

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL: HYDERABAD BENCH

HYDERABAD

O.A.No.310 OF 1996.

Date of Order : 3-8-1998

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Between :

K. Muthan.

.. Applicant

and

1. The Chairman, Central Water Commission, Seva Bhavan, R.K.Puram, New Delhi-66.
2. Director (Estt), C.W.C., Seva Bhavan, R.K.Puram, New Delhi-66.
3. Superintending Engineer, Godavari Circle, Central Water Commission, Red Hills, Hyderabad-4.

.. Respondents

COUNSEL FOR THE APPLICANT :: Mr.N.Rama Mohan Rao

COUNSEL FOR THE RESPONDENTS : Mr.V.Rajeshwara Rao

CORAM:

THE HON'BLE SRI R.RANGARAJAN, MEMBER (ADMN)

AND

THE HON'BLE SRI B.S.JAI PARAMESHWAR, MEMBER (JUDL)

: O R D E R :

ORAL ORDER (AS PER HON'BLE SRI R.RANGARAJAN, MEMBER (A) )

Heard Mr.Siva for Mr.N.Rama Mohan Rao for the Applicant and Mr.V.Rajeshwara Rao for the Respondents.

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2. The applicant in this OA joined as L.D.C. on 27-6-1959. Thereafter, he was promoted as U.D.C. on 24-4-1964. In the cadre of L.D.C. and U.D.C. he is senior to Sri P.D.Burman. However, the applicant was deemed to have been promoted to the post of Circle Superintendent later than Sri P.D.Burman submits the respondent. The applicant requested for stepping up of his pay on par with his junior Sri P.D.Burman in the cadre of Head Clerk as well as in the cadre of Circle Superintendent. That was allowed by Order No.A-20012/6 (2)/87-VII, dated :29-9-1995 (Annexure.A-XXIX, page.40 to the OA). The pay fixation was also issued by Office Order No.6/1/93-GC (Admn)/3370-74, dated :18-10-1995 (Page.41 to the OA). However, the above fixation was withdrawn for the reasons stated in the impugned letter No.A-20012/6 (2)/87-Estt.VII, dated : 16-11-1995 (Page.11 to the OA).

3. This OA is filed to set aside the impugned Order No.A-20012/6 (2)/87-Estt.VII, dated :16-11-1995 by holding the same as arbitrary, illegal, and for a consequential direction that the earlier Proceedings dated :29-9-1995 (Page.40 to the OA) is in order and for a further direction to the respondents to grant the selection grade to the applicant with effect from the date when it became due along with all consequential benefits and awarding of costs also.

4. The applicant was transferred to Pune as Circle Superintendent by Order No.A-32012/3/77-Admn.VII, dated : 1-1-1979 (Page.16 to the OA). Sri P.D.Burman was also promoted by the same Order and he was posted to Gauhati. It appears that the applicant was not relieved to join

at Pune due to the requests mentioned in Letter No. SGD/A/11011/3/Admin. I/78/524, dated :23-1-1979 (Page.17 to the OA). The applicant was finally posted in partial modification of the earlier Order dated :1-1-1979 at Hyderabad by Order No.14/144/66-Adm.VII, dated :24/25-6-1979 (Page.18 to the OA). In between, the applicant had submitted a letter dated :8-5-1979 (Annexure R-IV to the reply) requesting for his posting at Hyderabad as Circle Superintendent. The applicant submits that, he should be deemed to have been promoted atleast on par with Sri P.D.Burman as the promotion to Sri P.D.Burman against roster point will not give him Seniority as well as an earlier promotion as submitted by the respondents in Para.no.3 of the reply. For this he relies on the letter of the DOP & T OM.No.10/52/73-Estt (SCT), dated :24-5-1974. The applicant also submits that the modified Order dated :24/25-6-1979 was issued by the department on its own and it has no relevance to his request letter dated :8-5-1979. Hence the applicant was posted as Circle Superintendent at a later date by the respondents and hence that should not stand in his way for getting stepping up of pay on par with Sri P.D.Burman.

5. We have heard both sides. The reason given by the respondents that Sri R.D.Burman was promoted against the roster point earlier to him and hence he got higher pay is not correct. The roster point is maintained to ensure that, adequate representation is available for the reserved community in their respective category. Posting of Sri P.D.Burman earlier to the applicant, because the ST roster point had arisen earlier is not a reason for denying the stepping of pay for the applicant. Hence this reply given by the respondents in this connection is to be rejected.

6. However, the DOP&T OM No.4/7/92-Estt. (Pay-I), dated :4-11-1993 (Annexure R-II) clearly states that,

"If a senior joins the higher post later than the junior, for whatever reasons, whereby he draws less pay than the junior, in such cases senior cannot claim stepping up of pay at par with the junior".

