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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL HYDERABAD BENCH AT HYDERABAD

O.A.NO. 100/96

Date of Order: 30-1-96.

Between:

1. P.L.N.Sastry
2. K.M.Subrahmanyam

... Applicants

and

1. Union of India, rep. by
Comptroller and Auditor General,
Govt.of. India, New Delhi.
2. The Principal Accountant General,
Audit I Hyderabad-4.
3. The Accountant General, Audit II
Hyderabad-4.

Respondents

For the Applicant :- Mr. K.S.R.Anjaneyulu, Advocate

For the Respondents: Mr. G.Parameswar Rao, SC for AG.
~~Govt. Add. AGGSC~~

CORAM:

THE HON'BLE MR.RARANGARAJAN : MEMBER(ADMN)

(35)

O.ANO.100/96.

JUDGMENT

Dt:30.1.96

Heard Shri ~~D~~ Subramanyam, learned counsel for the applicant and Shri G. Parameswara Rao, learned standing counsel for the respondents.

2. There are two applicants in this OA who are presently working as Assistant Audit Officer under R-2 and R-3 respectively. Earlier, sanction was accorded under FR 27 to fixation of pay at the stage and from the dates mentioned against those officials(A-2). That refixation of pay was necessitated because of their juniors drawing more pay compared to the applicants herein as submitted by the learned standing counsel for the respondents. Subsequently, the pay of their juniors was reduced in view of the judgement of this Tribunal ~~in~~ dt.31.8.87 (applicant therein was Mr.C.V.Ramana Rao working ~~in~~ in A.G's office). As the pay of the junior was reduced in view of the above mentioned C.A.T. orders, it is stated for the respondents that the pay of these two applicants whose pay was stepped up along with others was also brought down. The impugned order ~~in~~ No.Prl. AG(AU).I/Bills.I/Genl/55/3.79/95-96 dt.18.12.1995 (Annexure 1A) was issued because of the reduction of pay of the applicants and others.

3. Earlier, the applicants and others filed OA 1564/94 which was disposed of on 23.12.94. That

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OA was filed for quashing the impugned order in that OA, on account of the fact that no opportunity was given to represent their case before reducing their pay. Hence it was directed in that OA that reasonable opportunity to state their case for consideration may be given to the applicants before reducing their pay. The applicants submitted their representation as per the direction given by this Tribunal in the above referred OA. The representation submitted by the applicants as indicated above has been taken into consideration or not is not indicated in the present impugned order. But as per the impugned order, the pay of the applicants has to be brought down and recovery has to be effected. It is stated by the learned counsel for the respondents that the quantum of recovery is not yet worked out and it will take some more time to work it out and after the quantification only the if there is excess payment. But the stepping down of pay has already been implemented.

4. This OA is filed for setting aside the impugned ~~exxxx~~ Office Order No.18 dt.18.12.1995 (Annexure 1A) holding it as arbitrary and illegal and without jurisdiction and also for a direction not to give effect to any reduction or recovery from the pay of the applicants.

5. The learned counsel for the applicants submitted that earlier fixation of pay as per the letter No.I/GenJ/3-79/SO's Anomaly/87-88 (Office Order No.46) dt. 1.6.87 (Annexure-2) was done under

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F.R.27. As per Government of India, Ministry of Law (Department of Legal Affairs) U.O.No.22057/62-Adv.(P) dt.8.8.62, once fixation under FR 27 has been done by the competent authority in the exercise of discretion vested in it under FR 27, that authority was not competent ~~to~~ under the law to review his earlier orders and to reduce the initial pay originally fixed even when such pay was fixed on some data which subsequently turned to be incorrect. It is the further submission of the learned counsel for the applicants that as CAG had fixed his pay under FR 27 by the letter referred to above, he is not competent to reduce his pay even if there is a Court's direction but this has to be done only by a higher competent authority.

6. The learned standing counsel for the respondents submitted that erroneous fixation was sought to be corrected by the competent authority viz. CAG under the powers vested with him and as FR 27 is only for granting of advance increments, CAG is competent to correct the erroneous fixation by way of review of his earlier orders.

7. But I feel that as the fixation of pay was done under FR 27 which is clearly spelt out in A-2 letter and the relevant Government orders quoted above stipulates that the fixation done under FR 27 cannot be reviewed by the same authority who initially fixed his pay, there is force in the contention for the applicants. In view of the above, a direction has to be given to the applicants to submit a proper representation to the competent authority in connection with the reduction in their pay and the competent authority has to take an appropriate decision on the representation to be submitted by the

To

1. The Comptroller and Auditor General,
Union of India, Govt. of India, New Delhi.
2. The Principal Accountant General,
Audit I Hyderabad-4.
3. The Accountant General, Audit II
Hyderabad-4.
4. One copy to Mr. K. S. R. Anjaneyulu, Advocate, CAT. Hyd.
5. One copy to Mr. G. Parameswar Rao, SC for AG. CAT. Hyd.
6. One copy to Library, CAT. Hyd.
7. One spare copy.

With OA Copy

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applicants. If such a representation is received by the competent authority within a reasonable time, the same has to be disposed of expeditiously by the competent authority. As the reduction in the pay has already been effected and the quantum of recovery is not yet fixed and yet to start only after fixation of the quantum of excess paid, a direction has ~~been~~ also to be given to the competent authority not to recover the excess amount till the representation to be submitted by the applicants is disposed of by the competent authority.

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

The applicants if so advised may submit a representation to the competent authority by 13.2.96 sending the same by Registered Post with Acknowledgement Due, addressed to the competent authority and if such a representation is received by, the same has to be disposed of by the competent authority to whom it is addressed within two months from the date of receipt of the said representation. Till such time the representation is disposed of, the recovery of excess payment, if any, should not be done even if it is quantified.

9. The OA is disposed of at the admission stage itself. No costs.

(R.RANGARAJAN)
MEMBER (ADMN.)

DATED: 30th January, 1996.
Open court dictation.

vsn

Deputy Registrar (C)

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1-2-96

CC. Reg 21/2/96
8/2/96

TYPED BY 1/2/96 CHECKED BY 7

COMPARED BY

APPROVED BY

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH AT HYDERABAD.

THE HON'BLE MR.JUSTICE V.NELLADRI RAO
VICE-CHAIRMAN

and

THE HON'BLE MR.R.RANGARAJAN : M(ADMN)

DATED: - 30 - 1 - 1996

ORDER/JUDGMENT.

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

in

Q.A.No. 100/96

T.A.No. (W.P.)

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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केन्द्रीय प्रशासनिक अधिकरण Central Administrative Tribunal प्रेषण/DESPATCH - 5 FEB 1996 AM 10:00
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