

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL - HYDRABAD BENCH : HYDERABAD

OA / PA / RA / CP / MA / DT 1260 of 1997

..... Chandrasekhar Red Applicant(s)

versus

..... The Secretary & D.G. P.H.S Respondent(s)
M/o Communication New Delhi 2000

INDEX SHEET

Serial No.	Description of Documents	Pages
Docket Orders		1
Interim Orders		
Orders in MA (s)		
Orders in (Final Orders)	25-9-97	17 to 20

Certified that the file is complete
in all respects.

Signature of
Dealing Hand
(In Record Section)

Signature of S.O.

Central Administrative Tribunal Hyderabad Bench: Hyderabad.

D.A.No. 1260 of 1997.

To Chandrasekar Rao Applicants(s).

VERSUS.

The Secretary & D & P, M/o Communications,
New Delhi & 2 or
(Respondents).

Date	Office Note	ORDER
------	-------------	-------

25.9.97

OA is ordered with no
cost vide orders on separate
sheet.

HBSTP
HJ,

A
HRRIN
HJ.

CENTRAL ADMINISTRATIVE TRIBUNAL HYDERABAD BENCH: SECTHHYDERABAD.

ORIGINAL APPLICATION NO. 1260 OF 1997.

T. Chandra Sekhar Rao

(Applicants(sS))

VERSUS

Union of India, Repd., By.

Secy & D.G., Post, New Delhi

&

2 Others

Respondents(sS(S))

The Application has been Submitted to the Tribunal by Shri

Shri BSA Satyanarayana Advocate/Party

~~in person~~ Under Section 19 of the Administrative Tribunal Act. 1985 and the same has been scrutinised with reference to the points mentioned in the check list in the light of the provisions in the administrative Tribunal(procedure) Rules 1987.

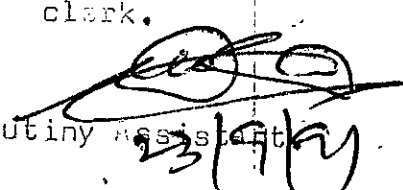
The application is in order and may be listed for Admission

No.-----

Scrutiny Post.

[Signature]
DEPUTY REGISTRAR(JUDL).

10. Is the application accompanied IFO/DD, for Rs.50/-. ✓
11. Have Legible copies of the annexure duly attested been filed. ✓
12. Has the applicant exhausted all available remedies. ✓
13. Has the Index of documents been filed and pagination done properly. ✓
14. Has the declaration as a required by item No. 7 of form, I been made. ✓
15. Have required number of envelopes (file six) bearing full addresses of the respondents been filed. ✓
16. (a) Whether the relief sought form arise out of single cause of action. ✓
- (b) Whether any interim relief is prayed for. ✓
17. In case an Ma for connonation of delay in filed, it supported b an affidavit of the a plicant. ✓
18. Whether t is cause ben heard by a single bench. No
19. Any other points. —
20. Result of the scrutiny with initial of the scrutiny clerk. ✓


Scrutiny Assistant.

Section Officer.

Deputy Registrar.

Registrar.

Page 2
numbered

CENTRAL ADMINISTRATIVE TRIBUNAL HYDERABAD BENCH HYDERABAD.

Deiry No. 3078

Report in the Scrutiny of Application.

Presented by PLAS... Date of presentation.

Applicant(s) T Ch S Rao 22/9/91

Respondent(s) Secy (DG) Posts, Ahi & 803

Nature of grievance by fixation

No. of Applicants 1 No. of Respondents 3

CLASSIFICATION.

Subject... by fixation No. 9 Department Posts (No. 11)

1. Is the application in the proper form, (three complete sets in paper books form in the two completions). 87
2. Whether name description and address of all the parties been furnished in the cause title. 87
3. (a) Has the application been fully signed and verified. 87
(b) Has the copies been duly signed. 87
(c) Have sufficient number of copies of the application been filed. 87
4. Whether all the necessary parties are impleaded. 87
5. Whether English translation of documents in a Language, other than English or Hindi been filed. 87
6. Is the application on time, (see section 21) 87
7. Has the Vakalatnama/Memo of appearance/Authorisation been filed. 87
8. Is the application maintainability. (U/S 2, 14, 18, or U/R. 8 Etc.,) 87
9. Is the application accompanied, duly attested legible copy been filed. 87

CENTRAL ADMINISTRATIVE TRIBUNAL HYDERABAD BENCH: HYDERABAD

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O.A. NO. 1260 of 1997.

CAUSE TITLE T. Chandrasekhar Rao

V E R S U S

the Secretary & D R Potes,

m/o communication, New Delhi & 2 Ors

SL.NO.	Description of documents	Page No.
1.	Original Application	1-5
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4.	Objection Sheet	-
5.	Spere Copies	3
6.	Covers	3

Regd - To direct the Respts. to fix the key
of the applicant u/FR 22(1)(a)(12)
from the date of his assumption as
- AHRO (A/Cs) i.e. from 21.10.93.

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL;
HYDERABAD BENCH AT HYDERABAD

O.A No. 1260 of 1997

Bench

by fixation

Between:

T. Chandrasekhar Rao ...

Applicant

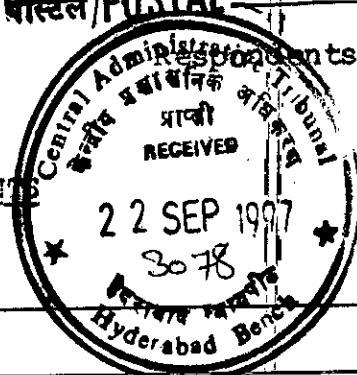
A n d

Union of India & 2 others ...

पोस्टल/POSTAL

Postal (1)

CHRONOLOGICAL LIST OF EVENTS



Date	Particulars
23-8-1967	Applicant joined the service as T/W Sorting Assistant in RMS 'Y' Division
4-5-1981	Applicant was appointed as Accountant in Hyderabad Sorting Division
30-11-1983	Applicant was promoted as TBOP LSG
1-10-1991	Applicant was promoted as HGS-II under BCR
21-6-1993	Applicant was promoted as Asst. Head Record Officer (A/Cs) RMS 'Z' Division, Hyderabad
21-10-1993	Applicant assumed duty as AHRO A/Cs 'Z' Division, Hyderabad
28-12-1995	Applicant submitted his 1st representation to Respondent No. 2
19-2-1996	Applicant submitted his 2nd representation to Respondent No. 2
17-4-1996	Applicant submitted his 3rd representation to Respondent No. 2

Place: Hyderabad

Dated: 22.9.97

SIGNATURE OF THE COUNSEL FOR
THE APPLICANT

Received
22-9-97
V.V.R. Devadasu

3

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL: HYDERABAD
BENCH AT HYDERABAD

O.A.No. 1260 of 1997

Between:

T. Chandrasekhar Rao ... Applicant
A n d
Union of India & 2 others ... Respondents

INDEX OF MATERIAL PAPERS RELIED UPON

Annexure No.	Description of Documents relied upon	Page Nos.
	O.A.	1 to 5
1	Memo.No. B8/7/93 of Respondent No.3 dated 30-6-1993	6
2	Repr̄s̄entation of applicant, dated 28-12-1995	7-8
3	Representation of the applicant dated 17-4-1996	8 & 9
4	Representation of the applicant dated 19-2-1996	10
5	Copy of Judgment in OA 261 of 97 dated 2-4-97	11 & 12

Place: Hyderabad

Dated: 22.9.97

~
SIGNATURE OF THE COUNSEL FOR
APPLICANT

(4)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL: HYDERABAD
BENCH AT HYDERABAD

APPLICATION UNDER SECTION 19 OF ADMINISTRATIVE TRIBUNAL
ACT, 1985

O.A.No. 1260 of 1997

Between:

