

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL: HYDERABAD BENCH:
AT HYDERABAD

O.A.No.1420 OF 1997.

DATE OF ORDER:10-3-1999.

BETWEEN:

T.Ramulu.

.....Applicant

a n d

Union of India, represented by:

1. The Director General,
Department of Posts, New Delhi.
2. The Chief Post Master General,
Andhra Pradesh Postal Circle,
Hyderabad.

.....Respondents

COUNSEL FOR THE APPLICANT :: Mr.Mr.KSR.Anjaneyulu

COUNSEL FOR THE RESPONDENTS :: Mr.B.Narasimha Sharma

CORAM:

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

A N D

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

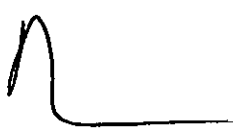
: O R D E R :

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

Heard Mr.D.Subrahmanyam for Mr.KSR.Anjaneyulu,
learned Counsel for the Applicant and Mr.B.Narasimha-
Sharma, learned Standing Counsel for the Respondents.



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2. The applicant in this OA was initially appointed as Postal Assistant on 16-12-1964. He was promoted as U.D.C. in the Circle Office subsequently. He has been working in the Circle Office in the cadre of U.D.C. and his pay was fixed at the stage of Rs.1,600/- in the scale of pay of Rs.1200-2040/- as on 25-6-1993.

3. Time Bound One Promotion Scheme and Biennial Cadre Review to Group-'C' staff of Administrative Offices in the Department of Posts was promulgated, vide Memorandum No.ST/47-5/CO/TBOP/93, dated:4-8-1993(Annexure.1, page.9 to the OA). The copy of the Directorate letter is enclosed to the Annexure. The said Scheme had come into effect from 26-6-1993. All the LOCs and UDCs in the Circle Office were given option to come over to the post of Postal Assistant in the scale of pay of Rs.9¹⁶⁶⁰75-1500/-. It is stated that all of them in the Circle Office had come to this new Scheme as indicated in the letter No.ST/47-5/CO/TBOP/93, dated:7-1-1994(Annexure.2 to the OA), and they were treated as Postal Assistants with effect from 26-6-1993. The Time Bound One Promotion Scheme stipulates that, the employees working as Postal Assistants in the scale of pay of Rs.975-1660/- will be given one promotion to the scale of Rs.1400-2300/- called LSG-II on completion of 16 years of service in the lower scale. Similarly, those who had completed 26 years of service in both the lower scales put together will be promoted as HSG-II on completion of 26 years of service.

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4. The applicant in this OA had completed 26 years of service even ^{at} after the time of introduction of the Scheme with effect from 26-6-1993. Hence, he is entitled for promotion to the HSG-II grade right from the introduction date viz., 26-6-1993. The question arose as to how his pay has to be fixed in the grade of HSG-II i.e., his ⁱⁿ scale of pay Rs.1600-2660/-. Whether his pay should be fixed first in the One Time Bound Promotion Scheme in the scale of pay of Rs.1400-2300/- ^{and} or then fixation in the higher scale of Rs.1600-2660/-, or he should be directly fixed in the higher scale of Rs.1600-2660/- without fixing his pay in the intermediate scale of Rs.1400-2300/-. It is stated that the pay of the applicant was first fixed in the pay scale of Rs.1400-2300/- under One Time Promotion Scheme with effect from 26-6-1993. The applicant stands at Serial No.5 in the Memo No.ST/47-5/CO-ROs/TBOP/93, dated:4-1-1994 (Annexure.3, page.15 to the OA). His pay in the higher scale of HSG-II i.e., Rs.1600-2660/- was also fixed on the basis of fixation in the lower grade of Rs.1400-2300/- with effect from 26-6-1993, vide Memo No.ST/4-7/CO-RO's/BCR/93, dated:3-1-1994(Annexure.4, page.9 to the OA). However, a clarification was issued by the Postal Department, vide Memo No.2-18/93-PE.I, dated:8-8-95, (Annexure.5 to the OA). The ~~said~~ clarification reads as below:-

"The pay of the officials who opt for PA(CO) cadre will be fixed directly into the corresponding scale depending on the number of years of service i.e., the pay of the officials with less than 16 years of service to be fixed in the

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scale of Rs.975-1660/-, pay of officials with more than 16 years but less than 26 years of service to be fixed in the scale of Rs.1400-2300/- and pay of officials with more than 26 years of service to be fixed in the scale of Rs.1600-2660/-, provided they are otherwise found fit."

