

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH  
AT HYDERABAD

O.A.No.1402/96

Date of Order: 4.12.96

BETWEEN:

G.Lazarus

.. Applicant.

AND

Union of India rep. by :

1. Chief Postmaster General,  
B.P.Postal Circle, Hyderabad-

2. The Supdt. of Post Offices,  
Nandyal Postal Division,  
Nandyal, Kurnool Dist.

3. The Post Master, Markapur Head  
Post Offices, Markapur,  
Prakasam Dist.

.. Respondents

- - -

Counsel for the Applicant

.. Mr.K.S.R.Anjaneyulu

Counsel for the Respondents

.. Mr.K.Bhaskara Rao

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CORAM:

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

HON'BLE SHRI B.S. JAI PARAMESHWAR : MEMBER (JUDL.)

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J U D G E M E N T

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

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Heard Mr.D.Subramanyam for Mr.K.S.R.Anjaneyulu, learned counsel for the applicant and Mr.Sunil Kumar for Mr.K.Bhaskara Rao, learned standing counsel for the respondents.

2. The applicant is a postal assistant joined in the department on 12.1.78. His increment normally falls on the first date of January. The IV Pay Commission Recommendations were accepted w.e.f. 1.1.86. But that recommendation was accepted with view of retrospective effect in the month of October 1987. In that the applicant was granted the increment in the Postal Assistant grade in the usual manner w.e.f. 1.1.86. Thereafter when the IV Pay

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Commission Recommendations were accepted his pay was fixed at the appropriate stage in the scale of pay of ~~recommendations~~ as per the approved recommendations of the IVth Pay Commission.

3. A notification was issued No.1(2)-E.III/95, dt. 23.3.95 (A-3) wherein it is stated for those whose increment fell on 1.1.86 may get their pay fixed in the IVth Pay Commission scales of pay before granting them the increment in the lower scales of pay. The increment which fell on 1.1.86 will be fixed in the revised scales of pay later. Thus it is stated that the above referred O.M. gives advantage to the applicant to get some extra remuneration due to the method indicated above. The memorandum also stipulates that option should be exercised for the above method within six months from the date of issue of that office memorandum, i.e. the option should be given on or before 22.9.95. The applicant submits that he has submitted an option to fix his pay as above by his option dt. 18.12.95 (A-4). The applicant further submits that he came to know of the memorandum dt. 23.3.95 only <sup>when</sup> ~~with~~ the audit party visited the office and asked him the reasons for not exercising his option in terms of memorandum dt. 23.3.95. On the basis of that <sup>and</sup> ~~prodding~~ by the audit party the applicant submitted his option form and also submitted a representation dt. 20.4.96 (A-6) for fixation of his pay as per that memorandum. R-2 rejected his representation by letter No.AC/R.P.R./1986/Dlgs/ dt. 13.8.96 (A-1) on the ground that he has not exercised his option within the period stipulated in OM dt. 23.3.95.

4. Aggrieved by the above, he has filed this OA for setting aside the rejection letter dt. 13.8.96 (A-1) by holding it as arbitrary, unlawful and for a consequential direction to fix his pay in accordance with the memorandum as per his option exercised by him.

5. The only point for consideration in this OA is whether the OM dt. 23.3.95 was circulated, <sup>it was not.</sup> ~~if does not~~ circulated in time

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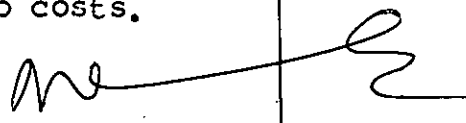
.. 3 ..

to enable the officials to exercise their option then the applicant may have a case. R-2 has rejected the option of the applicant as that option was not exercised in time. But whether the contents of the memorandum dt. 23.3.95 was brought to the notice of the officials concerned is to be seen. Each department has its own method of bringing to notice of <sup>concerned</sup> officials any important memorandum. If those methods were adopted in accordance with the rule then the applicant cannot have any grouse for non-display/non-bringing to the notice of the concerned official in accordance with the rules/practice/precedence. It is a factual verification. No adjudication is required in this connection. If the notification <sup>was</sup> ~~is~~ not brought to the notice of the <sup>applicant</sup> ~~memorandum~~ <sup>not</sup> intime then the official cannot be penalised by granting him the relief as per the memorandum. If it has brought to the notice of the concerned official and the concerned official <sup>did</sup> ~~does~~ not take any action on the basis of the memorandum then the Government cannot be held responsible for not implementing the orders of the memorandum.

6. In view of what is stated above R-1 should examine this issue in toto and decide the issue in accordance with the rules. Time for compliance is three months from the date of receipt of a copy of this order.

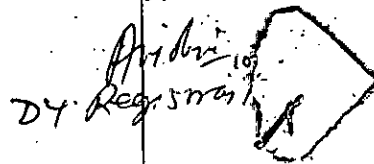
7. The OA is ordered accordingly. No costs.

  
( B.S. JAI PARAMESHWAR )  
Member (Judl.)  
4/11/96

  
( R. RANGARAJAN )  
Member (Admn.)

Dated: 4th December, 1996

(Dictated in Open Court)

  
Dy. Registrar

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## Copy to:-

1. The Chief Postmaster General, Union of India, A.P. Postal Circle, Hyd.
2. The Supdt of Post Offices, Nandyal Postal Division, Nandyal, Kurnool Dist.
3. The Post Master, Markapur Head Post Offices, Markapur, Prakasam Dist.
4. One copy to Sri. K.S.R. Anjaneyulu, advocate, CAT, Hyd.
5. One copy to Sri. K. Bhaskara Rao, Addl. CGSC, CAT, Hyd.
6. One copy to Library, CAT, Hyd.
7. One spare copy.

Rsm/-

(24)

Q 23/12/98

TYPED BY  
COMPILED BY

CHECKED BY  
APPROVED BY

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: 4/12/98

~~ORDER/JUDGEMENT~~

~~R.A./C.P./M.A. NO.~~

O.A. NO. 1402/98

ADMITTED AND INTERIM DIRECTIONS ISSUED  
ALLOWED  
DISPOSED OF WITH DIRECTIONS  
DISMISSED  
DISMISSED AS WITHDRAWN  
ORDERED/REJECTED  
NO ORDER AS TO COSTS.

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केन्द्रीय प्रशासनिक न्याय  
Central Administrative  
Tribunal / DESPA  
18 DEC 1998  
हैदराबाद न्याय  
HYDERABAD BENCH