

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH
AT HYDERABAD

ORIGINAL APPLICATION NO.1430/96

DATE OF ORDER : 4.9.2001

Between:-

P.V.Bhanoji Rao

...Applicant

And

1. The General Railway,
South Eastern Railway,
Garden Reach, Calcutta-43.
2. The Divisional Railway Manager (P),
South Eastern Railway,
Visakhapatnam.
3. The Sr.Divisional Mechanical
Engineer (Diesel), South
Eastern Railway, Visakhapatnam.

...Respondents

-- -- --

Counsel for the Applicant : Shri V.Venkateswara Rao

Counsel for the Respondents : Shri N.R.Devaraj, SC for Klys

CORAM:

THE HON'BLE JUSTICE SHRI V.RAJAGOPALA REDDY : VICE-CHAIRMAN

(Order per Hon'ble Justice Shri V.Rajagopala Reddy, VC).

-- -- --

The applicant seeks to step up his pay to the Grade of Chargeman 'A' (to which he was promoted in 1983 and to pay the consequential arrears. It is his case that on 31.3.1962 he entered into service in the grade of Mechanical Gr.III

(Fitter) whereas Sri Bhaskar Rao entered the service by direct recruitment on 25.8.1962 and both of them ^{here} working at the relevant point of time at the Diesel Loco Shed Workshop in the scale of Rs.110-180. Applicant was promoted in 1967 as Mechanical Gr.II and later on to Mechanical Gr.I in the same year. Subsequently he was promoted to the post of Chargeman Gr.B which was selection post in 1975 in the scale of Rs.425-700. Sri Bhaskar Rao was promoted to Mechanic Gr.II in 1963 and Mechanic Gr.I in 1965 and as chargeman in 1984. The seniority list ^{was} initially circulated showing Sri Bhaskar Rao as senior to the applicant in the post of Mechanic Gr.I. On the representation of the applicant, the applicant was shown as senior. However the pay anomaly has not been corrected by which Sri Bhaskar Rao continued to draw higher pay than the applicant in the post of Mechanic Gr.I. The Grievance of the applicant is that as he was senior as on 10.3.1966 when he was working in the Diesel Loco Shed in the scale of Rs.110-180 having entered the grade on 31.3.1962 whereas Sri Bhaskar Rao entered on 25.8.1962, the pay of the applicant should be stepped up to the figure of the pay of Sri Bhaskar Rao as Sri Bhaskar Rao was drawing on that day higher pay than the applicant. It is also submitted that even though the senior rightly graded in 1967 in Mechanical Gr.I, the anomaly ^{of pay} was however not corrected inspite of his representation.

2. It is however stated in the reply that the OA, ~~is~~ hopelessly, suffers from laches and that the Tribunal has no jurisdiction to grant any relief pertaining to the period before which it was established. It is further submitted that it is barred by limi-

tation under section 21 of the AT Act, 1985 as the representation of the applicant was rejected in 1994. It is further submitted that stepping up principle has no application to the present case as the said Sri Bhaskar Rao has been drawing higher pay in the lower cadres and in fact in 1975 when the applicant was promoted to Chargeman 'B', ^{Bhaskar Rao} ~~he was drawing higher pay than that of Sri Bhaskar Rao~~ ^{the applicant} as he was promoted as Chargeman 'B' in 1994.

3. Having heard the counsel for the applicant and the Respondents, I am of the view that the O.A. is not only liable to be dismissed on the ground of laches but also I am of the view that the Tribunal has no jurisdiction to grant the relief as prayed for by the applicant. The Tribunal was established in 1985 whereas the relief is sought with reference to the periods anterior to it viz., from 1966 to 1983. It is therefore doubtful whether the Tribunal has got any jurisdiction to grant the relief. Further on the admission of the applicant itself the grievance arose in 1966 when Sri Bhaskar Rao was drawing higher pay than him in the ^{except} grade of Fitter but ~~maxx~~ making representations, the same has not been agitated in any court of law. The submission that in view of the letter issued by the Department that his case should be considered on the finalisation of the case of Sri Charles is wholly untenable. It is not shown how the case of Sri Charles is comparable to the case of the applicant. When an adverse action has been taken by the Respondents, the applicant has to question the same in a court of law within a period of limitation failing which no relief can be granted in his favour. It is also stated that the seniority has been corrected in 1967 and he was shown as senior but his pay was maintained ~~as it was~~ without correcting the pay anomaly

even in 1994 the applicant has not taken any steps to challenge the pay anomaly.

