

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH

O.A. 309/96

Date of decision: 29.9.1997.

Between:

Munthala Venkata Subbaiah .. Applicant

-versus-

1. Chief General Manager,
Telecom
AP Circle,
Hyderabad.

2. Telecom District Manager,
Tirupathi .. Respondents

Counsel for the applicant : Shri D. Venkateswara Rao

Counsel for the respondents : Shri K. Ramuloo

Coram:

Hon'ble Shri H. Rajendra Prasad, Member(A)

ORDER

(Per Hon'ble Shri H. Rajendra Prasad, M(A))

The applicant was appointed as HG Draughtsman Gr.II in October, 1979, in the pay scale of Rs.330-560 which was revised to Rs.425-700, notionally, w.e.f. 22-8-73 (actual monetary benefit from 16-11-78) and was again revised to Rs.425-700 in January, 1993. The Ministry of Finance on 19-10-1994 extended the

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pay scale of Grade-I (Rs.550-700) to Draughtsman Gr.II with 4 years of service. The Chief General Manager circulated this decision in December,1995, consequent upon which the Telecom District Engineer/ Manager revised and fixed the pay of the applicant in the said scale (Rs.550-750). Certain arrears, which became due on account of the revised fixation, were also paid to him. However, on 2-2-96 Respondent No.1 directed the subordinate units to cancel the orders of promotion and re-fixation of pay from Draughtsmen Gr.II to Gr.I on the ground that the cadre of Draughtsmen was basically a Circle Cadre and all promotional orders to the cadre were to be issued only by the circle office. It is further stated that the DOT letter on the subject circulated by CGM on 18-12-95 merely indicated the eligibility and pre-requisites for promotion from Draughtsman Gr.II to Grade-I which could not be construed as directions to accord such promotions by the subordinate authorities and that the Department in any case had introduced on 23-8-1983, certain percentages of Grade-I and Grade-II Draughtsmen to be maintained which could not be overlooked while granting promotions.

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2. The applicant is aggrieved by this and states that the impugned orders were issued without competence, and that R-1 was bound by the directions issued by him earlier on 18-12-95 to implement the directions of the Finance Ministry, and that it was not now open to him to question or order cancellation of the orders passed by R-1 in compliance with his own, i.e. respondent-1's, earlier instructions.

3. The applicant submits further that certain other HC Draughtsmen, like D.K.Nagpurkar and K.S.S.N.Raju and Chakrapani, who were given the revised pay scale on promotion to Grade-I were not affected by the impugned order whereas in his case the impugned orders, if implemented, would result in serious financial distress. The applicant expressed an apprehension that approximately Rs.47,000/- may be recovered from his pay on account of the contemplated cancellation of promotion and fixation of pay resulting from such promotion. This was not found to be the case, and while admitting the O.A, this Bench observed that no action had yet been taken by R-2 to cancel Annexure-7, nor had any orders been issued yet for any recovery. It was, therefore, directed that any order of recovery, if passed already, shall not be given effect to until further orders, and if no order had been

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issued until then, such step would not be taken until further orders.

4. The counter affidavit gives the following details :

Prior to 19-10-1994 there were three grades of Draughtsmen in the Central Public Works Department. These were: Gr.I, Rs.425-700; Gr.II, Rs. 330-560; and Gr.III, Rs.260-430. A Committee of the National Council (JCM) was set up to consider a request of the staff side to allow these (three) grades to be extended to Draughtsmen in relevant grades in all offices of Govt. of India. Consequently the grades were revised as under :

	<u>From</u>	<u>To</u>
Grade - I	Rs.425 - 700	Rs. 550 - 750
Grade - II	Rs.330 - 560	Rs. 425 - 700
Grade - III	Rs.260 - 430	Rs. 330 - 560

of service,
7, 5 and 4 years, respectively, were prescribed for suitable placement of officials in the revised cadres. This decision was conveyed in Ministry of Finance, Department of Expenditure, O.M. No.13(1)-IC/91 dt. 19-10-94, and in turn by the C.G.M. to all subordinate units in the Circle vide his letter No.TA/EST/26-1/Rlgs/95 dt. 18-12-95. Consequent upon this communication of CGM, the pay of the applicant was refixed in the newly-revised pay scale of

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Gr.I HG Draughtsman on the ground that he had completed 4 years of service in the scale of Rs. 425-700. Notional benefit was given from 13-5-82 and the actual monetary benefit from 1-11-1983. It is to be noted that the OM of the Finance Ministry referred to above contains the following :

"Once the Draughtsmen are placed in the regular scales, further promotions would be made against available vacancies in higher grade and in accordance with the normal eligibility criteria laid down in the recruitment rules."

