

(21)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL HYDERABAD BENCH
HYDERABAD

O.A.NO.55/96

Between:

Date of Order: 19.3.96.

B.Thirupathi Rao

...Applicant.

And

1. The Senior Divisional Personnel Officer,
South Central Railway,
Vijayawada.
2. The Divisional Railway Manager,
South Central Railway,
Vijayawada.

...Respondents.

Counsel for the Applicant : Mr.G.V.Subba Rao

Counsel for the Respondents : Mr.V.Bhimanna, Addl.CGSC.

CORAM:

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

contd...

O.A.55/96.

Dt. of Decision : 19-03-96.

ORDER

I As per Hon'ble Shri R. Rangarajan, Member (Admn.) I

The applicant in this OA who joined as a Assistant Station Master, SC Rly, Vijayawada against the Ex-serviceman quota on 07-12-1970 was further promoted to the grade of Rs.425-640 and 455-700 in due course. Presently he is working as ASM under the control of Chief Yard Master, Vijayawada Railway Yard. In the year 1985 when he was empanelled to the post of ASM in the grade of Rs.455-700 disciplinary proceedings were pending against him at that time. However, he was promoted on 17-12-85, after the proceedings ~~were~~ dropped, to the post of ASM in the grade of 455-700 and his pay was fixed at the stage of Rs.580/- in the grade of 455-700/- w.e.f., 17-12-85 and at the next appropriate stage on 1-12-86. It is stated for the applicant that he wanted his pay in the grade of 455-700/- to be fixed from 1-12-86 when his increment in the lower scale was to be granted. He states that as per the Annexure-V letter dated 12-11-86 he exercised of option to come on the revised scale subsequent to 1-1-86 from the date of annual increment i.e., on 1-8-86 but the same was rejected by Annexure-VII letter No.B/P.524/VI/Optg./SMS/ASMs dated 26-3-95. As per this letter it is seen that the applicant failed to exercise option for fixation of pay in RSRP rules 1986 and it is further stated that since he had failed to give option he cannot compare his pay with that of his junior. He pursued his case by submitting representation but he was informed by the impugned letter No.

B/P.524/VI/Optg./ASM/Vol. dated 20-12-1995 to that his option submitted on 12-11-86 "is not genuine".

2. Aggrieved by the above reply he has filed this OA for setting aside the impugned letter No.B/P.524/VI/Optg./ASM/Vol./3 dated 20-12-1995 (Annexure-A-I) by holding it as arbitrary, illegal and unconstitutional violative of Articles 14 and 16 of the Constitution and for a consequential direction to the respondents to fix his pay in the revised scale w.e.f., 01-12-86 at Rs- 1720/- in the scale of Rs 1400-2300/- treating the applicant as having opted for IV Pay Commission scale w.e.f., 01-12-86, the date of his next increment with all consequential benefits such as arrears of salary and allowances etc.,

3. The whole issue hinges on the fact whether the applicant had elected to come to the new scales of pay from a later date when his next increment was to be granted in the lower scale. The impugned letter dated 20-12-95 states that the option given by him is not genuine. The reason for arriving at such conclusion is not indicated. It is stated that as per rules the applicant can take up his promotion from a later date and also he has the option to come on the revised scales on a date beneficial to him. But he should give this option in time. As per the impugned letter it appears that the option submitted by him is not genuine. Hence it is essential to verify ~~for~~ ^{from the} records in regard to genuineness of the option and take a final decision on the

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basis of record. As his claim is rejected at the lower level it is a fit case to remit this case to R-2 to give a speaking order in this connection. While giving the order, R-2 should also indicate ~~that~~ whether the option given by him is genuine or not and if it is not found to be genuine, the reason for arriving at such a conclusion has to be indicated.

4. In the result, R-2 has to re-consider his issue ~~genovo~~ and a speaking order within a period of three months from the date of receipt of a copy of this order has to be issued, keeping in mind my observation as above. If the applicant is aggrieved by the reply to be given he is free to approach this Tribunal under section 19 of the A.T.Act.

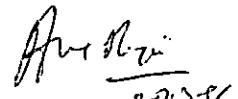
5. The OA is ordered accordingly at the admission stage itself. No costs.

(Registry should send a copy of this order alongwith OA to R-2).



(R. Rangarajan)
Member(Admn.)

Dated : The 19th March 1996.
(Dictated in Open Court)


Amravati
27-3-96

Dn/1.

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Copy to:

1. The Senior Divisional Personnel Officer,
South Central Railway,
Vijayawada.
2. The Divisional Railway Manager,
South Central Railway,
Vijayawada.
3. One copy to Mr.G.V.Subba Rao, Advocate,
CAT,Hyderabad.
4. One copy to Mr.C.V.Malla Reddy, Addl.CGSC,
CAT,Hyderabad.
5. One copy to Library,C AT, Hyderabad.
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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH HYDERABAD.

HON'BLE SHRI A. B. SORITHI : MEMBER(A)

HON'BLE SHRI R. Rangarajan : H(A)

DATED: 19.3.96.

ORDER/JUDGMENT

M.A. NO./R.A./C.A. No.

IN

D.A. NO. 55/96.

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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to R. V.

