

35

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL ; HYDERABAD BENCH
AT HYDERABAD

ORIGINAL APPLICATION NO.61/99

DATE OF ORDER : 4-1-2000

Between :-

B.Rama Rao

..Applicant

And

1. The Director General,
E.S.I. Corporation, Kotla Road,
New Delhi.
2. The Regional Director,
Employees State Insurance Corpn.,
Regional Office, A.P., Hill Fort Road,
Hyderabad-483.

..Respondents

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Counsel for the Applicant : Shri P.Kishore Rao

Counsel for the Respondents : Shri N.R.Devaraj, Addl.CGSC

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CORAM:

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

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

(Order per Hon'ble Shri R.Rangarajan, Member (A)).

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(Order per Hon'ble Shri R.Rangarajan, Member (A)).

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Heard Sri P.Naveen Rao for Sri P.Kishore Rao, learned counsel for the applicant and Sri N.R.Devaraj, learned Standing Counsel for the Respondents.

2. The applicant in this OA was promoted regularly as UDC with effect from 1.5.1984. He was further promoted as Assistant with effect from 27.11.1995. As on 1.10.1990 the basic pay of the applicant ^{was} is Rs.1380/-, ^{the rank} as against ~~that~~ pay of the applicant his junior one Sri KVR Prasad who was recruited in the year 1980 in a separate selection was promoted on officiating basis to the cadre of UDC on 15.10.1982. He was regularly promoted to UDC cadre with effect from 22.10.1984. He was further promoted as Assistant initially on adhoc basis with effect from 1.8.1994 and regularized with effect from 18.12.1995, later than the applicant herein. The pay of Sri KVR Prasad as on 1.10.1990 ^{was} fixed at Rs.1410/-.

3. The applicant submitted representation for stepping up of his pay on par with Sri KVR Prasad, Assistant which was replied by impugned letter No.52/A/20/11/779/95 Estt I dated 18.12.1998 (Annexure-V page-14 to the OA) rejecting his case.

4. This OA is filed to set aside the impugned order dated 18.12.1998 and for a consequential direction to the Respondents to step up his pay on par with his junior Sri KVR Prasad with all consequential benefits.



37

5. A reply has been filed in this OA. In the reply it is admitted that Sri KVR Prasad is junior to the applicant and that his junior was fixed at Rs.1260/- as UDC as on 1.1.1986 and his next date of increment as 1.10.1986. The applicant is aware that his junior was drawing more pay and also aware of the fact ^{that the} ~~and~~ anomaly was due to adhoc service in the cadre of UDC and therefore the anomaly has not arisen as a result of FR 22(C). The Respondents also submits that this is also in the knowledge of the applicant right from the fixation of pay in the IV Pay Commission scales.

6. Based on the above submissions, the Respondents submit that the stepping up of the pay of the applicant cannot be given.

7. The provisions of stepping up of pay under FR 22(c) ^{has been} discussed by the Apex Court in the case of Swamynathan Vs. Union of India (1997SCC(L&S)1842). It was held in that case that under the circumstances where a junior is drawing more than senior due to adhoc officiation, the same will not come under FR 22 (c) fixation. That judgement in the Swamynathan's case squarely applies in this case also. In view of the above, the OA is liable only to be dismissed and accordingly it is dismissed. No order as to costs.


(R.RANGARAJAN)

MEMBER(A)


(D.H.NASIR)

VICE-CHAIRMAN

DATED: 4TH January, 2000.

AVL/

dictated in open court.