The above instruction of the DOP & T is in order but denial of stepping up of pay for whatever reasons cannot be countenanced. If the department does not relieve an employee to carry out his transfer, it cannot be shown against him. It is the responsibility of the respondents to relieve the officials in time so as to enable them to join the higher post at the nominated place. In this case, though the applicant submits that he was not relieved due to the failure of the department to relieve him and for that he submits that, Office Order dated :24/25-6-1979 does not indicate the reasons for issue of that modification and hence the applicant cannot be allowed to suffer by refusing to ~~in~~ step up his pay on par with his junior Sri P.D.Burman. But the above submission has to be examined in the light of his representation dated :8-5-1979 requesting for posting him at Hyderabad. If the applicant wanted to carry out his transfer to Pune, he should have insisted on the respondents for relieving him immediately after the first Order dated :1-1-1979 was issued. But it looks that he had not made any such effort. But at this distant date, it will be difficult to re-construct the whole event by this Bench. Hence, we feel that the impugned Order dated :16-11-1995 needs reconsideration in the light of the observations made above.

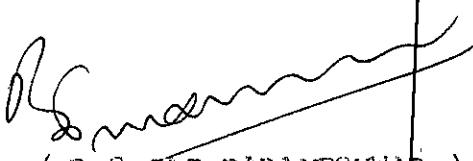
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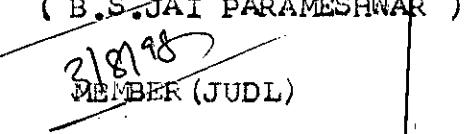


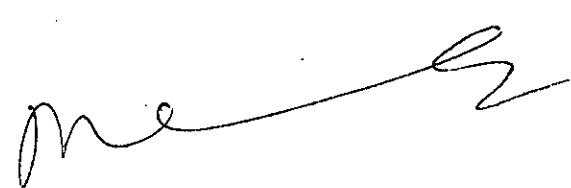
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6. We are of the opinion that the re-consideration of the impugned order has to be done at the level of Respondent No.1 and a detailed reply should be issued to the applicant after <sup>such</sup> the re-consideration process is over. Time for compliance is four (4) months from the date of receipt of a copy of this Judgment.

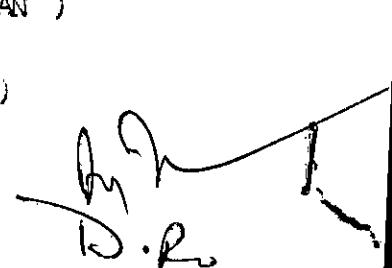
7. With the above direction, the OA is disposed of. No costs.

  
( B.S.JAI PARAMESHWAR )

  
31/8/98  
MEMBER (JUDL)

  
( R.RANGARAJAN )

MEMBER (ADMN)

  
Dated : this the 3rd August, 1998

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Dictated in the Open Court

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DSN

DA.310/96

Copy to :-

1. The Chairman, Central Water Commission, Seva Bhavan, R.K.Puram, New Delhi.
2. The Director (Estt), C.W.C., Seva Bhavan, R.K.Puram, New Delhi.
3. The Superintending Engineer, Gedavari Circle, Central Water Commission, Red Hills, Hyderabad.
4. One copy to Mr. N.Rama Mohan Rao, Advocate, CAT., Hyd.
5. One copy to Mr. V.Rajeswara Rao, Addl.CGSC., Hyd.
6. One copy to D.R.(A), CAT., Hyd.
7. One duplicate copy.

srr

II COURT

~~12/8/98~~ (2)  
TYPED BY

CHECKED BY

COMPARED BY

APPROVED BY

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
HYDERABAD BENCH HYDERABAD

THE HON'BLE SHRI R. RANGARAJAN : M(A)

AND

THE HON'BLE SHRI B.S. JAI PARAMESHWAR :  
M(J)

DATED : 3/8/98

ORDER/JUDGMENT

~~M.A/R.A/C.P.H.~~

in

C.A. NO. 310/98

ADMITTED AND INTERIM DIRECTIONS  
ISSUED

ALLOWED

DISPOSED OF WITH DIRECTIONS

DISMISSED

DISMISSED AS WITHDRAWN

DISMISSED FOR DEFAULT

ORDERED/REJECTED

NO ORDER AS TO COSTS

YLR

केन्द्रीय प्रशासनिक अधिकार अधिकार  
Central Administrative Tribunal  
मेष्ट / DESPATCH

10 AUG 1998

केन्द्रीय प्रशासनिक अधिकार  
HYDERABAD BENCH