T. Chandrasekhar Rao,)	
S/o Kamalakhar Rao,)	
aged about 49 Years,)	
AHRO A/Cs HRO, RMS 'Z' Divn.)	Applicant
Hyderabad-500 001)	

A n d

1. Union of India, rep. by its)	
Secretary & DG Posts,)	
Ministry of Communications,)	
Department of Posts,)	
New Delhi - 110 001)	Respondents
2. Chief Post Master General,)	
A.P.Circle, Hyderabad-500 001)	
3. Superintendent,)	
RMS 'Z' Division,)	
Hyderabad - 500 001)	

Address of the Applicant)	B.S.A. SATYANARAYANA,
for Service:)	Advocate,
		H.No. 2-2-1121/3/E,
		New Nallakunta,
		Hyderabad - 500 044

1. PARTICULARS OF THE ORDER AGAINST WHICH THIS APPLICATION IS MADE

There is no impugned order in this O.A. This O.A. is filed on the basis of representations made by the applicant on 28-12-1995 ; 19-2-1996 and 17-4-1996 (A-2, A-3 and A-4; Page Nos.7-10)

1.1 SUBJECT IN BRIEF

Pay fixation under FR. 22-1(a) (1) on assumption of duties of Higher Responsibilities, as AHRO A/Cs HRO, RMS 'Z' Division, Hyderabad.

Contd.

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2. JURISDICTION OF THE TRIBUNAL

The applicant submits that the subject matter of the Order against which he wants redressal is within the jurisdiction of this Hon'ble Tribunal under Sec. 14 of Administrative Tribunals Act, 1985.

3. LIMITATION

The applicant submits that the OA is within the limitation period prescribed in Section-21 of the Administrative Tribunal Act, 1985, as the cause of action is recurring even to this day as the pay of the applicant is drawn less and the O.A. is being filed on the basis of his representations to Respondent No.2, dated 28-12-1995; 19-2-1996 and 17-4-1996.

4. FACTS OF THE CASE The applicant submits that:

4.1 The applicant was appointed as Time Scale Sorting Assistant in RMS 'Z' Division, Hyderabad with effect from 23-8-1967. On passing the examination he was posted as TBOP Accountant in HRO RMS, Hyderabad Sorting with effect from 30-11-1983. The applicant was promoted as Lower Selection Grade Sorting Asst. under Time bound one promotion Scheme with effect from 30-11-83, and his pay was fixed under FR. 22(c) on the promotion and he was promoted again as LSG AHRO A/Cs at HRO RMS 'Z' Division, Hyderabad vide Memo.No. B-8/7/93, dated 30-6-1993 of Respondent No.3 (A-1; Page No. 6)

4.2 But the pay of the applicant was not fixed under FR.22(c) FR.22(1)(a)(1) on his posting as LSG AHRO A/Cs HRO RMS 'Z' Division, Hyderabad even though he assumed duties of Higher Responsibilities, and also even though FR. 22(1)(a)(1) envisages it as under: "Notwithstanding any thing contained in these Rules, where a Government servant holding a post in a

Contd.

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substantive, temporary or officiating capacity to another post carrying duties and responsibilities of greater importance than those attaching to the post held by him, his initial pay in the time scale of the higher post shall be fixed at the stage next above the pay notionally arrived at by increasing his pay in respect of the lower post by one increment at the stage at which such pay has accrued".

Thus he is deprived of equal pay for equal work which is violative of Article-39-D and Articles 14 and 16 of the Constitution of India.

- 4.3 Then the Applicant preferred a representation to the Respondent No.2 seeking the benefit of fixation of his pay under FR. 22(1)(a)(1) and thus extend him the benefit of the judgements of OA No. 481/92 from the date of his appointment as LSG Supervisor ie, 21-6-1993; (Copy of representation was enclosed as A-2; A-3 and A-4; Page Nos. 7 & 10)

From the above, it may kindly be seen that the Respondent No.2 and 3 are denying the benefit of fixation of pay, forcing applicant to get a similar order from CAT for the benefit of fixation of pay.

- 4.5 The action of the Respondents in denying the benefit or pay fixation as per FR. 22(1)(a)(1) on assumption of duties of higher responsibilities to the applicant is assailable on many a ground to be urged during arguments including the following grounds.

5. G R O U N D S The applicant submits that:

- 5.1 The Respondents ought to have passed a general order granting the benefit of pay fixation under FR.22(1)(a) to all AHROs A/Cs and LSG Supervisors on assumption

Contd.

Mao

of duties of Supervisor from the posts of TBOP (LSG) Accountant, because the duties of AHRO A/Cs involve higher responsibilities; than that of Time Scale/TBOP Accountants. The need of approaching the Hon'ble Tribunal might have been avoided if the respondents implemented the existing Rules in its true spirit.

- 5.2 The action of the Respondents in denying the benefit of pay fixation under FR. 22(1)(a)(1) to the applicant on his posting as AHRO would amount to hostile discrimination and therefore violative of Articles 14 and 16 of the Constitution of India.

6. DETAILS OF REMEDIES EXHAUSTED

The applicant submitted series of representations to the Respondent No.2 and thus he had availed the remedy available to him. Now he is left with no other equally efficacious remedy except approaching this Hon'ble Tribunal.

7. MATTERS NOT PREVIOUSLY FILED OR PENDING WITH ANY OTHER COURT

The applicant further declares that he had not previously filed any application, writ petition or suit regarding the matter in respect of which this application is made, before any other Court or authority or any other Bench of this Tribunal nor any such application, W.P. or suit ~~is~~ is pending before any of them.

8. RELIEF(S) SOUGHT

In view of the facts mentioned in para-4 and grounds in Para-5 above, the applicant prays that this Hon'ble Tribunal may be pleased to call for records, after perusal, declare the action of the respondents in denying the benefit of pay fixation to the applicant

Contd.

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under FR. 22(1)(a)(1) on his promotion to the post of AHRO A/Cs HRO RMS 'Z' Division, Hyderabad-500 001 with effect from 21-10-1993, the date on which he assumed higher responsibilities as illegal, arbitrary and inconsequence direct the Respondents to fix the pay of the applicant under FR. 22(1)(a)(1) from the date of assumption of duties of LSG AHRO A/Cs HRO RMS 'Z' Division ie, 21-10-1993 with all consequential benefits and pass such other order or orders, as deemed fit and proper, in the circumstances of the case.

9. INTERIM ORDER IF ANY PRAYED FOR

As this O.A. is covered by a catena of judgement, *including* O.A. 20 of 1997 & 24-97 (A.S. 11 & 13), delivered by the Hon'ble Tribunal on the same subjects, the applicant prays that the O.A. may be ordered in favour of the applicant at the admission stage itself, and pass such other order or orders, as deemed fit and proper, in the circumstances of the case.

10. PARTICULARS OF THE I.P.O. FILED IN RESPECT OF COURT FEE

- a) No. & Date of I.P.O. : 8-12-1996 & 10-9-97
- b) Name of Post Office which issued:) *Hydrabad*
- c) Name of Post Office at which payable:) *Hydrabad*

11. LIST OF ENCLOSURES

- a) Vakalat with I.P.O.
- b) O.A. with material papers
- c) 3 Covers with acknowledgements

VERIFICATION

I, T.Chandrasekhar Rao, S/o Kamalakar Rao, aged about 49 Yrs. AHRO, RMS 'Z' Division, Hyderabad, do hereby verify the contents of the O.A. from paras 1 to 11 and declare that the contents of the O.A. are true to the best of my knowledge and belief and also on legal advice. I did not suppress any material facts.

Place: *Hydrabad*

Dated: 22.9.97

SIGNATURE OF THE APPLICANT

SIGNATURE OF THE COUNSEL FOR
THE APPLICANT

DEPARTMENT OF POSTS-INDIA

A-1
Page 6

(a)

Office of the Superintendent, RMS 'Z' Division Hyderabad-1.
Memo. No. B-2/7/93 dated at Hyderabad-1, dt. 30-6-93.

