

57

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH

AT HYDERABAD

\*\*\*

O.A. No. 258/97.

Dt. of Decision : 21-09-98.

Syed Iqbal Ahmed

..Applicant.

vs

1. The Union of India, Rep. by the Chief Postmaster General, AP Circle, Hyderabad-1.
2. The Postmaster General, Vijayawada Region, Vijayawada-520 001.
3. The Sr. Superintendent, RMS 'Y' Division, Vijayawada-520 001.

..Respondents.

Counsel for the applicant : Mr. B. S. A. Satyanarayana

Counsel for the respondents : Mr. N. R. Devaraj, Sr. CGSC.

CORAM:-

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

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

*R*



..2

CRDER

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

Heard Mr.B.S.A.Satyanarayana, learned counsel for the applicant and Mr.N.R.Devaraj, learned counsel for the respondents.

2. The applicant in this OA was appointed as Time Scale Sorting Assistant in the RMS 'Z' Division on 23-10-67. He was allotted to Hyderabad Sorting Division subsequent to bifurcation of 'Z' Division. He was deputed to Army Postal Service from 9-2-75 to 19-12-1984. While working as Time Scale Sorting Assistant in APS, he applied for transfer under Rule-38 of the P&T Manual Vol.IV and he was transferred to RMS 'Y' Division. On the introduction of the Time Bound one Promotion Scheme (TBOP) he was promoted to LSG Sorting Assistant w.e.f., 30-11-1983 even before he was relieved from Army Postal Services. He ~~xxx~~ joined in RMS 'Y' Division, Tenali on 30-12-84 as LSG Sorting Assistant. His pay on that date was fixed at Rs.1440/- w.e.f., 1-1-86 with date of next increment as 1-11-86.

3. The applicant ~~xxx~~ also represented to the authorities in 'Y' Division on 11-11-86 that he is senior to one Mr.D.Sambasiva Rao as per the circle gradation list. The Sorting Assistant LSG was controlled by the Circle <sup>and</sup> he is senior to one Mr.B.Sambasiva Rao when he joined Tenali in the 'Y' Division as on LSG Sorting Asst. He also added that his pay was fixed lower than that of D.Sambasiva Rao, who joined the Postal Department on 29-4-68 and was also promoted to the LSG grade later than him. Hence, he requested for stepping up of pay on par with D.Sambasiva Rao. That request was turned down by the respondents.

4. This OA is filed to step up his pay on par with his junior Mr.D.Sambasiva Rao, who was promoted as LSG in the year 1984 and for a consequential direction of payment of arrears etc. on that basis.

R



..:

5. A reply has been filed in this OA. The case history of the applicant has been accepted by the respondents. However, they submit that the applicant had not opted to come to the scale of pay in the grade of LSG SA from the date of his next increment. Hence his pay in the lower scale. L was fixed in the scale of pay of LSG SA from the date of his promotion whereas Mr.D.Sambasiva Rao opted to come from the date of next increment in the lower scale when he was promoted as LSG SA and that helped him to get higher fixation of pay. Hence, the applicant cannot demand for fixation of pay as he failed to opt for coming to LSG scale of pay from the date of next increment in the lower scale.

6. A question of limitation has also been taken ~~as~~ his case was disposed of refusing to grant of stepping up of pay way back on 12-2-1987. The applicant has filed this OA only in 1997 after a lapse of about 10 years. Hence, it is barred by limitation.

7. We will take up the second contention first. If the applicant has filed this OA belatedly then the respondents could have taken objection ~~for~~ <sup>at the stage of</sup> admission of this OA itself without condoning the delay. But I find from the noting sheet that no such objection was taken. Hence, at this juncture it is too late for them ~~to~~ <sup>to</sup> raise the point for limitation. However, this is not a point to be considered at this juncture in view of the direction that is going to be given.

8. The applicant submits that the option need not be given to him. The pay which was advantageous to him on the date of promo was accepted by him. He is not aware of the position that some of juniors on that date will get higher fixation ~~as~~ by opting from the date of next increment in the time scale. Hence, when he came to know about when he joined Vijayawada 'Y' Division ~~and hence~~ he represented his case for stepping up of pay. ~~That was~~ That was refused and hence he filed this OA.