5. From the above clarification, if an employee is eligible to be promoted straightaway to the post of HSG-II in the scale of Rs.1600-2660/-, from the lower scale of Rs.950-1500/-, his pay should be fixed directly in that scale without fixing his pay in the intermediate grade of Rs.1400-2300/-. The pay of the applicant was sought to be reduced in view of the direct fixation from the lower scale to the higher scale of Rs.1600-2660/-. The applicant submits, because of the above fixation, he has to pay back certain amounts in this connection. The applicant submitted a representation addressed to R-1 for fixation of his pay first in the scale of Rs.1400-2300/- and then re-fixation of his pay in the higher scale of Rs.1600-2660/- based on his fixation of pay in the lower scale of Rs.1400-2300/- instead of from Rs.975-1600/-. It is stated no reply has been given to his representation.

6. This OA is filed praying for a direction to the respondents to fix his pay from Rs.1,640/- in UDC scale directly to the stage of Rs.1,720/- in the scale of Rs.1400-2300/- by application of FR.22(c) (FR 22(1)(a)(i)), and then fix in BCR at the stage of Rs.1,800/- and to pay the difference in arrears with effect from 1-2-1994.



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7. A reply has been filed in this OA. The main contention of the respondents is that the Directorate Orders in question do not give the benefit of two fixations in cases of two promotions directly from UDC to H.S.G.-II(BCR). The pay fixation of the applicant has been done in accordance with the Directorate's letter referred to above. The recovery of excess pay and allowances was stopped as per the Stay Orders of this Tribunal dated:28-10-1997.

8. From the reply, it ^{is} transparent~~y~~ that the respondents have followed their own views in fixation of pay. The reasons for not fixing the pay of the applicant first ^{in L.S.G. cadre} is not given in the reply. Hence, the reply is of no consequence to us for deciding the issue.

9. The learned Counsel for the Applicant brought to our notice the Judgment of the Bombay Bench of this Tribunal, reported in(1997)36 ATC 70 in BABURAO SHANKAR-DHURI Vs UNION OF INDIA & OTHERS. It has been observed in that case that "Exercising option in respect of employees who completed 26 years of service for one fixation of pay and less than 26 years of service for two fixations of pay, one in ^{intermediate} ~~tertiary~~ grade and another in next higher grade, is clearly in derogation of the nature and logic of the scheme and is liable to be quashed and set aside". The following portion of the Judgment is very relevant, which is reproduced below:-

"However, there appears to be substance in the contention of the applicant that the

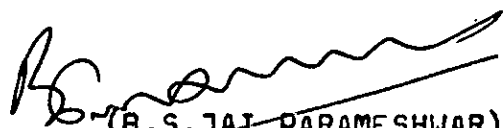
clarification given by the department that applicants who have completed 26 years of service may be allowed to opt only once whereas the employees who have not completed 26 years of service would be able to opt twice. It has been pointed out by the applicant that an official who completed 25 years, 11 months and 29 days on 26-6-1993 and falls one day short as on 26-6-1993 would get two pay fixations including one in LSG cadre on 26-6-1993 but those who enter the HSG cadre directly would get only one pay fixation and to this extent there is an inequity. The employees of the Postal Department to whom the Scheme is applicable and who completed 16 to 26 years belong to a homogeneous and uniform class and they cannot be broken up into two arbitrary classes one completing 26 years on the prescribed date and another not having completed 26 years on the prescribed date. The original scheme did not envisage any such differentiation and the clarification subsequently given that pay may be fixed only once in the corresponding scale for which the officials qualify on the basis of their length of service is clearly in derogation of the nature and logic of the scheme. This clarification contained in Circular dated 8-8-1995 is liable to be quashed and set aside. Consequently, applicant is entitled to re-fixation of the pay as if this clarification did not exist. Respondents are directed to re-fix the pay of the applicant in terms of this direction and give him all consequential benefits including arrears of pay if any one year prior to the date of filing of the OA, viz., 12-12-1994 and also re-fixation of his pension and full arrears of pension and other pensionary benefits."