In pursuance of the orders contained in the PMG Hyderabad Region Hyderabad-1, Memo No. ST/8-3/RMS dt. 16-6-93 the following Promotion / transfer in the Cadre of ARO (Accounts) is hereby ordered with immediate effect.

1. Asst Sri T. Chandra Sekhar Rao, Accountant, ARO, Hyderabad Sorting Division to be ARO (A/C) RMS 'Z' Dn Hyderabad-1.

A Copy of this memo is issued to:

1. The Postmaster-General Hyd Region Hyd-1 for favour of information.
2. The Sr. Superintendent, Hyd Stg Dn Hyd-27 for information and necessary action.
3. The ARO RMS 'Z' Dn Hyd-1 for information and necessary action.
4. The ARO Hyd Stg Dn Hyd-1 for information and necessary action.
5. Official through concerned (6) PF of the official
- 7) SB of the official

8 to 12) All ASRMs/IRMs in 'Z' Dn for information.

13 to 15) Estt/OS/Staff II in Divl Office.

16) Spare.



Superintendent,
RMS 'Z' Dn Hyderabad-1.

TRUE COPY -

A-2
Page 7 (10)

From:

T. CHANDRASEKHAR RAO,
HSG-II AHRO
RMS "Z" DN. HYDERABAD..500 001

HYDERABAD,
dated: 23-12-95

To
THE CHIEF POST MASTER GENERAL,
ANDHRA PRADESH CIRCLE
HYDERABAD - 500 001

(THROUGH PROPER CHANNEL)

Respected Sir,

SUB: Pay fixation under FR. 22(1) (a) (1)

REF: CAT HYD. JUDGEMENT IN O.A. 481/92
DATED 24-2-95.

...

I, T. Chandrasekhara Rao, AHRO A/Cs RMS 'Z'
Division, Hyderabad bring the following for kind consider-
ation and early orders.

While working as Accountant (under TBOP Scheme)
in Divisional Office, Hyderabad Sorting Division, I was
posted to officiate at AHRO A/Cs Hyderabad Sorting Dn.
with effect from 31-12-1990 vice Sri D. Tojoram who has
been promoted to HSG-II cadre vide SSRM Hyderabad Sorting
Dn. Memo.No. B1/OA/5 Col/VII, dated 27-12-90. While
officiating as AHRO A/Cs Hyderabad Sorting Division,
Hyderabad, I have been reverted with effect from 29-12-91
and posted as Accountant HRO Hyderabad Sorting Division
in pursuance of CPMG AP Circle Memo.No. ST/8-4/91, dated
10-12-91 conveyed through SSRM Hyderabad Sorting Division
Memo.No. B1/HSG/pro/2-clo/VII, dated 12-12-91.

Again in pursuance of CPMG AP Circle Memo.No.
ST/8-4/91, dated 11-6-93 read with PMG Hyderabad Region
Memo.No. St/8-3/HMS, dated 16-6-93 and SSRM Hyderabad
Sorting Memo.No. B67/93 dated 30-6-93 I have been promoted
and posted as AHRO A/Cs RMS "Z" Division and I joined as
AHRO A/Cs RMS 'Z' Division on 21-10-93. On both the
occasions my pay has not been fixed under FR. 22(1) (a) (1)
as the post of AHRC does not involve assumption of

Contd.

higher responsibilities vide CPMG Memo.No. AC3/1-4/TA/Rigs/89-90 dated 25-4-1991.

I came to know that, in a similar case (case of D. Raghu Ram Reddy senior AHRO A/Cs Hyderabad Sorting Division) the Hon'ble CAT Hyderabad Bench delivered a judgement in OA 481/92 dated 24-2-95 stating that the post of AHRO A/Cs involves an assumption of higher responsibilities and allowed pay fixation under FR.22(1)(a)(1).


Hence, I request you to be kindly examine my case in the light of above judgement and issue orders allowing me to get my pay fixed under FR.22(1)(a)(1) for the period I worked as AHRO.

Thanking you Sir,

Yours faithfully,

Sd/-

// True Copy //



A-3
Page 9
(12)

To

T. Chandra Sekhara Rao,
HSG-II AHRO
O/o HRO RMS 'Z' Division,
Hyderabad- 500 001

To

The Chief Postmaster General,
Andhra Pradesh Circle,
Hyderabad- 500 001

(THROUGH PROPER CHANNEL)

Respected Sir,

SUB: Pay fixation on promotion to AHRO (A/Ce)
cadre under FR. 22(1) (a) (1)

REF: My representation dt. 28-12-95.

...

It is requested to kindly refer to my representation dated 28-12-1995 on the above subject and issue necessary orders at the early date.

For ready reference a xerox copy of my representation dated 28-12-95 is enclosed herewith.

Thanking you,

Yours faithfully,

Sd/-
(T. CHANDRA SEKHARA RAO)

Date: 19-2-1996

Place: Hyderabad

// True Copy //

✓

A-4
Page 10
(13)

From:

T.C. Rao

AHRO (A/Cs)

RMS 'Z' Division

HYDERABAD-500 001

TO

The Chief Post Master General,

Andhra Pradesh Circle

HYDERABAD - 500 001

(THROUGH PROPER CHANNEL)

Respected Sir,

SUB: Pay fixation under FR.22(1)(a)(1)

REF: My representation dt. 23-12-95 and
reminder dt. 19-2-96.

...

I represented on 23-12-1995 requesting to allow fixation of pay under FR. 22(1)(a)(1) as allowed to Sri B. Raguram Reddy AHRO A/Cs RMS Hyderabad Sorting/2 vide CAT Hyderabad Judgement in OA 481/92, dated 24-2-1995. I have again requested to consider my case vide my representation dated 19-2-1996.

Even though three months have elapsed, I could not get any reply. Hence I once again request your to examine my case in the light of the judgement referred to above, and issue orders at the earliest.

Thanking you Sir,

Hyderabad,

dated: 17-4-96

Yours faithfully,

Sd/-

(T.C. Rao)

AHRO(A/Cs) HRO 'Z' Dvn. Hyd.

// True copy //

15

ORDER

(PER HON'BLE SRI H. RAJENDRA PRASAD; MEMBER (ADMN.))

Heard Sri B.S.A. Satyanarayana for the applicant and Sri V. Vinod Kumar for the respondents.

2. When the case came up for admission on 6.3.1997 a notice was served on the respondents with a direction and a clear understanding that a reply shall be filed before the next date of hearing, which was fixed ^{for} today. No reply has, however, been filed so far. Sri Vinod Kumar strongly pleaded for the grant of extension of time by atleast 2 weeks to enable him to file their reply. The request was not found acceptable for the reason recorded in the following paragraph.

3. The facts and circumstances arising from this case have been examined on diverse occasions in the past and OAs identical to the present case have been disposed of with directions that the pay of the applicants in all those earlier cases should be fixed under FR 22(1)(a)(i) on the ground that promotions from LSG Supervisor/Accountant (to officials covered by TBOP scheme) to APM (Accounts)/AHRO in ^{their} normal turn, decidedly involve assumption of higher responsibilities. The first case of this type was OA 481/92 which was disposed of with such direction on 24.2.1995. Subsequently a number of OAs have been disposed of along similar lines. In every such case the respondents had taken the plea that the fixation of pay of the applicant(s) cannot be under FR 22(C) since the said FR lays down that mere identity of pay scale do not amount to assumption of higher duties and responsibilities. This aspect of the matter was thoroughly examined with reference to actual work required to be done by APMS (A/c)/AHRO

(14)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL: HYDERABAD BENCH:
AT HYDERABAD

OA No. 261/97

Date of Decision: 2.4.1997

BETWEEN:

1. K. Nagabhushanam

2. S. Narasing Rao

.. Applicants

AND

1. Union of India represented by
Secretary, Ministry of Communications,
Department of posts,
New Delhi - 110001.

2. The Chief Post Master General,
A.P. Circle,
Dak Sadan,
Hyderabad - 500 001.

3. Senior Superintendent, R.M.S.,
Hyderabad Sorting Division,
Hyderabad - 500 027.

.. Respondents

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

Counsel for the Respondents: Mr. V. Vinod Kumar

CORAM:

THE HON'BLE SRI H. RAJENDRA PRASAD: MEMBER (ADMN.) $\frac{2}{4}$

.."

as reflected in the approved Memos of Distribution of Work of connected offices. It was held only after such scrutiny that all promotions from TBOP LSC to regular Supervisory LSC result in assumption of higher responsibilities. The matter, therefore, has acquired finality and there is hardly anything remaining to be adjudicated any more as far as this particular aspects is concerned.

