

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL:HYDERABAD BENCH

AT HYDERABAD

O.A.No.1278/99Date of Order:7.4.2000

BETWEEN :

C.Y.Narayana

..Applicant.

AND

1. Union of India, Rep. by Secretary,
Ministry of Defence, Govt. of India,
New Delhi.

2. Engineer-in-Chief,
Army Headquarters,
DHQ, PO, New Delhi.

3. Central Record Office (Off),
C/o.Chief Engineer, Delhi,
Delhi Cantt, Delhi.

4. Garrison Engineer,
(Air Force), A F Station,
Hakimpet, Secunderabad.

..Respondents.

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Counsel for the Applicant

..Mr.K~~IN~~.J.Bose

Counsel for the Respondents

..Mr.V.Vinod Kumar

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CORAM :

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

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

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O R D E R

)((As per Hon'Ble Shri R.Rangarajan, Member(Admn.)))(

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Mr.K~~IN~~.J.Bose, learned counsel for the applicant
and Mr.V.Vinod Kumar, learned standing counsel for the
respondents.



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2. The applicant in this OA while working as BS Gr-I was posted as Senior BS Gr-I w.e.f. 19.11.94. At that time the applicant submits that his pay was not fixed under FR 22 (c)/FR 22(I)(a)(1). Subsequently the applicant was promoted as BSO w.e.f. 12.1.98. At that time the Vth Central Pay Commission came into force and the scales of pay of BS Gr-I and BSO were merged. The applicant submits that when he is promoted as BSO his pay should be fixed under FR 22(c)/FR 22(I)(a)(1). It is stated that the respondents refused to grant him pay fixation as above as the scale of pay of BS Gr-I and BSO have been merged ^{as} in the same scale of pay.

3. This OA is filed praying for a direction to fix his pay in the identical scale of Rs.6500-10500 w.e.f. 1.2.98 as he has opted for a new pay after accrual of increment, thus the basic pay as on 1.2.98 should be Rs.7900/- and increased to Rs.8100/- by adding an increment. The pay had to be in the next higher stage of Rs.8300/- as on 1.2.98 with date of next increment 1.2.99.

4. By the above relief sought by the applicant, it ^{would} mean ^{BSO} that the applicant when posted as ~~BS Gr-I~~ even though it is in the same scale of pay of ^{BS-Gr I} ~~BSO~~ as both the grades are merged he requests for fixation of pay under Rule FR 22(c)/FR 22(I)(a)(1). The applicant contended that even when he was promoted as ^{BS-Gr I} ~~BSO~~ on 12.1.98 from the lower post of BS ~~Gr-I~~ he was not

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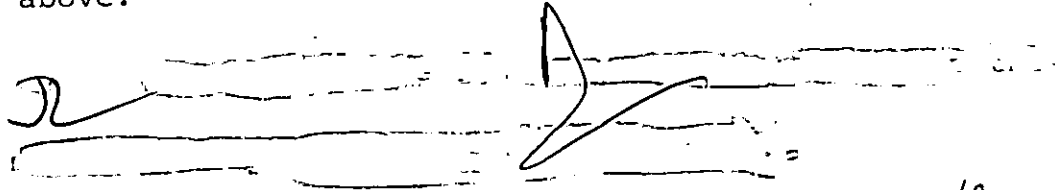
[Signature]

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given the pay fixation in accordance with FR 22(c)/FR 22(I)(a)(1). As that was not done he should be given the pay fixation.


5. The applicant failed to take suitable action if he was aggrieved by his nonfixation of pay as per FR 22(c)/ FR22(I)(a)(1) when he has promoted from BS Gr-I to BS Gr-I selection post. At this late juncture no relief can be given to him in that connection.

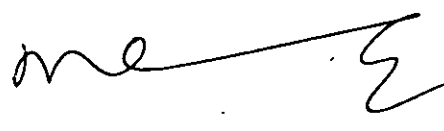
6. When the posts of BS Gr-I and BSO were merged in view of the Vth Central Pay Commission, the scales of both the posts are same. The Apex Court in the case of Union of India and others vs. A.K.Bannerjee (reported in 1998 (5) SCC 242) had laid down ~~the~~ 2 conditions for fixation of pay under Rule FR 22 (I)(a)(1) namely (1) the employee should shoulder higher responsibility, and (2) the promotion cadre shall be in the higher scale compared to the lower scale from which an employee was promoted. We do not want to express any opinion whether ~~though~~ the applicant is holding higher responsibilities when posted as BSO. But it is a fact that the scales of pay of both the posts are one and the same. We feel that the applicant cannot get the fixation of pay when posted as BSO following FR 22(c)/FR 22(I)(a)(1) in view of non-fulfilment of condition (2) as indicated above.



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7. In view of the above, we find no merit in this
OA and the OA is dismissed. No costs.


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


(R. RANGARAJAN)
Member (Admn.)

Dated : 7th April, 2000

(Dictated in Open Court)


13/4/00

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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL HYDERABAD BENCH. HYDERABAD

1ST AND 2ND COURT

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APPROVED BY

COPY TO:

1. ROHND
2. HRRN(ADMN) MEMBER
3. HBSJA(JUDL) MEMBER
4. D.R. (ADMN)
5. SPARE
6. ADVOCATE
7. STANDING COUNSEL

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

THE HON'BLE MR. R. RANGARAJAN
MEMBER (ADMN)

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

DATE OF ORDER 7/4/2000

MA/BA/CP.NO.

IN

CA.NO. 1278/99

(8 copies)

ADMITTED AND INTERIM DIRECTIONS
ISSUED

ALLOWED

C.P. CLOSED

R.A. CLOSED

DISPOSED OF WITH DIRECTIONS

DISMISSED

DISMISSED AS WITHDRAWN

ORDER/REJECTED

NO ORDER AS TO COSTS

केन्द्रीय प्रशासनिक अधिकरण
Central Administrative Tribunal
हैदराबाद बेंच
HYDERABAD BENCH

27 APR 2000

Despatch
आप
अपपेल सेक्शन
APPEAL SECTION