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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL: HYDERABAD BENCH:
AT HYDERABAD

O.A.No.1175 OF 1997.

DATE OF ORDER:23-3-1999.

BETWEEN:

M.Venkatachary.

.....Applicant

a n d

The Deputy Director General,
Geological Survey of India,
Hyderabad.

.....Respondents

COUNSEL FOR THE APPLICANT :: Mr.G.Gopal Rao

COUNSEL FOR THE RESPONDENT :: Mr.V.Vinod Kumar

CORAM:

THE HON'BLE SRI R.RANGARAJAN, MEMBER (ADMN)

A N D

THE HON'BLE SRI B.S.JAI PARAMESHWAR, MEMBER (JUDL)

: O R D E R :

ORAL ORDER (PER HON'BLE SRI R.RANGARAJAN, MEMBER (A))

Heard Mr.G.Gopal Rao, learned Counsel for
the Applicant and Mr.V.Vinod Kumar, learned
Standing Counsel for the Respondents.



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2. The applicant in this OA is a reserved community candidate, and he was appointed as LDC in the respondent Office in the year 1965. He was promoted as UDC in the year 1972. He was subsequently promoted as Superintendent with effect from 18-9-1990 on account of reservation. His scale of pay in the post of Superintendent at the time of his promotion was Rs.1600-2600/-.

3. The applicant herein is comparing his case with that of one Sri R.Kuppu Swamy, who was promoted to the post of Superintendent later than him but drawing more pay. The applicant submitted a representation dated: 1-6-1993 (Annexure.VIII to the OA), to the Respondent for stepping up of his pay on par with Sri Kuppu Swamy, who has been promoted as Superintendent later than him though he was senior in the lower category of Senior Clerk. Later the applicant submitted another representation dated: 6-1-1994 (Annexure-VII to the OA). It is stated that it was rejected, but no rejection order has been enclosed to the OA.

4. This OA is filed for a declaration that the applicant is entitled for stepping up of his pay in the category of Superintendent in the scale of pay of Rs.1600-2600/- with effect from 1-8-1992 on par with his junior Sri Kuppu Swamy in consonance with the provisions of the Fundamental Rules with all consequential benefits.

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5. The main contention of the applicant for stepping of pay are two-fold. They are:-

- (i) That Sri Kuppu Swamy was promoted to the post of Office Superintendent later than him and hence, he is deemed to be his junior and on that count itself in accordance with Rule FR.21, he is entitled for stepping up of his pay;
- (ii) That Sri Kuppu Swamy was getting a special pay of Rs.35/- when he was working as UDC in an identified post. The pay of Sri Kuppu Swamy when he was promoted to the grade of Superintendent, ~~his pay~~ was fixed taking into account the special pay. Hence, his pay was fixed higher than him and on that count the applicant is also entitled for stepping of pay on par with his junior.

6. The above two contentions were considered. The Supreme Court had observed that the earlier Fundamental Rules FR.22(C) should be fulfilled before granting the stepping up of pay. One of the main points for consideration is that, if even in the lower post the Junior Officer draws from time to time a higher scale of pay than his Senior by virtue of grant of advance increments or in any account, the above provisions will not be invoked for stepping up of pay of the Senior Officer. In the present case, Sri Kuppu Swamy was getting higher pay by virtue of his seniority apart from that he was further getting higher pay because of the special

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pay granted to him for having been posted against an identified post. Hence, the applicant cannot compare himself with that of Sri Kuppu Swamy for stepping of pay as he has not fulfilled the relevant rules quoted above under FR.22(C).

7. The second point for consideration is whether the applicant should be given the notional fixation of pay in the lower grade granting him 35/-Rs. and on that basis his pay in the post of Office Superintendent has to be fixed. However, the applicant submits that notional fixation of pay is not called for but his pay has to be fixed equal to that of Sri Kuppu Swamy as Sri Kuppu Swamy's pay was fixed taking into account the 35/-Rs. special pay. We see no difference between the submissions made by the applicant and the observations made by us above. In our opinion both means the same.

8. The applicant was a reserved community candidate. He was promoted as Office Superintendent before he could be posted as UDC carrying the special pay of 35/-Rs. Hence, he cannot get the benefit of fixation of his pay taking into account the special pay as he has not discharged the duties of the post for which special pay was granted. The above is in accordance with the Supreme Court Judgments in UNION OF INDIA & OTHERS Vs M.SURYANARAYANA RAO (reported in 1998 SCC (L&S) 1509).


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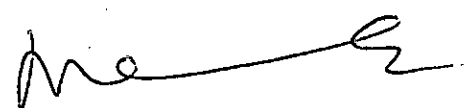
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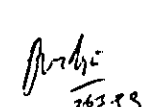
9. In view of what is stated above, we find
no merits in this OA. Hence, the OA is dismissed.
No costs.


(B.S. JAI PARAMESHWAR)
MEMBER (JUDGE)
22/3/99


(R. RANGARAJAN)
MEMBER (ADMN)

DATED: this the 23rd day of March, 1999

Dictated to stenog in the Open Court


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DSN

Copy to:

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

IST AND IIND COURT

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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: 22/4/99

ORDER/JUDGEMENT

MA. / RA. / L. / IND.

IN

O.A. NO.

1175/97

ADMITTED AND INTERIM DIRECTIONS
ISSUED.

ALLOWED

DISPOSED

DISMISSED

DISMISSED AS WITHDRAWN

ORDERED/REJECTED

NO ORDER AS TO COSTS

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