

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL: HYDERABAD BENCH AT  
HYDERABAD.

O.A.No: 1306 of 1996.

Between:

V. Rangasai Reddy son of V. Ranga Reddy,  
aged 57 years, working as Mail Overseer,  
Cumbum Sub Division, Prakasam District. .. Applicant.

and

Union of India represented by:

- 1. Chief Post Master General, Andhra Pradesh Postal Circle, Hyderabad.
- 2. Superintendent of Post Offices Nandyal; Postal Division, Nandyal, Kurnool District.
- 3. The Post Master, Markapur Head Post Offices, Markapur, Prakasam District. .. Respondent.

Address for service : K.S.R. ANJANEYULU &  
D. SUBRAHMANYAM  
Advocates, Jawaharnagar,  
HYDERABAD 500 020.

Details of the application:

1. Particulars of the order against which this application is filed:

This application is filed against the orders of the Superintendent of Post Offices, Nandyal Postal Division, Nandyal (Respondent No: 2) conveyed in his letter AC/R.P.R./1986/Digs/dated at Nandyal 13.08.1996 (Annexure 1 Page 8) rejecting the request of the applicant for revised pay fixation in terms of Director General Posts Letter OM 1(2) E III/95 dated 23.03.1995.

2. Jurisdiction:

The applicant declares that the subject matter of the application is within the jurisdiction of this Honourable Tribunal as per Section 14(1) of the Administrative Tribunals Act, 1985, as the applicant is working in Cumbum Postal Sub Division in Nandyal Postal Division.

*[Handwritten signatures]*

3. Limitation:

The applicant further declares that the application is within the period of limitation as prescribed in Section 21 of the Administrative Tribunals Act, 1985. The impugned order is dated 13.08.1996.

4. Facts of the case:

4.1. The applicant humbly submits that he entered the Department in the year 1962 and got his promotion to the cadre of Mail Overseer in December, 1983. As on 31.12.1995 he was drawing a pay of Rs. 302 in the scale of 260-6-326-EB8-350 with D.N.I. as on 1.1.1986 consequent on revision of pay scales w.e.f. 1.1.1986 his pay was fixed at Rs. 110/-.

4.2. Initially it was clarified in the Ministry 7(21)-E/87 dated 4.5.1987 (Swamy's Annual 1987 - Page 273 Item 233 Annexure 2) <sup>Page 10</sup> that increment in the pre revised scale is to be allowed first on 1.1.1986 and the pay fixed in the revised scale thereafter. His pay was fixed on that basis was fixed at Rs. 1,110/- on that basis.

4.3. The Staff side in National Counsel demanded that the Government servant whose increment fell on 1.1.1986 should have his pay fixed in revised scale without taking into account the increment and that the increment be allowed in the revised scale. The matter was considered and ultimately revised orders were issued under Government of India, Ministry of Finance OM No: I (2)-E/III/95 dated 23.3.1995 (Item No: 111 of Swamy's News May, 1995) (Annexure 3) <sup>Page 12</sup> stating interalia "The pay in the revised scale as on 1.1.1986 may be fixed without taking into account the increment due on 1.1.1986. After the pay in the revised scale is so fixed, the increment may be allowed on 1.1.1986 in the revised scale". Options were required

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to be exercised within a period of six months and the Ministry advised to bring the provisions of this Memo to all concerned and once option is exercised the same shall be deemed as final. It is also stated in the said letter that in case no option is exercised it shall be presumed that the Government employee has opted to get his pay fixed by drawing increment in the pre revised scale and thereafter the pay being fixed in the revised scale in accordance with provisions of OM 7(20)E/III/87 dated 4.5.1987 (Annexure 2 Page 10).

4.4. It is humbly submitted, that the revised orders dated 23.03.1995 (Annexure 3 Page 12) have not been circulated or brought to the notice of the applicant and no opportunity was provided for exercising the option as envisaged in the orders. During the course of Audit Inspection in December, 1995, the applicant came to know that he is entitled to get pay fixed in the revised scale of 1986 since his date of increment was on 1.1.1986 ~~(Annexure 3 Page 12)~~

4.5. The applicant gave his option on 17.1.1996 (Annexure 4 Page 13) after knowing from the Audit Party. The Post Master, Markapur vide his letter No: 11/Revised Pay/96-97 dated 8.4.1996 (Annexure 5 Page 14) replied the applicant stating that he has <sup>not</sup> exercised the option as required in para 3 of the OM dated 23.03.1995 (Annexure 3 <sup>page 12</sup>) and hence he is not eligible for fixation of pay in the revised scale with effect from 1.1.1986.