R

A

-4-

9. The fixation of pay which is advantageous to the applicant was accepted by him when he was promoted as LSG SA in Hyderabad 'Z' Division. His submission that no option need be given for fixation of pay from the date of next increment is not an accepted proposition. The applicant having accepted to fix his pay in the LSG SA grade on the date of his promotion which was advantageous to him on that date he has no right to demand for fixation otherwise to get him higher pay stage in the LSG grade. The applicant submits that his juniors were getting more pay in the Vijayawada 'Y' Division and hence he asked for stepping up of pay. The juniors in Vijayawada Division is getting higher fixation probably they opted to come to the LSG scale of pay from the date of their next increment in the lower scale. If so, the applicant neither can request the respondents to give him the option to come to the higher scale of pay from the date of his next increment in the lower scale on the date when he was promoted to the LSG grade so as to get pay equal to that of his juniors nor stepping up of his pay on par with his juniors in Vijayawada Division. The applicant had failed to adhere to any rules in this connection. The fixation of pay in case of employees can be fixed at their request in the way they feel it is advantageous to them in accordance with law. The respondents cannot on their own fix the pay of the applicant as if he opted to come to LSG pay on the date of next increment in the lower scale. It is for the applicant to submit an option. The applicant had failed to submit his option and hence we do not find any reason to give a direction to step up his pay on par with his juniors in Vijayawada Division.

10. The applicant submits that even if he had opted to fix his pay in the higher grade on the date of next increment in lower scale then also his pay would have been fixed at the bottom of the scale of LSG. Similar will be the position in the case of his juniors also. If that be the case we failed to understand how his

*R*

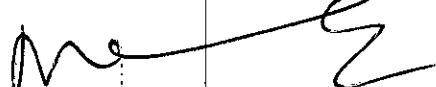
*A*

juniors got more pay than him in the LSG SA grade. The applicant had submitted a representation which is verbose and does not touch the pay fixation calculation as stated above to step up pay on par with Mr.D.Sambasiva Rao. Hence, even now the applicant may submit a calculation for fixation of pay comparing with that of Mr.D.Sambasiva Rao and on that basis can ask for stepping up of pay. If such a representation is received the respondents shall consider that representation and reply him suitably.

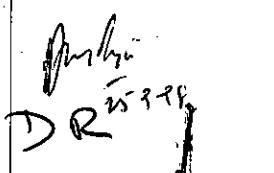
11. With the above observation, the OA is disposed of.

No costs.

  
(B.S. SAI PARAMESHWAR)  
MEMBER (JUL.)  
21.9.98

  
(R. RANGARAJAN)  
MEMBER (ADMN.)

Dated : The 21st Sept. 1998.  
(Dictated in the Open Court)

  
DR

spr

..6..

Copy to:

1. The Chief Postmaster General, A.P.Circle, Hyderabad.
2. The Postmaster General, Vijayawada Region, Vijayawada.
3. The Senior Superintendent, RMS 'Y' Division, Vijayawada.
4. One copy to Mr.B.S.A.Satyanarayana, Advocate,CAT,Hyderabad.
5. One copy to Mr.N.R.Devraj,Sr.CGSC,CAT,Hyderabad.
6. One copy to D.R(A),CAT,Hyderabad.
7. One duplicate copy.

YLKR

8210108  
2  
II COURT

TYPED BY  
COMPIRED BY

CHECKED BY  
APPR VED BY

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
HYDERABAD BENCH HYDERABAD

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

AND

THE HON'BLE SHRI S.S.JAI PARAMESHWAR:  
M(J)

DATED: 21/9/88

ORDER/JUDGMENT

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

in  
D.A.NO. 258/97

ADMITTED AND INTERIM DIRECTIONS  
ISSUED

ALLOWED

DISPOSED OF WITH DIRECTIONS

DISMISSED

DISMISSED AS WITHDRAWN

ORDERED/REJECTED

NO ORDER AS TO COSTS

YLR