4. It is also stated that this view was accepted for implementation by the department in many earlier instances, and the issue was never taken at any stage on appeal.

5. Under the circumstances it is considered unnecessary to delay the disposal of a matter which stands settled by a series of earlier judgements.

6. In the light of the facts contained in the proceeding paragraphs, the respondents ^{are} directed to fix the pay of the present applicant under provision of FR 22 (1)(a)(i). Consequential monetary benefits, if any, from such fixation shall be calculated, drawn and disbursed to the applicant within 90 days of the date of receipt of the copy of this order.

7. In issuing this direction the principles laid down in OA 481/92 and reiterated in OA No.686/96 etc. have been fully kept in view.

8. Thus the OA is disposed of. No costs. /

CERTIFICATE TO BE TRUE COPY

प्रमाणित प्रतिलिपि
COURT OFFICER
केन्द्रिय प्रशासनिक न्यायालय
Central Administrative Tribunal
हयदराबाद बेंच

25/11/97
- TRUE COPY -
COUNSEL FOR THE APPLICANT

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH
AT HYDERABAD

O.A.No.1260/97

Date of Order: 25.9.97

BETWEEN:

T.Chandrasekhar Rao

.. Applicant.

AND

1. Union of India, rep. by its
Secretary & DG Posts,
Ministry of Communications,
Department of Posts,
New Delhi.
2. Chief Post Master General,
A.P.Circle, Hyderabad.
3. Superintendent, RMS 'Z'Division,
Hyderabad.

.. Respondents.

Counsel for the Applicant

.. Mr.B.S.A.Satyanarayana

Counsel for the Respondents

.. Mr.N.R.Devraj

CORAM:

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

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

J U D G E M E N T

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

Mr.B.S.A.Satyanarayana , learned counsel for the applicant
and Mr.W.Satyanarayana for Mr.N.R.Devraj, learned standing counsel
for the respondents.

2. The applicant in this OA was given promotion as LSG grade
under OTBP scheme in HRO RMS 'Z' Division Hyderabad w.e.f. 30.11.93.
He was given the supervisory post of AHRO on 30.6.93 by memo No.
B-8/7/93, dated 30.6.93 while fixing his pay in the supervisory

1 JR

.. 2 ..

cadre of AHRO FR 22(1)(a)(i) (old FR 22(C)) was not followed. He was fixed in the stage of pay which he was drawing in ISG on ^{sup}supervisory cadre. The applicant submitted his first representation on 28.2.95 (A-2) for fixing his pay under FR 22(1)(a)(i) when he was promoted as AHRO in supervisory cadre. It was followed by reminders also. Thus the representations are yet to be disposed of.

3. This OA is filed praying for a direction to the respondents to fix his pay when posted as AHRO under FR 22(1)(a)(i) (old FR22(C)) w.e.f. 21.10.93 the date on which ~~he~~^{change} assumed higher responsibilities and for the consequential direction to pay arrears.

4. The learned counsel for the applicant submits that this OA is covered by the judgement in OA.267/97 decided on 2.4.97. The learned counsel for the respondents also admit that this OA is a covered one.

5. In view of the above the following direction is given:-

The pay of the applicant when posted as AHRO in the supervisory cadre should be fixed under FR 22(1)(a)(i) notionally. He is entitled for arrears on that basis only from one year prior to filing of this OA i.e. from 22.9.96 (This OA is filed on 22.9.97).

6. The OA is ordered accordingly. No costs.

(B.S. JAI PARAMESHWAR)
Member (Judl.)

(R. RANGARAJAN)
Member (Admn.)

Dated : 25th September, 1997

(Dictated in Open Court)

Copy to:-

1. The Secretary & Director General Posts, UOI Min. of Communication, Department of Posts, New Delhi.
2. The Chief Post Master General , A.P.Circle, Hyderabad.
3. The Superintendent, RMS Z Division, Hyderabad.
4. One Copy to Mr. B S.A. Satyanarayana, Advocate CAT. HYD.
5. One Copy to Mr. N.R. Devaraj, Sr. CGSC. CAT. Hyd.
6. One Copy to The D.R(S).
7. One Duplicate Copy.

Upr.

12/20/97
7
TYPED BY
COMPARED BY

CHECKED BY
APPROVED BY

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD

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

AND

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

Dated: 25/9/97

ORDER/JUDGMENT

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

in

O.A.NO.

1260/97

Admitted and Interim Directions
Issued.

Allowed

Disposed of with Directions

Dismissed

Dismissed as withdrawn

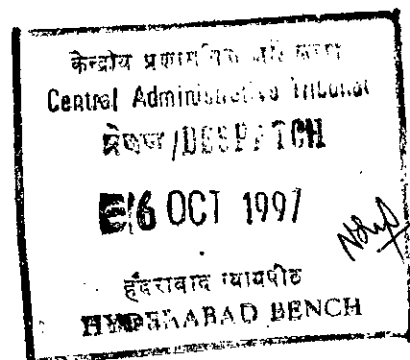
Dismissed for Default

Ordered/~~Rejected~~

No order as to costs.

YLKR

II Court



FORM NO. 21.

(Sec. Rule 114)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL HYDERABAD BENCH: .HYDERABAD.

CP 116/98

O.A /T.A.....1260.....1998.

T. Chandra Sekhara Rao

Applicant(s)

Versus

A.V.B. Menon Ten Chief P.M.B. Ad. And

Respondent(s)

INDEX SHEET

Serial No. Description of documents and dates. Pages.

Docket orders.

Interim Orders

Orders in M.A(s)

Reply statement

Rejoinder

ORDERS IN(Final orders)

25-9-98 7/59

97/10/98

Certified that the file is completed in all respects.

Signature of dealing Head.
(in Record section)

Signature of S.O.

(See Rule 12)

Form No. 4

CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH : AT HYDERABAD

ORDER SHEET

CR. NO. 116/98 M.

C.A. No. 1260 of 1998

T. Chandrasekhar Rao Applicant(s)

Through M/s. _____ Advocate

VERSUS

Sh. A.V.B. Menon, Chief Post Master General,

AP, Hud. A Respondents

By Mrs. _____ CGSC

Date _____ Notr of the Registry _____ Order of the Tribunal _____

24.9.98

list it for orders

tomorrow.

HBSTP
M(J)

HRRN
M(A)

25-9-98

the c. p. is closed vide

order on separate sheets.

No costs.

