :- Mr. Ch.Ravi Kiran, Party-in-person

For the Respondents: Mr. G.Parameswar Rao, SC for AG.

~~By order of the~~

CORAM:

THE HON'BLE MR.JUSTICE M.G.CHAUDHARI : VICE-CHAIRMAN

THE HON'BLE MR.H.RAJENDRAPRASAD: MEMBER (ADMN)

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OA.166/95

Judgement

(As per Hon. Mr. Justice M.G. Chaudhari, V.C.)

Heard the applicant in person and Mr. G. Parameswara Rao for the respondents.

2. The grievance of the applicant appears to be misconceived. In any case we find it difficult to redress the same legally.

3. The applicant was recruited as a Clerk/Typist on 15-2-1988 in the office of the Accountant General (A&E),
qualified at the Departmental Examination and was confirmed and he continues to hold the post of Clerk/Typist substantively. The case of the applicant is that although he was appointed as a Clerk/Typist ever since the day of his joining he has been asked to discharge duties which are ordinarily supposed to be discharged by Senior Accountants whose scale of pay is Rs.1400-2300. According to him ever since 13-4-1988 till 9-10-1995 he has been discharging these duties. He was transferred as a Typist to his substantive cadre on 4-10-95. He, therefore contends that he is entitled to be given the pay prescribed for the post of Senior Accountant for all ^{this} ~~these~~ period in as much as he has been actually discharging functions and duties of Senior Accountant. For this purpose he wants to contend that the nature of duties assigned to him being similar to those of Senior Accountants and involved same degree of responsibility, his claim for higher scale is justified.

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He has, therefore, prayed that he may be paid the salary of an Accountant in Pay scale of Rs.1200-2040 (Scale of Junior Accountant) retrospectively in accordance with the functions discharged which include higher functions of that of an Accountant and Senior Accountant and since he has qualified himself at the Departmental examination and has been declared superior to a direct recruit to the post of Accountant.

4. The applicant, thus, in substance wants that he should be deemed to have been an Accountant by reason of his having discharged the duties meant for Accountants and ~~thus~~ eligible for the scale of pay of the Accountants. This, clearly is a misconceived approach. He cannot be entitled to the pay scale of Senior Accountant ~~that~~ is promoted to this post he cannot be deemed as promoted. In so far as the discharge of duties is concerned, he has to discharge such duties as are assigned to him while he is holding the substantive post of Clerk. Even if the nature of duties he was required to perform may seem to be of similar type as are required to be performed by an Accountant that by itself does not entitle him to refuse to perform those duties even while as a Clerk. He has indeed done so for the last eight years ^{without demer} ~~demer~~. At the highest one can understand the grievance ^{if} ~~made~~ ^{that} since the duties of higher degree of responsibility and nature of work being extracted from him he should be compensated by additional remuneration. Such demand was never made

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by the applicant with the respondents nor that is his case in the OA. Even if such a demand were to be made that will have to be dealt with the rules applicable under FRs. Unless such question were put up as an issue the question of comparing duties and responsibilities of the Clerk and the Accountant cannot be gone into.

5. The respondents have submitted an affidavit that posts of Accountants are filled in by promotion from the cadre of clerks. They also stated that the promotions are based on seniority-cum-fitness of those who possess the promotion qualification and the applicant has also qualified at the Departmental examination but that consideration will arise only when his turn comes. The respondents have also stated that the nature of duties entrusted to the clerks have been enlisted in the Annexure 2.4.4. of the Manual instructions for restructuring of the OA and the applicant was entrusted with the same duties. The applicant cannot plead contrary to the manual of instructions on the ground that the duties prescribed are of a higher nature than those which can be discharged by a Clerk.

6. Moreover, the respondents have stated that the applicant is being paid incentive increments and special pay. There is nothing to satisfy us that his service is of a higher degree in nature is being extracted from him. The applicant disputes that the payment of increment to him is not by way of incentive or special pay. The fact, however, that some kind of monetary benefit which is being

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given to him is enough for the present purpose to be noted.

7. The proper forum for the applicant to place his grievance is before the respondents. If at all he was interested to claim higher monetary benefits by reason of being required to discharge duties of higher nature than that of the Clerk, he had to file such representation filed by All India Audit Association to the Comptroller and Auditor General of India dated 17-7-1992. That itself goes to show that Departmental candidates are promoted in preference to the Direct recruits. That does not refer to any case where a clerk is required to be paid more monetary benefit than entitled as clerk owing to his performing certain type of duties. Thus the representation does not help him.

8. We, therefore, do not find any ground on which we can entertain this petition - particularly as question of promotion in due course is open and as no demand was ever made by the applicant with the respondents for any additional remuneration even if it be to the extent of pay of an Accountant. The applicant has now been transferred to his original cadre and that cannot be subject matter of this application. All that, we can therefore observe is ~~that~~ it will be open to the applicant if so advised to approach the respondents by a proper representation for such relief as he is

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[Signature]

He advised to claim. We have, however, made no direction in that respect.

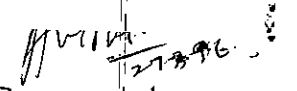
9. Thus, as no prima-facie case has been disclosed for redressal of any grievance, arising in the case of the employment of the applicant, we are constrained to reject the OA and it is accordingly rejected.


(H. Rajendra Prasad)
Member (Admin.)

14 MAR 96.


(M.G. Chaudhari)
Vice Chairman

✓
Dt. March 14, 96


Deputy Registrar (D)

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To

1. The Accountant General (A&E),
A.P. Hyderabad-463.
2. The Comptroller and Auditor General of India,
10, Bahadur Shah Jafarmarg, New Delhi-2.
3. The Secretary, Union of India,
Ministry of Finance, Central Secretariat,
New Delhi.
4. One copy to Mr. Ch. Ravikiran, Advocate, *clerk, (A.C. (A))*
5. One copy to Mr. G. Parameswar Rao, ~~XX~~ SC for AG. CAT. Hyd.
6. One copy to Library, CAT. Hyd.
7. One spare copy.

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17/4/96

I COURT

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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH

M. Choudhary

THE HON'BLE MR. JUSTICE V. NEELADRI RAO
VICE CHAIRMAN

AND

H. R. S. Prasad
THE HON'BLE MR. R. RANGARAJAN M(A)

Dated: 14-3-1996

ORDER/JUDGMENT

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

in

O.A.No. 166/95

T.A.No.

(w.p.No.)

Admitted and Interim directions
issued.

Allowed.

Disposed of with directions

Dismissed.

Dismissed as withdrawn.

Dismissed for default.

Ordered/Rejected.

No order as to costs.

No spare copy