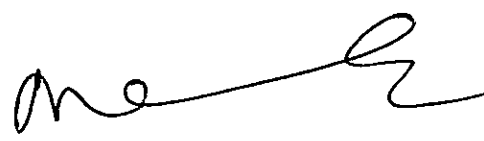
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10. We fully agree with the views expressed by the Bombay Bench of this Tribunal. Hence, the pay of the applicant if he had completed 26 years of service on the date of introduction of the scheme ^{in the} and his lower scale of Postal Assistant i.e., ⁹⁷⁵⁻¹⁶⁶⁰ ~~Rs. 950-1500/-~~, his pay in the ~~scale of~~ higher scale of HSG-II i.e., in the scale of Rs.1,600-2660/-, should be fixed first fixing his pay in the scale of Rs.1400-2300/- and then ⁱⁿ the higher scale of Rs.1600-2660/-. The pay fixation as done above should be intimated to the applicant. No recovery should be made, if contemplated in this connection, and ^{recovery} ~~fixation~~ if required should be done only after the pay fixation chart is finally shown ^{about} to the applicant. If any arrears ^{arising} ~~arising~~ out of the ^{about} fixation, the same should also be paid to him.

Time for compliance is three months from the date of receipt of a copy of this Order.

11. The OA is disposed of. No costs.



(B.S. JAI PARAMESHWAR)
MEMBER (JUDL)
10.3.99


(R. RANGARAJAN)
MEMBER (ADMN)

DATED: this the 10th day of March, 1999

Dictated to steno in the Open Court

DSN


15.3.99

Copy to:

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

24/3/99
IST AND IIND 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: 10.3.99

ORDER/ JUDGEMENT

MA./RA./CP.No.

IN

C.A. NO. 1420/97

ADMITTED AND INTERIM DIRECTIONS
ISSUED.

ALLOWED

DISPOSED OF WITH DIRECTIONS

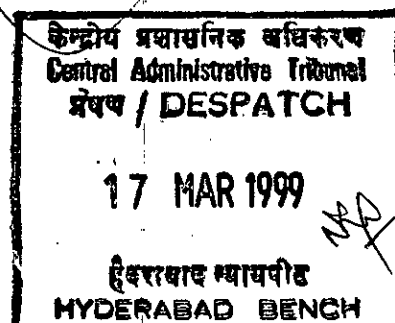
DISMISSED.

DISMISSED AS WITHDRAWN

ORDERED/REJECTED

NO ORDER AS TO COSTS

SRR



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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH : HYDERABAD.

MA. No.468 of 1999
in
DA. No.1420 of 97

Between:

Dated:1.7.99

1. The Director General of Posts,
New Delhi

2. The CPMG, A.P.Circle,
Hyderabad.

.. Applicants

And

T. Ramulu

.. Respondent

Counsel for the Applicants

: Mr.B.N.Sharma

Counsel for the Respondents

: Mr.KSR.Anjaneyulu

CORAM:

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

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

* * *

THE TRIBUNAL MADE THE FOLLOWING ORDER:

Mr.M.C.Jacob for Mr.B.N.Sharma for the applicant and
Mr.D.Subrahmanyam for Mr.KSR.Anjaneyulu, for the respondents.

Time is given up to 10.9.99.

MA is disposed of.

[Signature]
Section Officer

Srr

COPY TO:-

1. HDHND
2. HHRP M(A)
3. HBSJP 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)

ORDER: 11/7/99

ORDER / JUDGEMENT

MA./RA./SP No. 468/99

In

DA. No. 1420/97

ADMITTED AND INTERIM DIRECTIONS
ISSUED.

ALLOWED.

C.P. CLOSED.

R.A. CLOSED.

O.A. CLOSED.

MA IS
DISPOSED OF WITH DIRECTIONS.

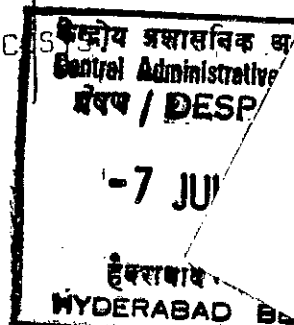
DISMISSED.

DISMISSED AS WITHDRAWN.

ORDERED / REJECTED.

NO ORDER AS TO C

SRR



Form No.9.
(See Rule 29)

BY.R.P.A.D.