HBSTP
M(J)

HRRN
M(A)

(2)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL: HYDERABAD BENCH
AT HYDERABAD

C.P.No. 116 of 1998

I N

O.A.No. 1260 of 1997

Between:

T. Chandrasekhar Rao,
S/o Kamalakar Rao,
aged about 49 Years,
AHRO A/Cs HRO RMS 'Z' Division,
Hyderabad - 500 001

) }
Petitioner
Applicant

A n d

Sri A.V.B. Menon
Chief Postal Master General,
A.P.Circle, Hyderabad - 1

) }
Respondent
Respondent

(Other Respondents in the O.A.
are not necessary parties to
this petition)

APPLICATION U/S 17 OF ADMINISTRATIVE TRIBUNALS ACT, 1985

For the reasons mentioned in the accompanying affidavit, the petitioner/Applicant herein prays that this Hon'ble Tribunal may be pleased to summon the alleged Contemnors herein, as mentioned in the cause title above to appear before this Hon'ble Tribunal, with the proof of implementation of the orders of this Hon'ble Tribunal in O.A.No. 1260 of 97, dated 25-9-97, copy of which was made ready 3-10-1997 and was received by the applicant on the same day, or face the penalty to be imposed by this Hon'ble Tribunal and pass such other order or orders, as deemed fit and proper, in the circumstances of the case.

Hyderabad,

dated: -9-1998

) }
COUNSEL FOR THE APPLICANT

(3)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL: HYDERABAD BENCH
AT HYDERABAD

C.P.No. 116 of 1998

I N

O.A.No. 1260 of 1997

Between:

T. Chandra Sekhar Rao

...

Petitioner
Applicant

A n d

Sri A.V.B.Menon

...

Respondent
Respondent

AFFIDAVIT FILED BY THE PETITIONER/APPLICANT

I, T. Chandrasekhar Rao, S/o Kamalakar Rao, aged about 50 Years, working as Asst. Head Record Officer (AHRO) Accounts (A/cs) of RMS 'Z' Division, Hyderabad, do hereby solemnly affirm and state on oath as follows:

1. I am the Applicant in O.A. No. 1260 of 97, and therefor I am well acquainted with the facts of the case. I have filed the said O.A. seeking fixation of my pay under FR.22 (1) (a) (1) on my promotion to the post of Supervisor, carrying higher duties and responsibilities, though in the same pay scale. The O.A.No. 1260 of 97 was disposed off on 25-9-97, with the directions that "The pay of the applicant when posted as AHRO in the Supervisory cadre should be fixed under FR. 22(1) (a) (1) notionally. He is entitled for arrears on that basis only from one year prior to filing of this O.A. ie, from 22-9-96 (This O.A. is filed on 22-9-97).

2. Even though no time limit for implementing the said orders, the Respondents have wilfully and deliberately not implemented the order nor filed any appeal over the orders of this Hon'ble Tribunal. Therefore the said action of the Respondents is liable to be treated as wilful contempt of

Contd.

M.V. Rao

the Court, and they are liable to be punished under Sec. 17 of the Administrative Tribunals Act, 1985.

3. The copy of the order was made ready on 3-10-97 and received by me on the same day. So far neither the order mentioned above is implemented nor the alleged contemnors have signified their intention to implement the said order.

4. I, therefore, pray that this Hon'ble Tribunal may be pleased to summon the alleged contemnors to appear before this Hon'ble Tribunal with the proof of implementation of the said orders in O.A.No. 1260 of 97, dated 25-9-97 or else face the penalty to be imposed by this Hon'ble Tribunal and pass such other order or orders, as deemed fit and proper, in the circumstances of the case.

Solemnly affirmed and signed on
this the day of September,
1998 at Hyderabad before me.

Thap
DEPONENT

[Signature]
ADVOCATE: HYDERABAD

cadre of AHO FR 22(1)(a)(i) (old FR 22(C)) was not followed. He was fixed in the stage of pay which he was drawing in LSG on ^{sup-}supervisory cadre. The applicant submitted his first representation on 28.2.95 (A-2) for fixing his pay under FR 22(1)(a)(i) when he was promoted as AHO in supervisory cadre. It was followed by reminders also. Thus the representations are yet to be disposed of.

3. This OA is filed praying for a direction to the respondents to fix his pay when posted as AHO under FR 22(1)(a)(i) (old FR22(C) w.e.f. 21.10.93 the date on which he assumed ^{charge} higher responsibilities and for the consequential direction to pay arrears.

4. The learned counsel for the applicant submits that this OA is covered by the judgement in OA.267/97 decided on 2.4.97. The learned counsel for the respondents also admit that this OA is a covered one.

5. In view of the above the following direction is given:-

The pay of the applicant when posted as AHO in the supervisory cadre should be fixed under FR 22(1)(a)(i) notionally. He is entitled for arrears on that basis only from one year prior to filing of this OA i.e. from 22.9.96 (This OA is filed on 22.9.97).

6. The OA is ordered accordingly. No costs.

प्रमाणित प्रति
CERTIFIED TO BE TRUE COPY

112
TIC
COURT OFFICER
केन्द्र प्रशासनिक न्यायालय
Central Administrative Tribunal
हैदराबाद बेंच
HYDRABAD BENCH

किस वस्तु	CASE NUMBER
0.41260/97	25/10/97
अपने का अपील	25/10/97
10.10.97	25/10/97
तुम अपने किया गया दिन	3/10/97
Copy Made Ready on	3/10/97
प्रमुख अधिकारी (न्यायिक) Section Officer (J)	

C

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH
AT HYDERABAD

O.A.No.1260/97

Date of Order: 25.9.97

BETWEEN:

T.Chandrasekhar Rao

.. Applicant.

AND

1. Union of India, rep. by its
Secretary & DG Posts,
Ministry of Communications,
Department of Posts,
New Delhi.
2. Chief Post Master General,
A.P.Circle, Hyderabad.
3. Superintendent, RMS 'Z' Division,
Hyderabad.



.. Respondents.

Counsel for the Applicant

.. Mr.B.S.A.Satyanarayana

Counsel for the Respondents

.. Mr.N.R.Devraj

COUNCIL:

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

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

J U D G E M E N T

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

Mr.B.S.A.Satyanarayana , learned counsel for the applicant
and Mr.W.Satyanarayana for Mr.N.R.Devraj, learned standing counsel
for the respondents.

2. The applicant in this OA was given promotion as LSG grade
under OTBP scheme in HRO RMS 'Z' Division Hyderabad w.e.f. 30.11.93.
He was given the supervisory post of AHRO on 30.6.93 by memo No.
B-8/7/93, dated 30.6.93 while fixing his pay in the supervisory

J. Dr

contempt Petition
IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH AT HYDERABAD

C.P.No. of 1998

I N

O.A.No. 1260 of 1997

Between:

T. Chandrasekhar Rao

...

Petitioner
Applicant

A n d

Sri A.V.B.Menon

...

Respondent
Respondent



APPLICATION U/S 17 OF ADMINISTRATIVE
TRIBUNALS ACT, 1985

Recd
22/9/98
R. N. R. Dey

Filed on: 22 -9-1998

Recd
on 22/9/98
Pr. S. K.

Filed by:

B.S.A. SATYANARAYANA
Advocate

Counsel for Petitioner/Applicant

23/9/98
may

(7)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL: HYDERABAD BENCH:
AT HYDERABAD

CONTEMPT PETITION NO.116 of 1998
IN
ORIGINAL APPLICATION NO.1260 of 1997

DATE OF ORDER: 25th SEPTEMBER, 1998

BETWEEN:

T.CHANDRA SEKHAH RAO

.. PETITIONER

AND

SHRI A.V.B.MENON,
Chief Post Master General,
A.P.Circle, Hyderabad-1.

.. RESPONDENT

COUNSEL FOR THE PETITIONER: Mr.BSA SATYANARAYANA

COUNSEL FOR THE RESPONDENT: Mr.N.R.DEVARAJ, Sr.CGSC

CORAM:

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

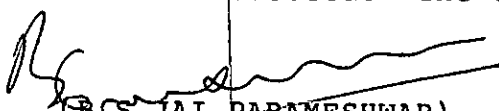
HON'BLE SHRI B.S.JAI PARAMESHWAR, Member (Judl.)

