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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH
AT HYDERABAD

O.A.No. 1510/96

Date of Order: 28.8.97

BETWEEN :

T.Suryanarayana- (II) .. Applicant.

AND

1. The Union of India, rep. by its Secretary to Govt., Ministry of Personnel and Training, New Delhi.
2. The Comptroller and Auditor General of India, Govt. of India, Safdarjung Enclave, New Delhi.
3. The Principal Accountant General (Auditor-I) A.P., Saifabad, Hyderabad.
4. The Accountant General (Auditor-II), A.P., Saifabad, Hyderabad-4.

.. Respondents.

Counsel for the Applicant .. Mr.N.Rama Mohan Rao
Counsel for the Respondents .. Mr.G.Parameshwara Rao

CORAM:

HON'BLE SHRI R.RANGARAJAN : MEMBER (ADMN.)

JUDGEMENT

X Oral order as per Hon'ble Shri R.Rangarajan, Member (Admn.) X

None for the applicant. Heard Smt.Shakthi for Mr.G.Parameshwara Rao, learned standing counsel for the respondents.

2. The facts of this case are as follows:-

The applicant in this OA is senior to Sri GV.Ramana Rao (II) who was appointed as UDC on 7.8.65. The said Sri GV.Ramana Rao (II) was promoted as Selection Grade Auditor w.e.f. 26.8.82 and he was further promoted as Senior Auditor w.e.f. 1.3.84 and as Section

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Officer from 24.4.94. The pay of the said Sri GV.Ramana Rao (II) was fixed in the post of Selection Grade Auditor under FR 22(c) treating the post as functional as per interim order dt. 22.6.83 of the A.P.High Court in W.P.M.P.No.6796/83 in W.P.No.4983/83. Further on promotion as Senior Auditor and Section Officer w.e.f. 1.3.84 and 24.4.84 his pay was fixed under FR 22(c). This fixation is resulted in fixing his pay higher than his seniors namely the applicant herein. The pay of the applicant who was senior to Sri GV.Ramana Rao was stepped up under FR 27 w.e.f. 24.4.84. The said W.P.4983/83 which was filed on the A.P.High Court was transferred to this Tribunal on its formation and was registered as T.A.547/86. That TA was disposed of on 31.8.87 holding that the posts of Selection Grade Auditors were non-functional. As a result of the above disposal of the said T.A. the pay of Sri GV.Ramana Rao was reduced. By letter No.2399-N1/60-86/(ii)KN dated 30.11.89 (A-1 to reply) it was directed to reduce the stepped up pay that was allowed to seniors. As sequel to the judgement dt. 31.8.87 the pay of the applicant who was senior to Sri GV.Ramana Rao was reduced by letter dt. 21.11.94 (A-2 to reply) giving effect to the order from December 1994 and it was also proposed to recover the over payments. In view of that the applicant herein filed O.A.1564/94 on the file of this Bench. The said OA was disposed of on 23.12.94 at the admission stage itself setting aside the impugned order dt. 21.12.94 to the extent it relates to the applicant with liberty to the respondents to take appropriate action in respect of refixation of pay of the applicant if such a course is warrented for justifiable reasons only ^{after giving} the applicant a reasonable opportunity. Thereafter, a notice was issued to the applicant dt. 20.3.95 asking him to give his explanation as to why the pay should not be reduced and the over payments made from 24.4.84 be recovered. The applicant

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submitted his representation dt. 12.4.95. After perusing his explanation it was decided by letter No.893-NGE(Entt)/25-94-III, dt. 13.10.95 (A-3 to reply) it was proposed to recover the excess payment from the applicant as well as others by office order dt. 18.12.95. The applicant thereafter filed O.A.155/96 directing him to prefer a representation to the competent authority by 13.12.96 and the latter to dispose of the same within two months thereof and that till such time the recovery of the excess payment if any should not be done. The applicant submitted his representation dt. 7.2.96 addressed to R-2, ^{and} ~~that same~~ representation was finally disposed of by the Ministry of Finance (Expenditure) Government of India vide I.D.No. A 32022/1/96-Eg dt. 27.6.96 rejecting ^{his representation} on the ground that once the pay of the junior has been refixed at a lower stage on the basis of C.A.T. Judgement the seniors have no claim for stepping up of pay and as such stepping up of pay of seniors is no longer valid. The applicant was informed by the impugned order No. Prl.AG(Au)/Bills-I/Gen 1.3.70(55)/96-97/TR 233, dt. 9.9.96 (A-7 to OA) that the stepping of pay on par with Sri GV.Ramana Rao is no longer exists and is required to be cancelled. It was also proposed to take follow up action for recovery of over payments.

3. This OA is filed to set aside the impugned order dt. 9.9.96 (A-7) by holding it as arbitrary, illegal and unjust and for a consequential direction to the respondents to refrain to take further action as per proceedings dt. 9.9.96 of R-4. // An interim order was passed in this OA on 1.1.97 suspending the recovery of the amount from the applicant.

4. The details of this case as narrated above is not contested by filing a rejoinder. It is a fact that the pay of the applicant was initially stepped up on par with his junior. However, the fixation of pay of Sri GV.Ramana Rao under FR 22(c) was rejected

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by this Tribunal in T.A.No.547/86. When that was rejected the pay of Sri GV.Ramana Rao was reduced under normal rule of pay fixation, because of that ~~rejection~~ ^{reduction} of pay of Sri GV.Ramana Rao, his seniors namely the applicant herein whose pay was stepped up on par with his junior Sri GV.Ramana Rao (II) was also reduced. Though the applicant contested by filing OAs in this Tribunal the orders passed in those OAs were dealt with by the respondent authorities and it was finally decided to withdraw the stepping up of pay.

5. When the fixation of pay of junior is found to be incorrect it cannot be said that the Government has no powers to reduce the pay of the seniors if their pay had been stepped up on par with ~~their~~ junior. In the present case the pay of the applicant was stepped up on par with his junior. But the higher pay fixation of his junior namely Sri GV.Ramana Rao was found to be incorrect and hence his pay was brought down. When that was done in the case of Sri GV. Ramana Rao it goes without saying that the stepped up pay of seniors must also be brought down. There is no reason to give stepped up higher pay to the seniors when the pay of their juniors was reduced. The reduction of pay of Sri GV.Ramana Rao was done in accordance with the directions of this Tribunal. Hence that cannot be challenged except by filing an appeal in the appropriate judicial forum for setting aside the orders of the Tribunal by the affected employee. But that was not done and the order of the Tribunal in TA.547/86 had become final.

6. In view of what is stated above I find that there is no merit in this OA and hence the OA is liable only to be dismissed Accordingly it is dismissed. No costs.

Mo E
(R.RANGARAJAN)
Member (Admn.)

Dated: 28th August, 1997

(Dictated in Open Court)

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