CENTRAL ADMINISTRATIVE TRIBUNAL HYDERABAD BENCH AT HYDERABAD.
1st Floor, HACA Bhavan, Opp:Public Garden, Hyderabad-500004.A.P.

ORIGINAL APPLICATION NO. 1420 OF 1997.

Applicant(s) T. Ramulu

V/S

Respondent(s)

D.G. Dept. of Post New Delhi & Ors.

By Advocate Shri: KSR. Anjaneyulu (By/Central Govt. Standing Counsel)

To. Sri. K. Bhaskara Rao, Addl. CGSC.

~~R-1. The Director General, Department of Posts, Union of India, New Delhi.~~

~~R-2. The Chief Post Master General, A.P. Postal Circle, Hyd.~~

Whereas an application filed by the above named applicant under Section 19 of the Administrative Tribunal Act, 1985 as in the copy annexed hereunto has been registered and upon preliminary hearing the Tribunal has admitted the application.

Notice is hereby given to you that if you wish to contest the application, you may file your reply along with the document in support thereof and after serving copy of the same on the applicant or his Legal Practitioner within 30 days of receipt of the notice before this Tribunal, either in person or through a Legal Practitioner/ Presenting Officer appointed by you in this behalf. In default, the said application may be heard and decided in your absence on or after that date without any further Notice.

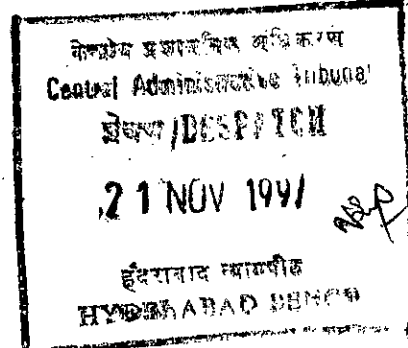
Issued under my hand and the seal of the Tribunal
This the Twentyeighth day of October, 1997.

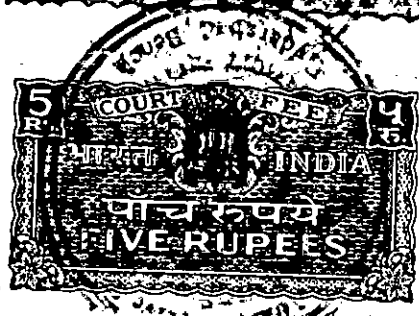
//BY ORDER OF THE TRIBUNAL//

Date: 7-11-1997.

FOR REGISTRAR..

Tested By 10/11/97.





Central Administrative Tribunal :
Hyderabad Bench at Hyderabad

O A No.

of 199

Between

T. Ramulu —

Applicant

and

Union of India

Rep- by

D. G. Joshi New Delhi

4 of 199 Hyderabad - Respondent

PAID

VAKALAT

ACCEPTED

hik

Subrahmanyam

ADVOCATES FOR APPLICANT / RESPONDENT

Address of Service :

Phones : 7617006
7601284

K. S. R. ANJANEYULU
D. SUBRAHMANYAM

ADVOCATES

1-1-365/A, Jawaharnagar, (5th Street)
Bakaram, Hyderabad - 500 020.

**In the Central Administrative Tribunal : Hyderabad Bench
at Hyderabad**

O A. No. 1420 of 1997

T. Ramulu

Applicant

VERSUS

UOI reply
Director General,
Department of P.W.
New-Delhi and another

Respondent

1
We

Applicant

In the above Application do hereby appoint and retain

K. S. R. ANJANEYULU
ADVOCATE

and

D SUBRAHMANYAM
ADVOCATE

Advocate/s of the High Court to appear for Me/Us in the above Application and to conduct and prosecute (or defend) the same and all proceedings that may be taken in respect of any application connected with the same or any decree or order passed therein, including applications for return of documents or the receipt of any money that may be payable to Me/Us in the said Application and also to appear in all appeals, and applications under clause XV of the Letters Patent and in applications for review and for leave to appeal to the Supreme Court.



[Handwritten signature]

I certify that the contents of the this Vakalat were read out and explained in.....*[Signature]*.....in my presence to the executant, or executants who appeared perfectly to understand the same and made his, or her or their signature or mark or marks in my presence.

Executed before me this

21st day of

Oct

1997

[Handwritten signature]
Advocate.

Central Administrative Tribunal, Hyderabad Bench,
HYDERABAD.

O A / RA No.