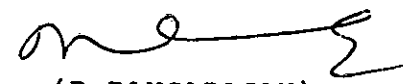
O R D E R

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

Heard Mr.BSA Satyanarayana, learned counsel for the applicant and Mr.N.R.Devaraj, learned standing counsel for the respondents.

2. The learned standing counsel for the respondents, under the instructions, assured that the order in the OA 1260/97 will be implemented within a month's time. If the order is not implemented on or before 29.10.1998, the C.P. will be ^{reverted} ~~reverted~~. The C.P. is accordingly closed.


(B.S.JAI PARAMESHWAR)
MEMBER (JUDL.)
25/9/98


(R.RANGARAJAN)
MEMBER (ADMN.)

DATED: 25th September, 1998
Dictated in the open court

21/10/98

5

II COURT

TYPED BY
COMPALED BY

CHECKED BY
APPROVED BY

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH HYDERABAD

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

AND

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

DATED: 25/9/98

~~ORDER/JUDGMENT~~

~~M.A./T.A/C.P.NC.~~

116/98

in

G.A.NO. 1260/97

ADMITTED AND INTERIM DIRECTIONS
ISSUED

ALLOWED

CP closed

DISPOSED OF WITH DIRECTIONS

DISMISSED

DISMISSED AS WITHDRAWN

ORDERED/REJECTED

NO ORDER AS TO COSTS

YLKR

केन्द्रीय प्रशासनिक अधिकरण
Central Administrative Tribunal
प्रेषण / DESPATCH

- 9 OCT 1998

हैदराबाद न्यायपीठ
HYDERABAD BENCH

ORDER (Per the Honourable Smt. Justice T. Meenakumari)

The present writ petition is filed by the petitioners against the order passed in O.A.No:1260 of 1997 on 25.5.1997 by the Central Administrative Tribunal, under which the O.A. was ordered with the observations as mentioned therein.

The petitioners are the respondents and the 1st respondent is the applicant. The status of the parties will be referred to as arrayed before the tribunal.

Originally, the applicant has filed O.A.1260 of 1997 before the tribunal seeking a direction to the respondents to fix his pay under F.R. 22 (1) (a) (i) (Old F.R.22 (c)) w.e.f. 21.10.1993 the date on which he assumed charge of higher responsibilities and also a direction to pay the arrears. On the submission made by the learned counsel on either side before the tribunal that the present O.A. is covered by the order passed in O.A.267 of 1997 on 2.4.1997, the tribunal has passed the following order:

The pay of the applicant when posted as AHRO in the supervisory cadre should be fixed under FR 22 (1) (a) (i) notionally. He is entitled for arrears on that basis only from one year prior to filing of this O.A. i.e., from 22.9.1996.

PC put up -
24/10/05
DR (J) 24/10
So (G)

IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD
(Special Original Jurisdiction)

MONDAY, THE THIRD DAY OF OCTOBER
TWO THOUSAND AND FIVE

PRESENT
THE HON'BLE MRS JUSTICE T.MEENA KUMARI
and
THE HON'BLE MR JUSTICE P.LAKSHMANA REDDY

WRIT PETITION NO : 28014 of 1998

Between:

- 1 Union of India Rep by its Secretary & DG Posts
Ministry of Communications, Dept of Posts New delhi-001.
- 2 Chief Post Master General A.P
Circle , Hyderabad-001.
- 3 Superintendent RMS ' Z' division
Hyderabad-001.

..... PETITIONER(S)

AND

- 1 T.Chandrasekhar Rao S/o. Kamalakar Rao
AHRO A/Cs. HRO, RMS 'Z' Division Hyderabad-1.
- 2 Central Administrative Tribunal Rep by its Registrar
Hyderabad Bench Hyderabad.

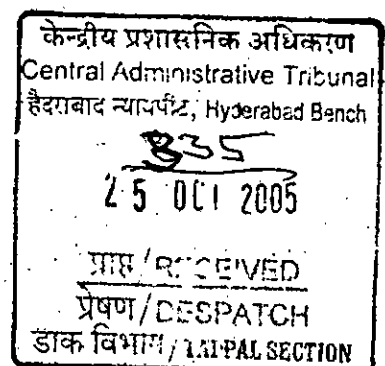
.....RESPONDENT(S)

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to May be pleased to issue a writ or order or direction more particularly one in the nature of writ of Certiorari calling for records in O.A.No.1260 of 1997 on the file of the Hon'ble Central Administrative Tribunal and quash the order dt: 25-5-1997 in the said O.A. and pass such other order or orders.

Counsel for the Petitioner :MR.B.ADINARAYANA RAO

Counsel for the Respondents: MR.G.RAVI

The Court made the following Order :



the Apex Court reported in UNION OF INDIA V. ASHOKE KUMAR BENERJEE ⁽¹⁾ wherein it is held thus:

"The respondent having received the benefit of F.R. 22(1)(a) in advance, while working as Junior Engineer and while not actually functioning as an Assistant Engineer is not entitled to the same benefit of fresh fitment when he is regularly promoted as Assistant Engineer. This is because on his regular promotion he is not being fitted into the "time-scale of the higher post" as stated in the FR. That situation was already over when on his completion of 15 years of services he was granted scale of Asstt. Engineer For the applicability of the FR 22(1)(a)(i) it is not merely sufficient that the officer gets a promotion from one post to another involving higher duties and responsibilities but another condition must also be satisfied, namely, that he must be moving from a lower scale attached to the lower post to a higher scale attached to a higher post."

In view of the submission made by the learned Standing counsel that as per the judgment of the Apex Court referred to supra, the Department has started recovering the amounts, which were already paid, We make it clear that such recoveries should not be effected in respect of the employees who were retired, but however, their pension should be refixed as per their entitlement without effecting any recovery. It is further made clear that the observations made by us, would be applicable to those who were already retired from service.

¹ (1998) 5 Supreme court cases 242

Aggrieved by the same, the present writ petition is filed by the respondents.

Heard the learned standing counsel for central Government and Mr.B.S.Satyanarayana, appearing on behalf of Mr.Ravi, the learned counsel for the applicant.

We have perused the material available on record and the order impugned.

It is contended by the learned standing counsel for central Government that the tribunal has mechanically passed the order impugned following the earlier order passed in O.A.No:267 of 1997, dated 2.4.1997 and the tribunal has erred in not considering the crucial issue that the time bound one promotion scheme which was introduced to solve the problem of stagnation, has facilitated the applicant to draw the Assistant Head Record Officer scale in the lower selection grade while he was working as an Accountant and therefore, at the time of his promotion to the Head Record Officer scale, he cannot seek the benefit under F.R. 22 once again.

On the other hand, Mr.B.S.Satyanarayana, representing Mr.Ravi, the learned counsel for the applicant submitted that in view of the fact that the applicant has been given the higher pay scale, he is entitled to the benefit under F.R. 22.

At this stage, it is submitted by the learned standing counsel for central Government that this matter is squarely covered by a judgment of

H.C. 62/05

modified in oil only

HIGH COURT

DATED: 3-10-2005

ORDER

W.P.No. 28014 of 1998 ✓

O.A 1260/97

RS-
27/10/05

Disposing of the W.P.

AM

5

19/10/05

9 R.RAT

Accordingly, the order of the tribunal is modified.

Subject to the above modification, this writ petition is disposed of.

Sd/-K. SATYANARAYANA
ASSISTANT REGISTRAR

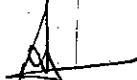
// TRUE COPY //


SECTION OFFICER

To

- 1) The Registrar, Central Administrative Tribunal, Hyderabad
- 2) 2 CD copies
- 3) 1 cc to Mr.B.Adinarayana Rao, Advocate (opuc)
- 4) 1 cc to Mr.I.Koti Reddy, Advocate (opuc)

ksk



High Court File No. 146 of 1998

CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH : HYDERABAD

MP
WRIT PETITION, NO. 34110/98 in WP 28014/98

Petition was filed in the High Court of Andhra Pradesh
by ~~Mr~~ VOI & Ors v/s T. Chandrasekharendra & Anr
against the Order/Judgment of this Hon'ble Tribunal dt. 25-9-1997
and made in O.A.No. 1260/97

The High Court was pleased to ~~order~~ ^{order} ~~business~~ ^{order} Interim Suspension
of ~~the~~ the operation of Judgment on 8/10/98

The Judgment of the Tribunal in O.A.No. 1260/97
and the ~~letter~~ order of the High Court of Andhra Pradesh enclosed
herewith for perusal.

