

(5)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH

AT HYDERABAD

\*\*\*

O.A. 390/96.

Dt. of Decision : 30-12-96.

Shri P.V.P.Mrutyunjaya Rao

.. Applicant.

Vs

1. The Principal Accountant General  
(Audit-I), Lakadikapool, AP Hyderabad,  
-500 063.
2. The Comptroller and Auditor General of  
India, Bahadur Shah Zafar Marg,  
New Delhi-110 002.
3. The Secretary, Dept. of Personnel  
and Training Estt. Min. of Personnel,  
P.G. and Pensions, Govt. of India,  
New Delhi-110 001.

.. Respondents.

Counsel for the applicant : Mr. P.V.P.Mrutyunjaya Rao  
(Party-in-person)

Counsel for the respondents : Mr. G.Parameshwar Rao,  
SC for AG's Office.

CORAM:

THE HON'BLE SHRI R.RANGARAJAN : MEMBER (ADMN. (1))

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

R

ORDER

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

Heard Mr.P.V.P.Mrutyunjaya Rao, Party-in-person and Smt.Sakthi for Mr.G.Parameshwar Rao, learned counsel for the respondents.

2. The applicant in this OA while working as Assistant Audit Officer reached the maximum <sup>in</sup> of the scale of pay in that grade on 1-3-85. He was promoted as Audit Officer on 10-7-85. His pay in the grade of Audit Officer was fixed following FR 22-C in terms of DOP OM No.7/1/80-Estt.(Pay-I) dated 26-9-81. He opted to fix his initial pay in ~~the~~ higher post on the basis of FR 22-C straightway without any further review on accrual of the increment in the pay scale of the lower post. The above fixation was opted by him in view of the fact that he had already reached <sup>the</sup> the maximum and the other method of fixation under this rule <sup>could</sup> will not give him any further benefit. A Memo.No.16/24/88-Estt(Pay-I), dated 28-6-90 was issued by Govt. of India, Department of Personnel and Training giving fresh option for fixation of pay in the promoted cadre for those promoted between 2-1-85 and 31-12-85 and in whose case the date of next increment (DNI for short) in the lower post fell on or after 1-1-86. As per that Memo, Govt. of India decided that "an employee promoted after 1-1-85 but before 1-1-86 and whose date of next increment in the post falls on or after 1-1-86 may be allowed another option to get his pay fixed in the promoted post under FR 22-C, either from the date of promotion or date of next increment in the lower post falling on or after 1-1-86" (Annexure A-10) at page 25 of the OA). The applicant gave fresh option opting to get his pay fixed in the promoted post under FR 22-C from the date of next increment in the lower post which fell on 1-3-86. Initially his option was accepted and his pay was fixed accordingly. Later, the Department found that the fixation as above to the applicant herein was

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erroneous as he ~~was~~ <sup>had</sup> reached the maximum of the pay in the lower scale and also he <sup>had</sup> opted earlier at the time of ~~his~~ his promotion to get his pay refixed straightway in the higher post on the basis of FR 22-C. A show cause notice was issued for refixing his pay once again alleging that he is not entitled for the benefit of OM dated 28-6-90. He replied to the show cause notice. It was finally informed to him by the impugned letter No.CC/CC 1/8-22/CC 883/95/161 dated 8-3-96 (Annexure A-1) the erroneous pay fixation of the applicant in terms of the OM dated 28-6-90 has to be rectified. It was also sought to recover the excess amount paid due to the alleged erroneous pay fixation by Office order bearing No.21 (No.Prl.AG (AU).I/Bill.I/Genl./3.79 (52.A)/Vol.II/95-96/87 dated 7/12-2-96(Annexure-II).

3. There are two prayers in this OA. The first prayer in this OA is to set aside the impugned order No.Prl.AG(AU)I/CC-I/8-22/OA 883/95/95-96/157 dated 20-2-96 (Annexure-I) and the office order No.Prl.AG(AU).I/Bills.I/Genl./3.79(52.A)/Vol.II/95-96/ dated 7/12-2-96 (Annexure-II) supra holding it as capricious/ arbitrary and contrary to the Govt. of India OMs dated 9-11-87 and Govt. of India OM No. 16/24/88 dated 28-6-90.

4. The second prayer is that a direction to R-1 to release the stagnation increment due to the applicant w.e.f., 1-3-95 along with the pensionary benefits thereon on that basis with interest at 18% per annum.


5. The above two prayers are already answered in OA. 481/96. The applicant in that OA was also similarly placed as the applicant herein. Hence we are accordingly <sup>giving</sup> similar direction as given in OA.481/96 dated 4-11-96 and direct as above follows. -



6. In the result, the impugned order No.Prl.AG(Au)I/CC-I/8-22/OA 883/95/95-96/157 dated 20-2-96 (Annexure-I) and the office order No.Prl.AG(AU).I/Bills.I/Genl./3.79(52.A)/Vol. II/95-96/ dated 7/12-2-96 (Annexure-II) are set aside. The pay fixation already effected on the basis of his option given by him in terms of the OM dated 28-6-90 stands good and his pay fixation already done should not be revised.

7. The applicant is entitled for stagnation increment in the cadre of Audit Officer if he has stagnated for two years in that scale as on 1-3-95. Fixation of his pension and other final settlement dues when he retired on 30-6-95 are to be done on the basis of the pay drawn by him on 30-6-95 granting stagnation increment on 1-3-95 if he had stagnated for two years in the pay scale of Audit Officer as on 1-3-95.

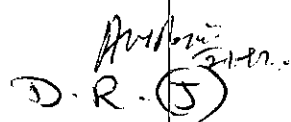
8. The OA is ordered accordingly. No costs.

  
(B.S. JAI PARAMESHWAR)  
MEMBER (JUDL.)

  
(R. RANGARAJAN)  
MEMBER (ADMN.)

Dated : The 30th December 1996.  
(Dictated in the Open Court)

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D.R. (J)

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D.A.NO.390/96

Copy to:

1. The Principal Accountant General,  
(Audit - I), Lakdikapool, AP,  
Hyderabad - 500 063
2. The Comptroller and Auditor General of India,  
Bahadurshah Zafar Marg, New Delhi - 110 002.
3. The Secretary, Dept. of Personnel and Training Estt.,  
Min. of Personnel, P.G. & Pensions, Govt. of India,  
New Delhi.
4. One copy to Mr.P.V.P.Mrutyunjaya Rao, Party in Person,  
H.No.1-1-336/80, Viveknagar, Chikkadapally, Hyderabad.
5. One copy to Mr.G.Parameshwara Rao, Advocate, CAT,Hyderabad.
6. One copy to Library, CAT,Hyderabad.
7. One duplicate copy.

YLKR

20/1/97  
Typed By  
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Approved by

THE CENTRAL ADMINISTRATIVE TRIBUNAL  
HYDERABAD BENCH HYDERABAD

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

The Hon'ble Shri B. S. Jai Parameshwar (M)

DATED: 30/12/86

ORDER/JUDGEMENT  
R.A./C.P./M.A. NO.

in

O.A. NO. 380/86

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

YLKR

II COURT