4.6. The applicant submitted a representation on 23.04.1996 (Annexure 6 Page 15) to the Superintendent of Post Offices, Nandyal specifically stating that the circular dated 23.3.1995 was not circulated and the applicant is not aware of the option to be exercised. He came to know of it only in December,

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*[Handwritten signature]*

1995 through Audit Party and gave his option on 17.1.96 followed by representation on 26.03.1996 ~~fixt~~ and as such his option should be taken into consideration and his pay should be fixed as on 1.1.1986 and allow the increment on 1.1.1986 in the revised scale and pay him the arrears. The applicant also sent a reminder on 31.7.1996 (Annexure 7 Page 17 ) for early action.

4.7. The Superintendent of Post Offices, Nandyal Division in his letter AC/RPR/1981/Dlgs dated 13.8.1996 (Annexure 1 Page 8 ) replied stating that the applicant has not exercised his option within the period of stipulated time in terms of OM dated 23.03.1995 (Annexure 3) and as such he is not eligible for fixation of pay w.e.f. 1.1.1986.

4.8. It is submitted that it is not denied ~~is~~ disputed that the revised orders dated 23.03.1995 was not brought to the notice of the applicant to exercise his option. It is also not denied that the applicant is eligible for revised pay fixation. In the circumstances, the applicant cannot be denied what is due to him under revised orders and he cannot be put to loss and penalised for no fault on his part. The action of the Superintendent in rejecting the option of the applicant and not fixing his pay in the revised scale as per the revised orders dated 23.03.1995 is wholly arbitrary, unjustified and untenable. The applicant is left with no alternative except to approach this Honourable Tribunal for redressal of his grievances on the following among other grounds.

5. Grounds for relief with legal provisions:

1. The revised orders dated 23.03.1995 (Annexure 3) were not brought to the notice of the applicant or

*Subodh Sreeya*

*Wangara*

circulated to enable the applicant to exercise option within the stipulated period of 6 months.

2. The applicant cannot be denied the benefit of the orders dated 23.03.1995 for fixation of pay in the revise scale for no fault on his part.
3. The action of the Superintendent of Post Offices denying fixation of pay in the revised scale is wholly arbitrary, unjustified and untenable.
4. The contention of the Superintendent of Post Offices that the applicant is not eligible for fixation of pay in terms of order dated 23.3.1995 (Annexure 3) is unfounded and unsustainable on the sole ground that the orders dated 23.3.1995 were never brought to the notice of the applicant to enable him exercise his option in time and is in gross violation of principles of natural justice.

6. Details of the Remedies exhausted:

The applicant gave his option on 17.1.1996 (Annexure 4) and submitted representation on 23.4.1996 (Annexure 6) <sup>page 15</sup> and also gave a reminder on 31.7.1996 (Annexure 7) <sup>page 17</sup>. His application was rejected by the Superintendent of Post Offices in his letter dated 13.08.1996 (Annexure 1) <sup>page 8</sup>.

7. Matters not filed previously nor pending in any court:

No case relating to this matter is filed or pending in any court.

8. Relief(s) sought:

In view of the facts mentioned in para 4 above the applicant herein humbly prays that this Honorable Tribunal

*Subra Sreeya* *Wang*

be pleased to call for the records relating to his fixation of pay and declare the orders of the Superintendent of Post Offices, Nandyal in his letter No: AC/RPR/1981/Dlgs dated 13.08.1996 be declared as arbitrary and unlawful and set aside the same on the ground that the orders dated 23.3.1995 (Annexure 3) was not brought to the notice of the applicant as envisaged in the orders for exercising the option within the stipulated time. The Superintendent of Post Offices may be further directed to take into account the option given by the applicant on 17.1.1996 and the pay of the applicant in the revised scale be fixed in terms of OM No: 1 (2) E/III/95 dated 23.03.1995 (Annexure 3 Page 12) i.e. to fix the pay of the applicant as on 1.1.1986 in the revised scale without taking into account, the increment due on 1.1.1986, and after the pay in the revised scale is so fixed, the increment may be allowed on 1.1.1986 in the revised scale and to pay arrears on account thereof and to pass such other order or orders as are deemed fit and proper in the circumstances of the case.