1420.

of 199 7

BETWEEN

T. Ramulu

Applicant (s)

Vs.

Govt., Rep by G. G. P. S. S.
New Delhi and others

Respondent (s)

MEMO OF APPEARANCE

To,



I K. BHASKARA RAO, Advocate, having been authorised

C. P. M. C.

(here furnish the particulars of authority)

by the Central/State Government/Government Servant/.....authority/ corporation/society notified under Sec. 14 of the Administrative Tribunals Act, 1985. Hereby appear for applicant No...../Respondent No..... and undertake to plead and act for them in all matters in the aforesaid case.

Place: Hyderabad

Date: 15.6.98

Address of the Counsel for Service

KOTA BHASKARA RAO

H. No. 1-2-333/2, Domalguda
HYDERABAD - 500 089

Signature & Designation of the
Counsel.

KOTA BHASKARA RAO

Addl. Standing Counsel for Central Govt.

Central Administrative Tribunal, Hyderabad Bench
HYDERABAD

O.A.NO. 1420

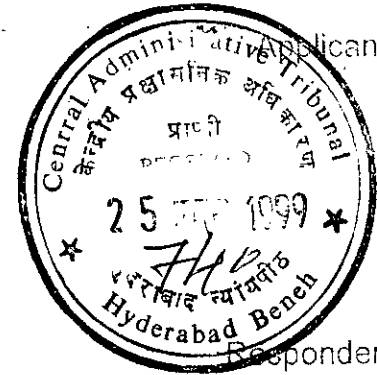
OF 1997

BETWEEN

T. Ramulu

Vs.

The Director General,
Dept. of Posts
and another



MEMO OF APPEARANCE

I, B. Narasimha Sharma, Advocate having been authorised by proceedings of Government of India in F.No. 28(5)/98-Judl. Dt. 11-12-1998 notified under Sec. 14 of the Administrative Tribunals Act, 1985, hereby appear for Applicant No. 1 & 2 and undertake to plead and act for them in all matters in the aforesaid case.

Place: Hyderabad

Date: 24/2/99

Signature & Designation of the Counsel

B. NARASIMHA SHARMA
Senior Standing Counsel for
Central Government.

Address of the Counsel for Service:

512, Nilgiri,
Aditya Enclave,
Ameerpet,
Hyderabad - 38.

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH
AT HYDERABAD

M.A.NO. 468 OF 1999
IN

O.A.NO. 1420 OF 1997

Between:

1. Union of India,
Rep. by
Director General of Posts
New Delhi

2. CPMG, A.P. Circle,
Hyderabad.

... Applicants/
Respondents

AND

T. Ramulu

... Respondent/
Applicant

APPLICATION FOR EXTENSION OF TIME UNDER RULE 8 OF CAT
PROCEEDURAL RULES

For the reasons stated in the accompanying affidavit, it is prayed that this Hon'ble Tribunal may be pleased to grant extension of time for 3 months up to 30-9-99 in the interest of justice and pass such other order as deemed necessary in the circumstances of the case.

HYDERABAD

DATE: 15/6/89

COUNSEL FOR THE APPLICANT/
RESPONDENT

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL :: HYDERABAD BENCH
AT HYDERABAD

M.A. no. 468 of 1999

In

O.A. No. 1420 of 1997

Between :

Union of India
represented by
The Director-General,
Department of Posts,
New Delhi & another

... Applicants/Respondents

And

T. Ramulu


... Respondent/Applicant

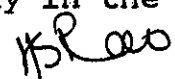
A F F I D A V I T

I, H. Seshagiri Rao, s/o Narasimha Murthy, aged about 58 years, occupation : Government service, resident of Hyderabad; do hereby solemnly affirm and sincerely state as follows :

1. I am working as Assistant Postmaster-General (Staff & Vigilance) in the office of the Chief Postmaster-General, A.P. Circle, Hyderabad. As such I am well acquainted with the facts and circumstances of the case. I am filing this Affidavit on behalf of the Applicants/ Respondents herein and I am duly authorised to do so.

2. In the above O.A., the Honourable Tribunal vide order dated 10.3.1999 directed the authorities to fix the pay of the applicant by fixing first his pay in the


H. Seshagiri Rao (सहस्र)
Assistant Account Officer (Budget)
मुख्य पोस्टमास्टर जनरल का कार्यालय
Office of the Chief Postmaster General
कोष्ठ नं. 455, हैदराबाद-500 001.
A.P. CIRCLE, HYDERABAD-500 001.