The Department accordingly made Recruitment Rules vide DOT letter No.9-3/93-NCG dt. 6-7-1994, according to which the total available 1500 posts of Draughtsmen were divided and allotted as under :

Gr. III	- 900 Nos.
Gr. II	- 450 Nos.
Gr. I	- 150 Nos.

The promotions to three grades (and consequent fixation of pay) was not, therefore, automatic but subject to the overall limitation of number of posts in each of the three grades on a countrywide basis. The cadre controlling authority of Draughtsmen at the circle level is the CGM and any promotions ordered in the grades have to emanate at the circle level keeping in view the

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earmarked for and
number of posts available in each grade.

In such a situation an eligible official in terms of requisite length of service (4 years as Draughtsman in the scale of Rs. 425-700) could be promoted to Grade-I and placed in the scale of Rs. 550-750 only on adhoc basis and restricted strictly within 10% of the total number of posts. TDM, Tirupathi, who issued the order permitting the refixation of the pay of the applicant in Gr. I had no competence to do so since he was not ^{the} cadre controlling authority, and in any case could not have been aware of the percentages and number of posts to be placed in different grades to order such refixations. More importantly, the progress of an official from one grade to another can result only by way of promotion and that such promotion had to precede any refixation of pay in the new revised grade(s). The said respondents i.e. TDM, was not competent to order such promotions and, consequently, was not empowered to order refixation of pay.

The order issued by him, therefore, is wholly without any competence whatsoever. The official named by the applicant, viz., D.K. Nagapurkar was the seniormost HGDM in the circle and was

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in any case fully eligible to come within the 10% posts reserved for upgradation.

No wonder therefore his promotion remained unaffected because of his seniority.

5. It is evident that in this case the orders of promotion issued by TDM, Tirupathi, were hasty, premature and issued without full comprehension of the details of the revised grades, promotions and consequent eligibility for refixation of pay. Furthermore, such orders should not have been issued by the TDM since it was beyond his competence to do so. Under the circumstances the impugned orders cannot be faulted since these only rectify a glaring administrative error, with adverse financial implications, committed by a subordinate unit. The issue of impugned orders was inescapable under the circumstances. The basic flaw here was that the orders of the Ministry of Finance extending the benefit of revised pay fixation to all Draughtsmen in all offices with reference to the scales prevalent in the CPWD was intimated mechanically by the second respondent. It is also significant that the pay fixation Memo (Annexure XII) No.Q/MVS/HGDM/95-96/8 dt. 29-12-95 refers only to


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Finance Ministry OM and not ^{to} any communication
dt. 18-12-95 received from CGM.


6. Under the circumstances it is not
round possible to interfere with the
order in any manner. However, as any recovery,
when ordered, is bound to impose considerable
financial strain on the applicant, all that
can be said is to see if such burden can be
softened in any way. If any recovery is therefore
ordered now, the same shall be done on the
basis of maximum monthly instalments
permitted under the rules.

7. Thus the OA is disposed of.

MD


(H. Rajendra Prasad)
Member (A)

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Deputy Registrar

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To

1. The Chief General Manager,
Telecom, A.P.Circle, Hyderabad.
2. The Telecom Dist.Manager, Tirupathi.
3. One copy to Mr.D.Venkateswar Rao, Advocate, CAT.Hyd.
4. One copy to Mr.K.Ramulu, Addl.CGSC. CAT.Hyd.
5. One copy to HHRP.M.(A) CAT.Hyd.
6. One copy to D.R.(A) CAT.Hyd.

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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. K. RAJENDRA PRASAD :M(A)

DATED:- 29/9/97

ORDER/JUDGMENT.

M.A./P.A./C-A.No..

in

O.A.No. 309/96

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

केन्द्रीय प्रशासनिक अधिकरण
Central Administrative Tribunal
प्रेषण/DESPATCH
- 6 OCT 1997
हैदराबाद न्यायपीठ
HYDERABAD BENCH