Submitted.

Deputy Registrar (J) *[Signature]*

[Signature]
13/11/98
~~Registrar~~

Hon'ble Vice-Chairman *[Signature]*

Hon'ble Member (A) I *[Signature]*

Hon'ble Member (A) II *[Signature]*
3/11

Hon'ble Member (J) *[Signature]*
16/11

Between:

1. Union of India, rep. by its Secy to Govt. posts,
Ministry of communications, Dept. of Posts,
New Delhi 110 001.
2. Chief post Master General, A.P. circle, Hyderabad
3. Superintendent, RMS 'Z' Division, Hyderabad.

..petitioners/petitioners in WP 28014/98
on the file of the High court.

and

1. T.Chandrasekhara Rao s/o Kamalakar Rao
AHRO A/Cs HRO, RMS 'Z' Division, Hyderabad.
2. Central Administrative Tribunal, Hyderabad
Bench, Hyderabad rep. by its Registrar

..Respondents/Respondents in do.

Counsel for petitioners: Mr. B. Adinarayana Rao
Sr. Central Govt. Standing counsel

Thursday the Eighth day of October, 1998

THE HONOURABLE MR. JUSTICE B. SUBHASHAN REDDY

AND

THE HONOURABLE MR. JUSTICE VAMAN RAO

Petition filed under section 151 of CPC praying the court to suspend the operation of the order in O.A.No. 1260 of 1997 dated: 27-9-1997 on the file of the Hon'ble central Administrative Tribunal, Hyderabad Bench, Hyderabad pending disposal of the W.P. 28014/98 on the file of the High court.

The court, while directing issue of notice to the respondents herein to show cause why this application should not be complied with made the following order (The receipt of this order will be deemed to be the receipt of notice in the case)

ORDER:

"INTERIM SUSPENSION. NOTICE."

Sd/- B. Esthary Rao,
Asst. Registrar

/true copy/

for Asst. Registrar

To

1. T.Chandrasekhara Rao s/o Kamalakar Rao, AHRO A/Cs, HRO, RMS 'Z' Division, Hyderabad-1 (rpad)
2. The Registrar, Central Administrative Tribunal, Hyderabad Bench, Hyderabad (rpad)
3. One c.c. to Mr. B. Adinarayana Rao, Advocate (opuc)
4. One spare copy.

T. by: VNRK

केन्द्रीय प्रशासनिक अधिकरण
Central Administrative Tribunal
हैदराबाद ब्याचपीट
HYDERABAD BENCH

23 OCT 1998

प्राप्त/RECEIVED
आपका विभाग/PPAL SECTION

666
23/10/98

Ind
23/10/98

666
23/10/98
I.S.N

Hearing Date

RETURN OF THE WRIT OF CERTIORARI ORDER : NISI

(To be endorsed on writ to appear)

The process of the writ of Certiorari where of mention is within made was served on respondent
this day of one thousand nine hundred and ninty

This should be served urgently on the respondent
No _____ and returned to the High Court
(Sd)

Writ and Rule Nisi

W P.No. of 199

Certified that the required conveyence charges and the prosses for the service of the process
have been collected it's requested that English Translation of the process Service. Report it is in
Vernacular. my be sent along with the Rule Nisi returned.
FORM NO. 8

FORM NO. 8

RETURN OF THE WRIT OF CERTIORARI ORDER NISI

(To be endorsed on writ to produce)

The process of the writ of certiorari where of mention is within made with all things touching
the same in the several papers here to annexed as within commanded.

The Answer of

The respondent herein

Date day of 199
(Sd)

HC-146/98

H. Ct F. No: 699 (A)

(Writ of court Orders-Order List (To produce and or to appear))

IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

day the

day of

One Thousand nine hundred and ninty

WRIT PETITION No.

of 1998

BETWEEN: Union of India and 2 others.

Petitioners

AND

1. T.Chandrasekhara Rao, S/o.Kamalakar Rao, aged about 49 yrs., AHRO, A/CS, HRO, RMS '2' Division, Hyderabad - 1.

Respondents

2. Central Administrative Tribunal, Hyderabad Bench, Hyderabad, Rep.by its Registrar.

Respondent No.

2

Mr. B. ADINARAYANA RAO

-upon motion this day made in to this Court by bring of opinion that the record relating to and touching upon all the matter and contentions raised in the memorandum of Representation Petition. a copy of which is annexed here to, together with the decision therein should be called for and pursued: IT IS HEREBY COMMADER

(1) That you, the aforesaid Respondent No. 2 do sent for our use in High Court of Judicature of Andhra Pradesh Hyderabad, all and singulor the siad record and other with all things touching the same as fully and perfectly as they have been made by you and now remain in your custody or power together with this, Rule Nisi before the day of 14/12/1998 and

That you intend to oppose the petition you the aforesaid Respondnt. No. 2 do appear personally OR by Advocate on the 14/12/1998 day of 14/12/1998 at 10-30 a.m. before the Court show cause why this petition should not be complied with and that we may cause further to be done there on what of right and according to law we shall see fit to be done.

WITNESS the Hon, ble
Judicature, Andhra Pradesh at Hyderabad, this
the year one thousand nine hundred ninty.

Chief Justice of High Court of
day of 16/11/1998

Assistant Registrar
(P. T. O.)

NOTE: You have to File your Counter Affidavit within 6 months unless otherwise directed by the High Court. Material properly filed thereon by you should be filed in before duly spatched giving. Exh bit note To Each Document.

20 NOV 1998

743
20/11/98

Memorandum of Writ Petition
(Under Art. 226 of the Constitution of India)

IN THE HIGH COURT OF JUDICATURE OF ANDHRA PRADESH AT

HYDERABAD

(SPECIAL ORIGINAL JURISDICTION)

N.P.No.

OF 1998

28014

BETWEEN:

1. Union of India, Rep. by its Secretary & DC Posts, Ministry of Communications, Department of Posts, New Delhi - 110 001.
2. Chief Post Master General, A.P. Circle, Hyderabad-500 001.
3. Superintendent, PMS '2' Division, Hyderabad - 500 001.

... PETITIONERS

And

1. T. Chandrasekhara Rao, S/o. Kamalaker Rao, aged about 49 yrs., AIRD A/Cs. URO, PMS '2' Division, Hyderabad-1.
2. Central Administrative Tribunal, Hyderabad Bench, Hyderabad Rep. by its Registrar.

... RESPONDENTS.

...

The address for service of all notices and processes on the above-named petitioners is that of their Counsel, Mr. S. Adinarayana Rao, Sr. Central Govt. Standing Counsel, 208, Pavani Lingampet Estate, Road No. 8, Himayatnagar, Hyderabad - 500 029.

For the reasons stated in the accompanying affidavit the petitioner herein prays that this Hon'ble Court may be pleased to issue a writ or order or direction more particularly one in the nature of writ of Certiorari calling for records in O.A. No. 1260 of 1997 on the file of the Hon'ble Central Administrative Tribunal and quash the order dated 15.8.1997 in the said O.A. and pass such other order or orders as this Hon'ble Court may deem fit and proper in the circumstance of the case.

Hyderabad - A.P.,

Date: 25.09.1998.