DEPONENT
Asst. Postmaster General (S & V)
O/o. Chief Postmaster General
A.P. Circle, Hyderabad-500 001.

~~XXXX~~ scale of pay of Rs. 1400 - 2300 and then in the next scale of 1600 - 2660. Time for compliance of the said order was given as 3 months from the date of receipt of the order. The above order was received on 31.3.99 in my office and as such the period for compliance will be over by 30.6.99. On verification of the above case, it is found that the above exercise will take some more time to finalise and as such the Respondent authorities has to seek a further time of 3 months from this Hon'ble Tribunal for implementing the above order.

It is, therefore prayed that this Honourable Tribunal may be pleased to extend the time for further 3 months, i.e. upto 30.9.1999, in the interest of justice and pass such other orders as deemed necessary in the circumstances of the case.

Solemnly affirmed and signed
on this the 11th day of June
1999 at Hyderabad, before me.

K. Rao
DEPONENT
Asst. Postmaster General (S & V)
O/o. Chief Postmaster General
A.P. Circle, Hyderabad-500 001.

[Signature]
WITNESSES
सहायक लेखा अधिकारी (अडिटर)
Assistant Accounts Officer (Auditor)
मुख्य पोस्टमास्टर जनरल का कार्यालय
Office of the Chief Postmaster General
जो पोस्टमाल, हैदराबाद-500 001.
A.P. CIRCLE, HYDERABAD-500 001.

BRM*

2. The applicant in this OA was initially appointed as Postal Assistant on 16-12-1964. He was promoted as U.D.C. in the Circle Office subsequently. He has been working in the Circle Office in the cadre of U.D.C. and his pay was fixed at the stage of Rs.1,600/- in the scale of pay of Rs.1200-2040/- as on 25-6-1993.

3. Time Bound One Promotion Scheme and Biennial Cadre Review to Group-'C' staff of Administrative Offices in the Department of Posts was promulgated, vide Memorandum No.ST/47-5/CO/TBOP/93, dated:4-8-1993(Annexure.1, page.9 to the OA). The copy of the Directorate letter is enclosed to the Annexure. The said Scheme had come into effect from 26-6-1993. All the LOCs and UOCs in the Circle Office were given option to come over to the post of Postal Assistant in the scale of pay of Rs.936¹⁶⁶⁰-1500/-. It is stated that all of them in the Circle Office had come to this new Scheme as indicated in the letter No.ST/47-5/CO/TBOP/93, dated:7-1-1994(Annexure.2 to the OA), and they were treated as Postal Assistants with effect from 26-6-1993. The Time Bound One Promotion Scheme stipulates that, the employees working as Postal Assistants in the scale of pay of Rs.975-1660/- will be given one promotion to the scale of Rs.1400-2300/- called LSG-II on completion of 16 years of service in the lower scale. Similarly, those who had completed 26 years of service in both the lower scales put together will be promoted as HSG-II on completion of 26 years of service.

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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL: HYDERABAD BENCH:

AT HYDERABAD-

O.A.No.1420 OF 1997.

DATE OF ORDER:10-3-1999.

BETWEEN:

T.Ramulu.

a n d



.....Applicant

Union of India, represented by:

1. The Director General,
Department of Posts, New Delhi.
2. The Chief Post Master General,
Andhra Pradesh Postal Circle,
Hyderabad.

.....Respondents

COUNSEL FOR THE APPLICANT :: Mr.Mr.KSR.Anjaneyulu

COUNSEL FOR THE RESPONDENTS :: Mr.B.Narasimha Sharma

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.D.Subrahmanyam for Mr.KSR.Anjaneyulu,
learned Counsel for the Applicant and Mr.B.Narasimha-
Sharma, learned Standing Counsel for the Respondents.

.....2

scale of Rs.975-1660/-, pay of officials with more than 16 years but less than 26 years of service to be fixed in the scale of Rs.1400-2300/- and pay of officials with more than 26 years of service to be fixed in the scale of Rs.1600-2660/-, provided they are otherwise found fit."

