

CENTRAL ADMINISTRATIVE TRIBUNAL: HYDERABAD BENCH :
AT HYDERABAD.

O.A.NO.238 OF 1995.

DATE OF ORDER:- 02.3.1998.

Between :

S. Umapathi Raju

.. Applicant

Counsel for the applicant : Mr.I.Dakhina Murthy.
And

The Comptroller and
Auditor General of India,
New Delhi and two others.

.. Respondents.

Counsel for the respondents : Mr.G.Parameswara Rao,CGSC


CORAM :

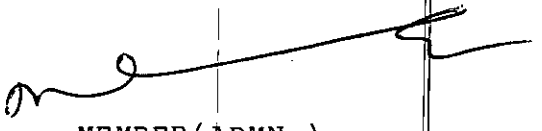
Honourable Mr.R. Rangarajan, Member(Admn.)

Honourable Mr.B.S.Jai Parameshwar, Member (Judl.)

for instructions:

1. Whether the order is to be referred to the Reporters or not ?
2. Whether it be circulated among the other Benches of the Central Administrative Tribunal or not ?


MEMBER(JUDICIAL)


MEMBER(ADMN.)

(29)

CENTRAL ADMINISTRATIVE TRIBUNAL: HYDERABAD BENCH :
AT HYDERABAD.

O.A.No.238 OF 1995.

Date of Order:- 02.3.1998.

BETWEEN :

S. JMAPATHI RAJU,
S/o Sri Subba Raju,
aged about 53 years,
Senior Audit Officer,
O/O The Accountant General(Audit)II,
Andhra Pradesh, Hyderabad-500 463. .. APPLICANT

A N D

1. The Comptroller and Auditor General of India,
10, Bahadurshah Zafar Marg,
New Delhi 110 002.
2. Government of India, rep. by
the Secretary, Ministry of
Personnel, Pensions and Public Grievances,
Government of India,
New Delhi.
3. Accountant General(Audit)II,
Andhra Pradesh,
Hyderabad. .. RESPONDENTS

CGUNSEL FOR APPLICANT : MR.P.B.VIAJAYA KUMAR
FOR MR.I.DAKSHINA MURTHY

CGUNSEL FOR RESPONDENTS : Mrs. G. SHAKTI FOR
MR.G.PARAMESWARA RAO,CGSC

CORAM :

HONOURABLE MR. R. RANGARAJAN, MEMBER (ADMINISTRATIVE)
HONOURABLE MR.B.S. JAI PARAMESHWAR, MEMBER(JUDICIAL)

O R D E R.

(per Hon.Mr. B.S.Jai Parameshwar, Member (Judl.))

1. Heard Mr.P.B.Vijaya Kumar for Mr. I. Dakshina Murthy , the learned counsel for the applicant and Mrs. G.Shakti for Mr. G. Parameshwara Rao, the learned Standing Counsel for the respondents.

2. This is an application under Section 19 of the Administrative Tribunals Act. The application was filed on 20.2.1995.

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3. Consequent on the issue of the order in O.M.No.F.6(82)-IC/91 dated 22.9.1992 by the Ministry of Finance, Department of Expenditure, New Delhi Annexure/1 to the reply), the officers in the Indian Audit and Accounts Department who were in the scale of pay of Rs.2375-3500/- with a minimum of three years regular service were made eligible for promotion to the scale of pay of Rs.2200-4000/-. The promotion was to be effected after following the due process by adopting the principle of seniority-cum-fitness. As the posts in the higher scale of pay of Rs.2200-4000/- were treated as functional posts, benefits under FR 22-I(a)(i) were admissible on appointment to the said scale. The said order came into force effective from 1.4.1992. However, the benefit of fixation of pay on notional basis in the promotional scale of pay of Rs.2200-4000/- was allowed from 1.4.1987 or from the 1st of the month following the month in which the officer had completed three years of regular service as Audit/Accounts Officer whichever is later, subject to availability of posts in the promotional cadre. However, no arrears of pay was admissible for the period prior to 1.4.1992. The applicant ^{was} in the cadre of Audit Officer and was promoted as Senior Audit Officer by Office Order No.109 dated 4.3.1994. However, his date of promotion was fixed from retrospective date i.e. from 1.11.1992.