(Signature)
COUNSEL FOR THE PETITIONERS

Later the first respondent was extended the benefit of Time Bound One Promotion Scheme, which is solely based on the length of service rendered. By virtue of the Time Bound One promotion scheme, the first respondent was placed in the Lower selection Grade with effect from 30.11.83 and his pay was fixed under Fundamental Rule 22(1)(a)(I).

4. I submit that the first respondent had been given a higher pay scale of Lower Selection Grade Cadre though he was still an Accountant. While he was working as Accountant he was posted as Assistant Head Record Officer(A/Cs) at Head Record Office., Railway Mail Service 2nd Dn, Hyderabad on 30.6.93. Since the first respondent was already drawing Lower Selection Grade scales the question of refixation of his salary once again under Fundamental Rule 22(1)(a)(I) on being posted as Assistant Head record Officer does not arise. Later the first respondent was further promoted to the scale of Higher Selection Grade(11) with effect from 1.1.94 by virtue of Biennial Cadre Review scheme extended to an employee on completion of 25 years of service.

5. I submit that while matters stood thus the first respondent approached the Hon'ble Central Administrative Tribunal alleging that his representations to the petitioners herein to refix his pay-scale as per Fundamental Rule 22(1)(a)(I) on being posted as Assistant Head Record

2nd page
Corrections.

Attestor

Deponent

सहायक निदेशक डाक सेवा
Assistant Director of Postal Services,
पोस्टमस्टर जनरल का कार्यालय
O/o The Postmaster-General,
हैदराबाद क्षेत्र Hyderabad Region,
हैदराबाद, HYDERABAD-500 001.

सहायक निदेशक डाक सेवा
Assistant Director of Postal Services,
पोस्टमस्टर जनरल का कार्यालय
O/o The Postmaster-General,
हैदराबाद क्षेत्र Hyderabad Region,
हैदराबाद, HYDERABAD-500 001.

IN THE HIGH COURT OF JUDICATURE OF ANDHRA PRADESH
AT HYDERABAD

WRIT PETITION NO. of 1998.

28014

BETWEEN:-

UNION OF INDIA
and two others

....Petitioners.

AND:-

T. CHANDRASEKHAR RAO
and Another

...Respondents.

AFFIDAVIT OF THE PETITIONERS

I, Mohd Hussain S/O late Sri. Shaik Imam aged about 51 years resident of Hyderabad do hereby solemnly state and sincerely affirm as follows:

1. I am the Asst. Director of Postal Services, in the office of Postmaster-General, Hyderabad Region, Hyderabad and as such I am well acquainted.

2. I submit that this writ petition is being filed questioning the order of Hon'ble Central Administrative Tribunal, Hyderabad bench in O.A No. 1260 of 1997 dated 25.9.97, for being illegal, arbitrary and contrary to the settled principles of service jurisprudence and the judgement of the Hon'ble Supreme Court in Union of India & others Vs. Ashoke Kumar Banerjee, 1993(4) Supreme 608.

3. I submit that the first respondent herein was appointed in Railway Mail Service 'V' division with effect from 23.8.67 in the petitioner department. The first respondent, on passing an examination, was appointed as Accountant with effect from 4.5.81 and was posted at Head Record Office, Hyderabad.

1 st page
Corrections

Attestor

सहायक निदेशक डाक सेवा
Assistant Director of Postal Services,
पोस्टमास्टर जनरल का कार्यालय
O/o. The Postmaster-General,
हैदराबाद क्षेत्र Hyderabad Region,
हैदराबाद HYDERABAD-500 001

Deponent

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Assistant Director of Postal Services,
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O/o. The Postmaster-General,
हैदराबाद क्षेत्र Hyderabad Region,
हैदराबाद, HYDERABAD-500 001.

promoted to the promotional post for the reason that for for the applicability of the Fundamental Rule it is not only required that an employee must have got promotion from one post to another involving higher responsibilities but must also be moving from a lower scale attached to a lower post to a higher scale attached to a ~~higher post~~ post. Contrary to this legal position the Hon'ble Tribunal has taken the stand that since the first respondent has claimed to have assumed higher responsibilities his pay was to be refixed again as per the Fundamental Rule.

8. I submit that petitioners have no other alternative remedy except to approach this Hon'ble Court and they have neither filed any writ petition nor initiated any other proceedings for the grant of relief as prayed for in this writ petition.

For the aforesaid reasons and others to be urged at the time of hearing the petitioners humbly pray that this Hon'ble Court be pleased to issue a writ or order or direction more particularly one in the nature of writ of Certiorari calling for records in U.A No.1260 of 1997 on the file of the Hon'ble Central Administrative Tribunal and quash the order dated 25.5.97 in the said U.A and pass such other order or orders deemed fit in the facts and circumstances of the case.

4th page

Corrections.

Attester

सहायक निदेशक डाक सेवा
Assistant Director of Postal Services,
पोस्टमस्टर जनरल का कार्यालय
O/o The Postmaster General,
हैदराबाद क्षेत्र Hyderabad Region,
हैदराबाद, HYDERABAD-500 001.

Deponent

सहायक निदेशक डाक सेवा
Assistant Director of Postal Services,
पोस्टमस्टर जनरल का कार्यालय
O/o. The Postmaster General,
हैदराबाद क्षेत्र Hyderabad Region,
हैदराबाद, HYDERABAD-500 001.

Officer didnot evoke any response and sought a direction to the petitioners herein for refixation of his pay-scale. The Hon'ble Tribunal without going into the merits of the instant case mechanically passed orders, on 25.9.97 being on an earlier order in L.A No.267 of 1997 dated 2.4.97 and directed the petitioners herein to fix the pay-scale of the first respondent in accordance with Fundamental Rule 22(1)(a)(I) and to pay him the arrears from 22.9.96.

6. I submit that the Hon'ble Tribunal has lost sight of the crucial issue that Time Bound Line promotion scheme, introduced to solve the problem of stagnation, had facilitated the first respondent to draw the Assistant Head Record Officer scale in the Lower Selection Grade III while he was still an Accountant, on completing the requisite number of years in that cadre, as there were no vacant Assistant Record Officer posts at that point of time and when vacancies arose he was posted as Assistant Head Record Officer.

7. I submit that the Hon'ble Supreme Court when confronted with the same problem held in Union of India & others Vs Asheke Kumar Banerjee, 1993(4) Supreme 603, that an employee given the benefit of promotional scale under Fundamental Rule(1)(a)(I), on completing requisite number of years of service as per the scheme, though not functioning in a promotional post, cannot again claim the benefit of the Fundamental Rule on subsequently being,

3rd page
Corrections

Attest r

Deponent

सहायक निदेशक, प्र. वि.
Assistant Director of P. & S. Services,
पुणे महानगरपालिका क्षेत्रातील
O/C - Master-General,
हेडक्वार्टर, पुणे महानगरपालिका क्षेत्र,
पुणे-411001.

सहायक निदेशक, प्र. वि.
Assistant Director of P. & S. Services,
पुणे महानगरपालिका क्षेत्रातील
O/C - Master-General,
हेडक्वार्टर, पुणे महानगरपालिका क्षेत्र,
पुणे-411001.

Pending disposal of the writ petition, the petitioners humbly pray that this Hon'ble Court be pleased to suspend the operation of the order in O.A No.1260 of 1997 dated 25.9.97 on the file of the Hon'ble Central Administrative Tribunal, Hyderabad bench and pass such other order or orders deemed fit.

Solemnly affirmed before me
this 25 day ~~Aug~~ 1988.
and signed in my presence.

Deponent

सहायक निदेशक डाक सेवा
Assistant Director of Postal Services,
पोस्टमास्टर जनरल का कार्यालय
O/o. The Postmaster-General,
हैदराबाद क्षेत्र Hyderabad Region,
हैदराबाद/HYDERABAD-500 001.

Last page corrections.

Before me.

Attestor

सहायक निदेशक डाक सेवा
Assistant Director of Postal Services,
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