5. From the above clarification, if an employee is eligible to be promoted straightaway to the post of MSG-II in the scale of Rs.1600-2660/-, from the lower scale of Rs.950-1500/-, his pay should be fixed directly in that scale without fixing his pay in the intermediate grade of Rs.1400-2300/-. The pay of the applicant was sought to be reduced in view of the direct fixation from the lower scale to the higher scale of Rs.1600-2660/-. The applicant submits, because of the above fixation, he has to pay back certain amounts in this connection. The applicant submitted a representation addressed to R-1 for fixation of his pay first in the scale of Rs.1400-2300/- and then re-fixation of his pay in the higher scale of Rs.1600-2660/- based on his fixation of pay in the lower scale of Rs.1400-2300/- instead of from Rs.975-1600/-. It is stated no reply has been given to his representation.

6. This OA is filed praying for a direction to the respondents to fix his pay from Rs.1,640/- in UDC scale directly to the stage of Rs.1,720/- in the scale of Rs.1400-2300/- by application of FR.22(c) (FR 22(1)(a)(i)), and then fix in BCR at the stage of Rs.1,800/- and to pay the difference in arrears with effect from 1-2-1994.

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4. The applicant in this OA had completed 26 years of service even ^{at} after the time of introduction of the Scheme with effect from 26-6-1993. Hence, he is entitled for promotion to the HSG-II grade right from the introduction date viz., 26-6-1993. The question arose as to how his pay has to be fixed in the grade of HSG-II i.e., his ⁱⁿ scale of pay Rs.1600-2660/-. Whether his pay should be fixed first in the One Time Bound Promotion Scheme in the scale of pay of Rs.1400-2300/- ^{or} then fixation in the higher scale of Rs.1600-2660/-, or he should be directly fixed in the higher scale of Rs.1600-2660/- without fixing his pay in the intermediate scale of Rs.1400-2300/-. It is stated that the pay of the applicant was first fixed in the pay scale of Rs.1400-2300/- under One Time Promotion Scheme with effect from 26-6-1993. The applicant stands at Serial No.5 in the Memo No.ST/47-5/CO-ROs/TBOP/93, dated:4-1-1994 (Annexure.3, page.15 to the OA). His pay in the higher scale of HSG-II i.e., Rs.1600-2660/- was also fixed on the basis of fixation in the lower grade of Rs.1400-2300/- with effect from 26-6-1993, vide Memo No.ST/4-7/CO-RO's/BCR/93, dated:3-1-1994(Annexure.4, page.9 to the OA). However, a clarification was issued by the Postal Department, vide Memo No.2-18/93-PE.I, dated:8-8-95, (Annexure.5 to the OA). The said clarification reads as below:-

"The pay of the officials who opt for PA(CO) cadre will be fixed directly into the corresponding scale depending on the number of years of service i.e., the pay of the officials with less than 16 years of service to be fixed in the

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clarification given by the department that applicants who have completed 26 years of service may be allowed to opt only once whereas the employees who have not completed 26 years of service would be able to opt twice. It has been pointed out by the applicant that an official who completed 25 years, 11 months and 29 days on 26-6-1993 and falls one day short as on 26-6-1993 would get two pay fixations including one in LSG cadre on 26-6-1993 but those who enter the HSG cadre directly would get only one pay fixation and to this extent there is an inequity. The employees of the Postal Department to whom the Scheme is applicable and who completed 16 to 26 years belong to a homogeneous and uniform class and they cannot be broken up into two arbitrary classes one completing 26 years on the prescribed date and another not having completed 26 years on the prescribed date. The original scheme did not envisage any such differentiation and the clarification subsequently given that pay may be fixed only once in the corresponding scale for which the officials qualify on the basis of their length of service is clearly in derogation of the nature and logic of the scheme. This clarification contained in Circular dated 8-8-1995 is liable to be quashed and set aside. Consequently, applicant is entitled to re-fixation of the pay as if this clarification did not exist. Respondents are directed to re-fix the pay of the applicant in terms of this direction and give him all consequential benefits including arrears of pay if any one year prior to the date of filing of the OA, viz., 12-12-1994 and also re-fixation of his pension and full arrears of pension and other pensionary benefits."

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7. A reply has been filed in this OA. The main contention of the respondents is that the Directorate Orders in question do not give the benefit of two fixations in cases of two promotions directly from UDC to H.S.G.-II(BCR). The pay fixation of the applicant has been done in accordance with the Directorate's letter referred to above. The recovery of excess pay and allowances was stopped as per the Stay Orders of this Tribunal dated:28-10-1997.

