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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL^M: HYDERABAD BENCH

AT HYDERABAD

O.A.No.111/96

Date of Order: 6.8.96

BETWEEN:

D.Yerrayya

.. Applicant

AND

1. The Sub-Divisional Officer,
Phones-II, Visakhapatnam.
2. The Telecom District Manager,
Visakhapatnam.
3. The Chief General Manager,
Telecommunications, A.P.^M
Hyderabad.
4. The Chairman, Telecom Commission,
(reptg. Union of India),
New Delhi - 110 001.
5. The Secretary, Dept. of
Personnel & Training,
Ministry of Home Affairs,
Government of India,
New Delhi.

.. Respondents.

Counsel for the Applicant

.. Mr.C.Suryanarayana

Counsel for the Respondents

.. Mr.K.Bhaskara Rao

CORAM:

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

J U D G E M E N T

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

Heard Sri C.Suryanarayana, learned counsel for the applicant and Sri K.Bhaskara Rao, learned standing counsel for the respondents.

2. The applicant was selected for the post of Technicians by the order No.RE/Tech/Exmn/88/80, dated 19.12.88 (A-1) in the Visakhapatnam Division. The department of Personnel and Training issued O.M.No.16-16/89-Estt(Pay-I), dt. 22.10.90

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(A-3) wherein a direction was given to the other departments to treat the training period also as duty for purpose of drawing increments in the promoted cadre. The relevant portion of A-3 letter is re-produced below:-

"The matter has been considered in the National Council (JCM) and it has been decided that in case where a person has been selected for regular appointment and before formally taking over charge of the post for which the selected person is required to undergo training, the training period undergone by such a Government servant whether on remuneration or stipend or otherwise may be treated as duty for the purpose of drawing increments".

3. The respondents namely the Department of Telecommunication issued a clarification dated 6.11.91 (A-4) that the O.M. of DOP dated 22.10.90 is applicable only in the case of direct recruits, but that clarification does not indicate that it has the approval of the DOP. Probably this clarification was given by the DOT on their own. The department of DOP and Training further extended the benefit of counting the training period in the promoted cadre even to those who had been sent for training earlier to 1.10.90. By memo No.16-16/92-Estt(Pay-I) dated 31.3.92 (A-5) the counting of training period in the promoted cadre as per the memo dated 22.10.90 was extended even to those who underwent training from 1.1.86 onwards. But the training period from 1.1.86 to 1.10.90, as per the memo dated 31.3.92 will be only for notional fixation of pay and actual arrears will be given to those employees only from 1.10.90.

4. The applicant submitted representation for stepping up of his pay with respect to his junior Sri P.V.Satyanarayana by his representation dated 25.7.94 (A-10). That representation was turned down by the impugned order NoE-18-A/Trg.Incts/Tech/92-93/29, dated 15.1.94 (A-8) on the plea that Sri P.V. Satyanarayana is not junior to him. His seniority was also

~~REVIEWED BY THE JUDGE~~

revised showing him junior to Sri P.V.Satyanarayana in terms of the impugned order No.E.16/Tech/GL/93-94/33, dated 26.9.94 (A-11).

5. This OA is filed for setting aside the impugned order at A-8 as well as the corrigendum at A-11 and for a consequential direction to the respondents for counting his training period as duty for purpose of drawing his increments or alternatively for stepping up of his pay as per the clarificatory note (A-6) issued by DOP O.M.No.16/16/89-ESTT.(Pay-I), dated 29.3.93 and for further consequential payment of arrears.

6. Reply has been filed by the respondents. This reply mainly deals with stepping up of the pay of the applicant with respect to his junior. They rely on the letter of DOP No.16/16, 89-ESTT.(Pay-I), dated 29.3.93 stating that the stepping up of pay is permitted only if the case is compared with that of a direct recruit and not with respect to a promotee. ^{As in the} present case the applicant has compared ^{his case} with one Sri P.V.Satyanarayana who is a promotee the stepping up was rejected. But the reply does not talk of notional fixation of his pay counting the training period and then payment of actual arrears in terms of DOP OM= dated 31.3.92 (A-5). The applicant now submits that he will be satisfied if his training period is counted for purpose of fixation of his pay in the cadre of Technicians taking into account the training period he underwent from 18.2.89 to 19.2.90. This point has not been clarified in the reply.

7. By letter dated 31.3.92 the DOP had directed that in the case of the promotees the training period should also be taken into account ^{for fixation of pay}. This also evident from the OM dated 22.10.92 the relevant portion of which had already been extracted in para-2 supra. In terms of the memo dated 31.3.92 the applicant

may be entitled for counting his training period for fixation of his pay in the post of Technician from 18.2.89 to 19.2.90. If that is counted he will get advantage of pay fixation of pay from one year earlier to his joining as Technician. Further in terms of the letter at Annexure-5 he may also be entitled for arrears from 1.10.90. But the applicant has not submitted any representation in this connection. Though the learned counsel for the applicant submits that such a representation had been submitted he could not produce any copy of the same. In view of the above the applicant is to be permitted to file a fresh representation now for counting his training period in terms of A-5 letter and fix his pay on that basis. He may also request in his representation to give him arrears from 1.10.90. on the basis of the same circular at A-5. If such a representation is received by R-3 (the Chief General Manager) the same should be disposed of in accordance with the various OMs quoted above within a period of 3 months from the date of receipt of that representation. The representation to be submitted by the applicant should be ^{routed} ~~sent~~ through R-2 getting acknowledgement from him, who should forward the application to R-3 without delay.

8. The OA is ordered accordingly. No costs.

(R. RANGARAJAN)
Member (Admn.)

Dated: 6th August, 1996

(Dictated in Open Court)

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Handwritten signature
DY. Registrar 13/8/96

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O.A.111/96.

Copy to:-

1. The Sub Divisional Officer, Phones-II, Visakhapatnam.
2. The Telecom District Manager, Visakhapatnam.
3. The Chief General Manager, Telecommunications, A.P. Hyd.
4. The Chairman, Telecom Commission, (reptg. Union of India), New Delhi-001.
5. The Secretary, Dept. of Personnel & Training, Ministry of Home Affairs, Govt. of India, New Delhi.
6. One copy to Sri. C.Suryanarayana, advocate, CAT, Hyd.
7. One copy to Sri. K.Bhaskara Rao, Addl. CGSC, CAT, Hyd.
8. One copy to Library, CAT, Hyd.
9. One spare copy.

Rsm/-

Cross
TYPED BY
COMPARED BY

CHECKED BY
APPROVED BY

THE CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH HYDERABAD

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

DATED: 6-8-86

ORDER/JUDGEMENT

G.A. NO. / R.A / C.P. No.

in

G.A. NO. 111/86

ADMITTED AND INTERIM DIRECTIONS ISSUED
ALLOWED

DISPOSED OF WITH DIRECTIONS

DISMISSED

DISMISSED AS WITHDRAWN

ORDERED/REJECTED

NO ORDER AS TO COSTS.

YLKR

II COURT

No Spare Copy

