

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH

AT HYDERABAD

O.A.1526/97.

Dt. of Decision : 05-01-99.

K.Narasimha

.. Applicant.

Vs

1. The Union of India, rep. by
its Chief Postmaster General,
A.P. Hyderabad.

2. The Director of Accounts (Postal),
A.P. Circle, Hyderabad.

.. Respondents.

Counsel for the applicant : Mr.K.K.Chakravathy

Counsel for the respondents : Mr.V.Rajeswara Rao, Addl.CGSC.

CORAM:-

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

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

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ORDER

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

Heard Mr.K.K.Chakravarthy, learned counsel for the applicant and Mr.V.Rajeswara Rao, learned counsel for the respondents.

2. The applicant was working as Sorter in the Office of the Director of Accounts, Andhra Circle, Hyderabad, Postal Department and he was promoted on 12-4-89 as LDC. The increment which was held-up from 1-4-90 on account of his not passing the type test was ordered to be revised as per the directions of this Tribunal in OA.837/94 decided on 25-1-96. Accordingly, the Director of Accounts (Postal) fixed the pay of the applicant at Rs.1070/- on 12-4-89 and his next increment w.e.f., 1-4-90 at Rs.1090/- in the scale of pay of Rs.950-1500/-.

3. The applicant submits that his pay as on 1-4-94 should have been fixed at Rs.1175/-, by taking into account the increments drawn from 1-4-90. The applicant submits his pay as on 1-4-94 was to be fixed after crossing the EB. But the office order was issued on 23-5-96 fixing his pay on at Rs.1070/- w.e.f., 12-4-89 and next date of increment being 1-4-90 was fixed at Rs.1090/-. Hence the applicant submits that he was to cross the EB from 1150 to Rs.1175/- on 1-4-94. But it was not considered and fixed.

4. The 2nd respondent passed an order No.C-82/A&M/I/EA-II/Disc.K.N./III. dated 31-3-95 imposing a penalty of reduction of pay by one stage from Rs.1070/- to 1050/- in the pay scale of Rs.950-1500/- for a period of two years without

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cumulative effect w.e.f., the date of issue of the order. He submits that the irregularity was committed by the 2nd respondent in his proceedings that the applicant had not crossed the EB in the year 1994 and his pay ought to have been fixed at Rs.1175/-. But the 2nd respondent without being so, imposed the punishment at a later stage and issued the revised order dated 5-11-96.

5. Against the order dated 30-11-96 the applicant submitted a representation and prayed for reduction of his pay from 1175/- to 1150/- instead of Rs.1150/- to Rs.1130/-, and that his pay as on 31-3-95 should have been Rs.1175/- and not Rs.1150/-. A reply was issued stating that he was not permitted to cross EB at the stage of Rs.1150/- to Rs.1175/- as such it was rejected.

6. The applicant submits that there was no embargo in permitting the applicant to cross the EB from 1-4-94 and no order under FR 25 was communicated and no opportunity was given. On 29-4-97 the applicant submitted another representation for reconsidering his case and to release all the increments by refixing his normal pay at Rs.1250/-. But the same was also rejected by order dated 14-5-97.

7. The applicant has filed this OA to declare that the action of the respondents in reducing the pay of the applicant from Rs.1150/- to 1130/- in the time scale of Rs.950-1500/- for a period of 2 years without cumulative effect w.e.f., 31-3-94 basing the order dated 5-11-96 and also by the orders dt. 14-5-97 and 16-12-96 as arbitrary, illegal and contrary to the rule and for a consequential direction to the respondents to fix the pay of the applicant at Rs.1175/- duly allowing him

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EB w.e.f., 1-4-94 by revising the orders dated 5-11-96 by granting the consequential relief of arrears of pay and allowances.

8. The respondents admit in the reply that the applicant was fixed at the stage of Rs.1150/- as on 1-4-93 in the scale of pay of Rs.950-1500/-. The applicant due for increment as on 1-4-94 raising his pay to Rs.1175/-. But he was to cross the EB for getting the ^{said} increment on 1-4-94. The respondents have stated that the DPC had not decided his case for granting him the increment as on 1-4-94. Hence he was not given. It is further added that as the charge sheet was pending the applicant was not considered for crossing the EB.

9. Mere fact that the charge sheet was pending is not a ground for not examining the case of the applicant for crossing the EB. Hence, his case has to be examined for crossing the EB as on 1-4-94 on the basis of the service records available ^{with} the respondents as on 1-4-94 and if he is found fit for crossing the EB he should be granted the increment and fix his pay at the stage of Rs.1175/- as on 1-4-94.

10. The applicant was issued with a penalty of reduction of his pay by one stage of Rs.1070/- then drawing at Rs.1050/- in the scale of pay of Rs.950-1500/- for a period of 2 years without cumulative effect as per order dated 31-3-95. This reduction of one stage will be on the basis of his fixation of pay as on 1-4-94 after examining him for crossing EB.

11. The subsequent order of the respondent bearing No.C-82/Admn.I/EA.II/Disc/KN/93/700 dated 5-11-96 (Annexure-I) should also be decided on the basis of fixing his pay as on 1-4-94 after examining him whether he is fit to cross EB or not.


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12. The whole issue of granting him the penalty as envisaged in the order dated 31-3-95 and revised by order dated 5-11-96 is to be done after fixing his pay as on 1-4-94.

13. The respondents are directed to issue a revised punishment order as necessary in accordance with the rules on the basis of the fixation of pay in the scale of pay of Rs.950-1500/- as on 1-4-94. The applicant is entitled for arrears, if any, on that basis and the respondents also are entitled to recover any amount if necessary on the basis of the above orders.


14. Time for compliance is 3 months from the date of receipt of a copy of this order.

15. The OA is ordered accordingly. No costs.


(E.S. JAI PARAMESHWAR)
MEMBER (JUDL.)
5.1.99


(R. RANGARAJAN)
MEMBER (ADMN.)

Dated : The 5th January, 1999.
(Dictated in the Open Court)


11-1-99

SPR

25/1/99
1ST AND 2ND COURT

COPY TO:-

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

TYPED BY _____ CHECKED BY _____
 COMPARED BY _____ APPROVED BY _____
 IN 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: 5-01-99

ORDER/ JUDGMENT

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

In

O.A. NO. 1526(97)

ADMITTED AND INTERIM DIRECTIONS ISSUED
 ALLOWED

DISPOSED OF WITH DIRECTIONS

DISMISSED

DISMISSED AS WITHDRAWN

ORDERED/ REJECTED

NO ORDER AS TO COSTS

(7 copies)

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 केन्द्रीय प्रशासनिक अधिकरण
 Central Administrative Tribunal
 प्रेषण / DESPATCH
 18 JAN 1999
 हैदराबाद ब्याचपीठ
 HYDERABAD BENCH