4. It is clear from the facts that Sri Bhaskar Rao was drawing higher pay than the applicant in the lower cadres and on his promotion to Chargeman-B in 1975 his junior was drawing higher pay even in the lower cadre of Mechanical Gr.I. The principle of stepping up of pay would be applicable only on fulfilment of three conditions viz., (i) both the junior and the senior should be working in the same cadre i.e. both in the lower cadre and in the higher cadre (ii) in the lower cadre also both the junior and senior should be drawing the same pay and (iii) the pay anomaly should be directly the result of fixation of pay on promotion under FR 22(1)(a)(i). In the present case none of the conditions are satisfied. When Sri Bhaskar Rao was promoted as chargeman 'B' in 1984 his pay was fixed at Rs.580/- whereas the applicant claiming seniority over Sri Bhaskar Rao was already drawing Rs.590/- in the grade of Rs.550-750 as chargeman 'A' from 28.11.83. In the relevant order of 1984 itself the applicant was in the scale of Rs.550-750 whereas the said Sri Bhaskar Rao who was in the scale of Rs.425-625. Hence the pay drawn by the lower pay scales by Sri Bhaskar Rao and the applicant are not similar and their cadre was also not identical. Hence first condition itself not fulfilled. As already stated, the pay anomaly should be the result of FR 22(1)(a)(i), the applicant cannot therefore seek step-up of pay, since the applicant was aggrieved by the higher pay of Sri Bhaskar Rao as early as in 1966 itself, he should have questioned the pay anomaly if it is his case that Sri Bhaskar Rao was his junior in the post of Fitter. Without challenging,

it is not open to the applicant to seek step up which ~~xx~~ was only a benefit allowed by the Government in 1966 with reference to the fixation of pay under the above FR.

5. The O.A. fails and accordingly dismissed with costs of Rs.500/- (Rupees Five hundred only).

On Appeal always
(V.RAJAGOPALA REDDY)
Vice-Chairman

Dated: 4th September, 2001.
Dictated in Open Court.

av1/

1492001

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL: HYDERABAD BENCH: HYDERABAD

copy always from

COPY TO:

1. HVRGPA
2. HMVN : MEMBER (ADMIN)
3. HMSK: MEMBER (ADMIN)
4. HDR : MEMBER: (JUDL)
5. D.R. (ADMIN)
6. SPARE
7. ADVOCATE
8. STANDING COUNSEL
9. REPORTERS
10. ALL BENCHES

1ST AND 2ND COURT

TYPED BY
COMPARED BY

CHECKED BY
APPROVED BY

THE HON'BLE MR. JUSTICE V. RAJAGOPALA
REDDY: VICE CHAIRMAN

THE HON'BLE MR. M. V. NATARAJAN
MEMBER (ADMIN)

THE HON'BLE MR. S. K. AGRAWAL
MEMBER (ADMIN)

THE HON'BLE MRS. BHARATIRAY
MEMBER (JUDL)

DATE OF ORDER

4/9/2001

NA/RAY/CO. NO.

IN

O.A. NO:

ADMITTED AND INTERIM DIRECTIONS
ISSUED.

ALLOWED

C.P. CLOSED

DISPOSED OF

DISPOSED OF WITH DIRECTION

DISMISSED

with Copy of Dr. 500/-

DISMISSED AS WITHDRAWN

DISPOSED AS WITHDRAWN

ORDER/REJECTED

DISPOSED OF/DISMISSED/WITH COSTS

DISPOSED OF AT THE ADMISSION
STAGE.

REJECTED

NO ORDER AS TO COSTS

Records/Judl/Notice/Despatch
Central Administrative Tribunal
Hyderabad BENCH

25 SEP 2001

Hyderabad Central Administrative Tribunal
HYDERABAD BENCH

Copy of memo only