9. Interim orders if any sought for:

To fix an early date for hearing.

10. Not applicable

11. Particulars of the court fee paid:

- a. No. & Date of Postal order: 809575196 d. 5-11-96
- b. Post office of the issue: Gaudhi Nagar Hyderabad
- c. Payable at: Hyderabad GPO

Rs. 50/- A  
100.00-00

*M. Rangaswamy*

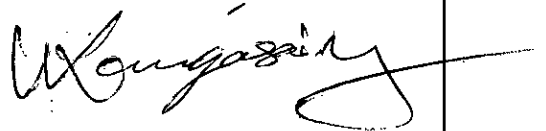
:7:

12. Enclosures:

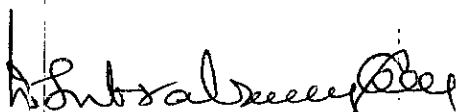
Vakalat, Postal order and material papers as per index.

VERIFICATION

I, V. Rangasai Reddy son of V. Ranga Reddy, aged 57 years, working as Mail Overseer, Cumbum Sub Division, Prakasam District, do hereby verify that the contents of paras 1 to 11 are true to my personal knowledge and belief and that the contents of paras 5 and 8 are believed to be true as per legal advise and I have not suppressed any material facts in the case.



SIGNATURE OF THE APPLICANT..



COUNSEL FOR THE APPLICANT.



IN THE CENTRAL ADMINISTRATIVE TRIBUNAL HYDERABAD BENCH AT HYDERABAD

O.A.NO. 1306/96.

Date of Order: 11-2-98.

Between:

V.Rangasai Reddy.

.. Applicant.

and

1. Union of India, rep. by  
Chief Postmaster General,  
Andhra Pradesh Postal Circle, Hyderabad.

2. Superintendent of Post Offices,  
Nandyal Postal Division, Nandyal  
Kurnool Dist.

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

.. Respondents.

For the Applicant: Mr. K.S.R.Anjaneyulu, Advocate.

For the Respondents: Mr. N.R.Devraj, Sr.CGSC.

CORAM:

THE HON'BLE MR.H.RAJENDRA PRASAD : MEMBER(ADMN)

THE HON'BLE MR.B.S.JAI PARAMESWAR : EMBER(AUDL)

The Tribunal made the following Order:-

It is submitted by Mr.Subrahmanyam that the applicant wishes to withdraw the O.A since he is hopeful of getting necessary relief as the Department has extended the time for submitting options. Mr.N.R.Devraj was also heard.

The OA is allowed to be withdrawn and dismissed accordingly.

*[Signature]*  
Deputy Registrar

To

1. The Chief Postmaster General,  
Union of India, Andhra Pradesh Postal Circle, Hyderabad.

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

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

4. One copy to Mr.K.S.R.Anjaneyulu, Advocate, CAT.Hyd.

5. One copy to Mr. N.R.Devraj, Sr.CGSC. CAT.Hyd.

6. One spare copy.

pvm.

17/2/98

I Court

TYPED BY  
COMPARED BY

CHECKED BY  
APPROVED BY

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
HYDERABAD BENCH AT HYDERABAD

THE HON'BLE MR. JUSTICE  
VICE-CHAIRMAN

AND

THE HON'BLE MR. H. RAJENDRA PRASAD: M(A)

The Hon'ble Mr. B. S. Saifaramanwar: M(D)

DATED: 11-2-1998

~~ORDER/JUDGMENT~~

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

in

O.A.No. 1306/96

T.A.No. (W.P)

~~Admitted and Interim directions  
Issued.~~

~~Allowed~~

~~Disposed of with direction~~

~~Dismissed.~~

~~Dismissed as withdrawn~~

~~Dismissed for Default.~~

~~Ordered/Rejected.~~

No order as to costs.

pvm.

केन्द्रीय प्रशासनिक अधिकरण  
 Central Administrative Tribunal  
 दस्तावेज / DESPATCH  
 16 FEB 1998  
 HYDERABAD BENCH