

34

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, HYDERABAD BENCH
AT HYDERABAD.

O.A.No.1107/97

Date of decision: 23-3-1999.

Between:

G.S.Ratna Kumar. .. Applicant.

And

1. Union of India represented by its Secretary, Railway Board, New Delhi.
2. Chief Personnel Officer, O/O General Manager's Office, Rail Niayam, South Central Railway, Secunderabad.
3. Senior Divisional Accounts Officer, O/O Divisional Railway Manager's Office, South Central Railways, Vijayawada-1
4. Senior Divisional Personnel Officer, O/O Divisional Railway Manager's Office South Central Railway, Vijayawada -1.
5. Divisional Railway Manager, South Central Railways, Vijayawada -1. Respondents.

Counsel for the Applicant: Sri N.Rama Mohan Rao.

Counsel for the Respondents: Sri K.Siva Reddy.

CORAM for the Applicant

Hon'ble Sri R.Rangarajan, Member (A)

Hon'ble Sri B.S.Jai Parameshwar, Member (J)

D

..

(by Hon'ble Sri R. Rangarajan, Member (A))

--

Heard Sri Siva for Sri N.Rama Mohan Rao for the Applicant and Sri W.Satyanarayana for Sri Siva Reddy, learned counsel for the Respondents.

The applicant in this O.A., was a direct recruit Goods Guard in the scale of Rs.1200--2040 and was posted at Vijayawada Division of South Central Railway. The applicant underwent Family Planning Operation on 28.3.1992 at Railway Hospital, Vijayawada. Some incentives are being given by the Railways for those who undergo Family Planning Operation. It is stated that the applicant requested for his posting as a Senior Clerk in view of his undergoing Family Planning Operation. The applicant submits that his case was considered and he was posted as Senior Clerk in the scale of 1200-2040 ~~as~~ with certain terms and conditions. The Memorandum of Transfer No.8/P.676/IV/IRDT dated 17.12.1993 is enclosed Annexure I to the O.A.

The Applicant thereafter filed a representation on 7-4-1994 requesting the Respondent No.4 to fix his pay in the non-running staff post taking 30% of his pay as a running allowance in accordance with Rule 924(i)(d) of IREM. That was registered in the Office of the Respondent No.4 on 15-4-1994 (Annexure II to the O.A.). The Respondent No.4

1

: 3 :

addressed the Senior Personnel Officer/R/Rail Nilayam, by Lr.No.D.O.B/P.524/IV/2 d/25.7.1995 (Annexure III P12 to South Central Railway/stating that "inasmuch as the the OA) exclusion is not stipulated in the rule, the request of the employee cannot be denied quoting the said rule and his request appears to be within the frame work of the rule." It is stated that no reply has been received to that communication from the 2nd respondent. Thereafter, the applicant submitted another representation d/18.1.1996 (Annexure IV Page 13 to the O.A.) addressed to the Respondent No.4 for the same relief. The Respondent No.4 forwarded the same to the Respondent No.3 recommending his case by letter No.B/P.524/IV/22 dated 24.4.1996 (Annexure V Page 14 to the O.A.). However, the Respondent No.3 turned down that proposal by the impugned Order No. A/EN/BZA/Eiv/1 dated 17.5.1996 (Annexure VI Page 15 to the O.A.) on the ground that the applicant had come to clerical cadre on his own request on change of cadre on his present pay and that the change of cadre is not entitled for the relief.

Aggrieved by the above, the applicant has filed this O.A., to set aside the impugned order dated 17.5.1996 of the 3rd respondent by holding the same as arbitrary, illegal, and unjust and for a consequential direction to the respondents to refix his pay in the cadre of Senior Clerk in the pay scale of



: 4 :

of Rs.1200-2040 duly taking into a consideration 30% running pay component in terms of Para 924(i)(d) of IREM and pay him the arrears.

The Respondent No.4 had recommended his case to the 2nd respondent. Subsequently, the Respondent No.4 sent proposal to the Respondent No.3 probably for concurrence. Sending this case to Accounts for concurrence may be on the instructions of the 2nd respondent. But this is not known from the records. The impugned order dated 17.5.1996 cannot be taken as a final decision by the Administration as the Respondent No.3 had not concurred. the proposal for fixing his pay on the basis of IREM provision. In such circumstances, the case has to be decided either concurring with the Respondent No.4 or concurring with Respondent No.3 by the Respondent No.2. The case in our opinion is not finally disposed of. It is still under process. Hence, it is necessary now for the Respondent No.4 to send the records to the 2nd Respondent to take a final decision in accordance with law. The applicant is at liberty to challenge the order of the 2nd respondent, if he is aggrieved of the same.

In the result, the Respondent No.4 should send the case of the applicant for fixing his pay as desired by him to the 2nd Respondent for taking a final decision, that the 2nd respondent should take a final decision in this connection within a period of two months from the date

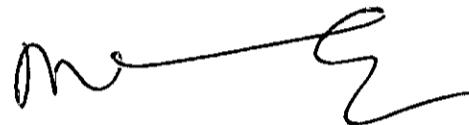
D

: 5 :

of receipt or the records from the Respondent No.4, that the Respondent No.4 should ensure that the records are ~~reached~~ the 2nd respondent within one month from the date of receipt of a copy of this order.

The applicant is at liberty to challenge the final order issued by the 2nd respondent, if he is aggrieved by the same.

With the above directions, the D.A., is ordered,
No costs.



(B.S.JAI PARAMESHWAR)

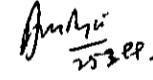
Member (J)

(R.RANGARAJAN)

Member (A)

Date: 24--3--1999.

Dictated in open Court


R.Rangarajan
253 ep.

ssss.

Copy to:

1. HONM
2. HHRP M(A)
3. HBSOP M(J)
4. D.R. (A)
5. SPARE

1ST AND 2ND COURT

TYPED BY
COMPARED BY

CHECKED BY
APPROVED BY

THE CENTRAL ADMINISTRATIVE TRIBUNAL,
HYDERABAD BENCH : HYDERABAD,

THE HON'BLE MR. JUSTICE D.H. NASIR:
VICE - CHAIRMAN

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

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

THE HON'BLE MR. B. S. JAI PARAMESWAR:
MEMBER (J)

DATED: 23-3-88,

ORDER/ JUDGEMENT

MA./RA./CP. NO.

IN

O.A. NO. 1107/97.

ADMITTED AND INTERIM DIRECTIONS
ISSUED.

ALLOWED

DISPOSED OF WITH DIRECTIONS

DISMISSED

DISMISSED AS WITHDRAWN

ORDERED/ REJECTED

NO ORDER AS TO COSTS

SRR

9 Copy

केन्द्रीय प्रशासनिक अधिकरण Central Administrative Tribunal प्रेषण / DESPATCH
30 MAR 1988
हैदराबाद न्यायपीठ HYDERABAD BENCH