

37

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, HYDERABAD BENCH
AT HYDERABAD.

..
C.A.No.1474/96.

Date of decision: 11-9-1997

Between:

M.Srinivasa Rao. Applicant.

And

1. Senior Divisional Personnel Officer,
S.C.Rly., Vijayawada Division,
Vijayawada, Krishna District.
2. Divisional Railway Manager, S.C.Rly.,
Vijayawada Division, Vijayawada,
Krishna District.
3. General Manager, S.C.Railway,
Rail Nilayam, Secunderabad. .. Respondents.

Counsel for the applicant: Sri M.C.Jacob.

Counsel for the respondents: Mr. D.F. Paul.

CORAM:

Hon'ble Sri H. Rajendra Prasad, Member (A) ~~✓~~

Hon'ble Sri B.S. Jai Parameshwar, Member (J)

JUDGMENT.

(per Hon'ble B.S. Jai Parameshwar, Member (J)).

Heard Sri M.C. Jacob, the learned counsel for the applicant. None appeared for the respondents. However, the respondents have filed their counter to the O.A.

Hence, we proposed to decided the O.A., on the basis of

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the material available on record in accordance with Rule 16(1) of the Central Administrative Tribunal (Procedure) Rules, 1987.

This is an application under Sec. 19 of the Administrative Tribunals Act. The application was filed on 13-12-1996. The applicant joined in Railway Administration as Assistant Station Master in the grade of Rs.1200-2040 (RSRP) on 7-6-1988 in Secunderabad Division of South Central Railway. He was promoted to the next higher grade i.e., Rs.1400-2300 on 8-2-1991. He worked in that Grade upto to 20.5.1996. The applicant sought inter Divisional request transfer to Vijayawada Division. He was relieved at Hyderabad on 20-5-1996. He joined duty at Vijayawada Division on 21.5.1996. The Senior DPO (Broad Gauge) Secunderabad Division issued L.P.C. on 5.6.1996. At the time of his request transfer, the applicant was drawing a Basic pay of Rs.1600/-.

The applicant prays for a direction to the respondents to fix his pay under Rule 1313(a)(2) and (3), Rule 227(a) of the Indian Railway Establishment Code, Vol. II and in terms of the directions in O.A.1252/94 on the file of this Bench and in PBSI Circular No. 95/96 of 20.9.96 and to declare the Proceedings No. B/P.676/VI/8Vol.XIX/ASM dated 24-5-1996 of the 1st respondent fixing the pay of

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the applicant at Rs.1410/- as arbitrary, unjust and violative of Articles and 16 of the Constitution of India.

On 9--6--1996 the applicant submitted a representation for protection of his pay. His representation is yet to be considered by the respondents.

The applicant has filed this O.A., to direct the respondents to fix his pay at the stage of Rs.1600/- in the scale of pay of Rs.1200-2040 (RSRP) consequent to his inter-Divisional Request Transfer from Secunderabad Division to Vijayawada Division with arrears of pay and for the mentioned reliefs, above.

The respondents have filed their counter stating that the transfer of the applicant from Secunderabad Division to Vijayawada Division was at his own request, that he was to be put at the bottom seniority in the Vijayawada Division, that Rule 1313 (a) (2), that the provisions of Para 1313 (a) (2) are applicable only where the maximum pay in the time scale of the post is less than the substantive pay in respect of the old post, that in the case of the applicant he was drawing Rs.1600/- in the Grade of Rs.1400-2300 at the time of his transfer and that therefore, the said para is not applicable to his case, that the para that is applicable to his case is 604 (a) (i) of IREM/Vol. I

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which states that when a Government servant seeks transfer to a post from which he was promoted, it will be treated as a case of reversion and his pay will be fixed at a stage what he would have drawn had he not been promoted, that the applicant's transfer was treated as a case of reversion and his pay was fixed at a stage which he would have drawn had he not been promoted, that the Serial Circular No. 39/95 states that when a Government servant seeks a transfer to a post from which he was promoted, it will be treated as a case of reversion and his pay will be fixed at a stage what he would have drawn had he not been promoted, that, therefore, the fixation of pay of the applicant at Rs.1410/- in the scale of Rs.1200--2040 is proper and according to Rules and that there are no grounds to interfere with the impugned order.

It is an admitted fact that the applicant was transferred from Secunderabad to Vijayawada Division at his own request. At the time of his transfer his basic pay was Rs.1600/- in the scale of pay of Rs.1400-2300. He was holding the substantive post in the said Grade. It is for the respondents to take a clear decision as to whether para 1313(a)(2) is applicable to the case of the applicant or para 604(a) of IREM/Vol.I is applicable to his case.

Further the learned counsel for the applicant relied upon the decision of the Cuttack Bench of this Tribunal in the case of NALINIKANTA SAHU Vs. UNION OF INDIA (1997(1)CAT 191) and the extant rules. Since the representation of the applicant is still under consideration, we do not wish to express any opinion as to the merits or otherwise of this application.

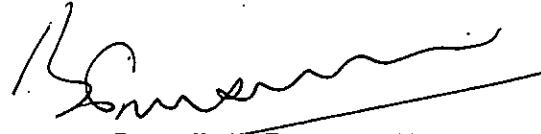
We have no doubt, in our mind that the res-
pondent authorities will take an ^{overhauling} view and consider
the claim of the applicant for protection of his pay on his
transfer to Vijayawada Division in accordance with the rules.

Hence the O.A., is disposed of with the following directions:

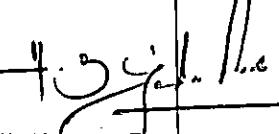
- a) The competent Respondent is hereby directed to dispose of the representation of the applicant dated 9--6--1997 (Annexure III to the O.A.) ^{to} in accordance with the rules and send a suitable reply to the applicant.
- b) It is needless to state that in case the applicant is aggrieved by the reply to be given by the respondent-authorities, the applicant is at liberty to approach the Competent Judicial Forum for redressal of his grievance, if any.

: 6 :

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

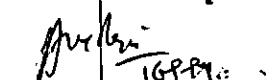

B.S.JAI PARAMESHWAR
MEMBER (J)

11/9/97


H.RAJENDRA PRASAD,
MEMBER (A)

11 SEP 97

Date: 11 Sept 1997


Deputy Registrar (J) cc

sss.

1. Senior Divisional personnel Officer, S.C.Rly., Vijayawada Division,
2. Divisional Railway Manager, S.C.Rly., Vijayawada Division, Krishna District.
3. General Manager, S.C.Railway Rail Niltayam, Secunderabad.
4. One copy to Mr. M.C.Jacob. Advocate, C.A.T. Hyderabad.
5. One copy to Mr. D.F.Paul. Addl.C.G.S.C.C.A.T. Hyderabad.
6. One copy to Dy.Registrar.(A) C.A.T. Hyderabad.
7. One copy to Hon'ble B.S.Jai parameshwar, Member (J) C.A.T. Hyderabad.
8. One copy to Duplicate copy.

23/9/97

I Court.

TYPED BY:

CHECKED BY:

COMPARED BY:

APPROVED BY:

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH AT HYDERABAD

THE HON'BLE MR.JUSTICE.
VICE-CHAIRMAN

And

THE HON'BLE MR.H.RAJENDRA PRASAD :M(A)

The Hon'ble Mr.B.S.Janarao: M(J)

DATED:- 11/9/97

ORDER/JUDGMENT:

M.A.,/RA.,/C-A.No..

in

O.A.No: 1474/96.

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

Central Administrative Tribunal
HYDERABAD BENCH

22 SEP 1997

HYDERABAD BENCH