4. The applicant submits that the above order dated 22.9.1992 was modified unjustifiably and without any valid reason stating that the date of promotion would take effect from the date of issue of Sectional Order by the Comptroller and Auditor General of India or the date on which the promoted officer assumes charge,

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whichever is later. As a result of the said modification, the date of promotion of the applicant was changed from 1.11.1992 to 7.3.1994 on which date he assumed charge as the Senior Audit Officer. The applicant submits that the authorities have not taken any decision as to the recovery of arrears paid to him as a result of change in the date of promotion.

5. The applicant was intimated the date of change in his promotion vide Proceedings No.AG(AU)/Admn/U.V/94-95/00 No.43 dated 20.7.1994.

6. The applicant has filed this O.A. challenging the said order dated 20.7.1994 as unjust, illegal and against the principles of natural justice and prays for setting aside the same.

7. The respondents have filed their counter stating that the decision^{was} taken to modify the earlier order by the department on account of change of crucial date of eligibility for promotion was revised from panel year 1994 onwards. It is submitted that those officers who were promoted in the panel year 1994 were to be regarded as assumed the charge in the post of Senior Audit/Accounts Officer only from the date when they took charge. It is submitted that the applicant was promoted to the post of Senior Audit Officer only on 7.3.1994. Even though earlier his date of promotion was given effect to retrospectively from 1.1.1992, but subsequently it was changed to 7.3.1994 on which date he actually assumed the charge in the promotional post.

8. The applicant has not filed any representation against the order dated 20.7.1994.



9. Even the respondents before changing the date of promotion of the applicant should have given an opportunity to the applicant and should have called for his explanation for changing the date. It is not made clear whether the modification necessitates recovery of any of the arrears from the applicant. When the authorities are taking any decision which may affect the service conditions or emoluments of an employee, the least that is required is to give him an opportunity.

10. However, they have passed the impugned order dated 20.7.1994. We do not want to go into the propriety or otherwise of the said order. We direct the applicant to submit a representation against the said order, if he is so advised. The respondents are at liberty to consider his representation in accordance with law and to send a suitable reply to the applicant.


11. Hence we issue the following directions :-


(a) The applicant may, if so advised, submit a detailed representation to the concerned respondent against the order dated 20.7.1994 within 15(fifteen) days from the date of receipt of a copy of this order.

(b) If such a representation is received within the period stipulated above, the competent respondent-authority shall dispose of the representation of the applicant by a speaking order.

(c) Time for compliance is four months from the date of receipt of a copy of this order.

12. With the above directions, the O.A. is disposed of. No order as to costs.


(B.S. JAI PARAMESHWAR)
MEMBER (JUDICIAL)


(R. RANGARAJAN)
MEMBER (ADMINISTRATIVE)

2/2/98
DATED THE 2nd MARCH, 1998.

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OA.238 of 1995

Copy to:-

1. The Comptroller and Auditor General of India, New Delhi.
2. The Secretary, Ministry of Personnel, Pensions and Public Grievances, Government of India, New Delhi.
3. The Accountant General (Audit)-II, Andhra Pradesh, Hyderabad.
4. One copy to Mr. P.B.Vijaya Kumar, Advocate, CAT., Hyd.
5. One copy to Mr. I.Dakshina Murthy, Advocate, CAT., Hyd.
6. One copy to Mrs. G.Shakti for Mr. G.Parameswara Rao, CAT., Hyd.
7. One copy to BSJP M(J), CAT., Hyd.
8. One copy to D.R.(A), CAT., Hyd.
9. One duplicate.

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11/3/98
TYPED BY
COMPILED BY

CHECKED BY
APPROVED BY

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH HYDERABAD

THE HON'BLE MR. B. RANGARAJAN : M(A)

AND

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

DATED: 2/3/98

~~ORDER~~/JUDGMENT

~~M.A./R.A./G.A.NO.~~

in

O.A.NO.

238/95

ADMITTED AND INTERIM DIRECTIONS
ISSUED

ALLOWED

~~DISPOSED OF WITH DIRECTIONS~~

DISMISSED

DISMISSED AS WITHDRAWN

DISMISSED FOR DEFAULT

ORDERED/REJECTED

NO ORDER AS TO COSTS.

II COURT

YLKR