8. From the reply, it is transparent that the respondents have followed their own views in fixation of pay. The reasons for not fixing the pay of the applicant first ^{in L.S.G.due} is not given in the reply. Hence, the reply is of no consequence to us for deciding the issue.

9. The learned Counsel for the Applicant brought to our notice the Judgment of the Bombay Bench of this Tribunal, reported in(1997)36 ATC 70 in BABURAO SHANKAR-DHURI Vs UNION OF INDIA & OTHERS. It has been observed in that case that "Exercising option in respect of employees who completed 26 years of service for one fixation of pay and less than 26 years of service for two fixations of pay, one in ^{intermediate} ~~intermediate~~ grade and another in next higher grade, is clearly in derogation of the nature and logic of the scheme and is liable to be quashed and set aside". The following portion of the Judgment is very relevant, which is reproduced below:-

"However, there appears to be substance in the contention of the applicant that the

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10. We fully agree with the views expressed by the Bombay Bench of this Tribunal. Hence, the pay of the applicant if he had completed 26 years of service on the date of introduction of the scheme ^{in the} ~~and his~~ lower scale of Postal Assistant i.e., Rs. 950-1500/- ⁹⁷⁵⁻¹¹⁶⁰, his pay in the ~~scale of~~ higher scale of HSG-II i.e., in the scale of Rs. 1,600-2660/-, should be fixed first fixing his pay in the scale of Rs. 1400-2300/- and then ⁱⁿ the higher scale of Rs. 1600-2660/-. The pay fixation as done above should be intimated to the applicant. No recovery should be made, if contemplated in this connection, and ^{recovery} ~~fixation~~ if required should be done only after the pay fixation chart is finally shown ^{about} to the applicant. If any arrears ^{arising} ~~arising~~ out of the ^{about} fixation, the same should also be paid to him.

Time for compliance is three months from the date of receipt of a copy of this Order.

11. The OA is disposed of. No costs.

प्रमाणित प्रति
(CERTIFIED TRUE COPY)

क्रमा संख्या
CASE NUMBER OA 1420/97
निर्णय तिथि
DATE OF 10.3.99
प्रति तारीख
16.3.99
COPY II

सचिव, न्यायपालिका
Secretary, Court Officer
केन्द्रीय प्रशासनिक न्यायाधिकरण
Central Administrative Tribunal
हैदराबाद न्यायपीठ
HYDERABAD BENCH.

Reg. Petition for extension of time

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH : AT HYDERABAD

M.A. No. of 1999

In

O.A. No. 1420 of 1997

Between :

Union of India

Rep. by

The Director-General,
Department of Posts,
New Delhi & another

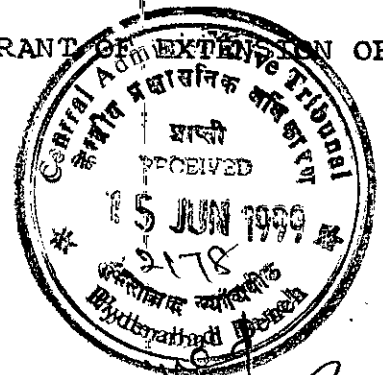
.. Applicants/Respondents

And

T. Ramulu .. Respondent/Applicant

AFFIDAVIT FOR GRANT OF EXTENSION OF TIME

Filed on :



Copy received
B. Narasimha Sharma
15-6-99

Filed by : B. Narasimha Sharma,
Sr. C.G.S.C.

May be filed
as
23/6/99.

1/7/99

for Mr. B.N. Sharma

Mr. MC Jacob for the

applicant and Mr. D. Subrahmanyam

for Mr. KSR. Anjaneyulu, for

the respondents.

Time is given up to

10/9/99.

HA is disposed of.

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HBSTP
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RECEIVED/POSTAL

RECEIVED

RECEIVED/BENCH CASE

M.A. No. 468 OF 1998

IN

O.A. NO. 1420 1997

ORIGINAL

Extending time

Mr.

COUNSEL FOR THE APPLICANTS

AND

Mr. B. N. Sharma

Sr. Addl. Standing Coun
C.G. Rlys.

Mr. K. Anjaneyulu
Advocate