

**IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH: HYDERABAD**

Original Application No. 1532 of 2013

Date of CAV: 21.08.2018

Date of Pronouncement: 04 .09.2018

Between:

P. Srinivas, S/o. Sri Venkata Rao,
Aged about 41 years, Occ: Assistant Audit Officer,
O/o. The Principal Accountant Genera
(General & Social Sector Audit)
Saifabad, Hyderabad.

... Applicant

And

1. The Comptroller and Auditor General of India,
No.9, Deendayal Upadhyaya Marg, New Delhi – 110124.
2. The Principal Accountant General (G&SSA),
Andhra Pradesh, Saifabad, Hyderabad – 500 004.
3. The Union of India, Rep. by the Secretary to Government,
Ministry of Finance, North Block, New Delhi.

... Respondents

Counsel for the Applicant ... Mr. E. Krishna Swamy, Advocate
Counsel for the Respondents ... Mrs. V. Vinod Kumar, Sr. CGSC

CORAM:

Hon'ble Mr. B.V. Sudhakar ... ***Member (Admn.)***
Hon'ble Mr. Swarup Kumar Mishra ... ***Member (Judl.)***

ORDER

{As per Hon'ble Mr. B.V. Sudhakar, Member (Admn.) }

The OA has been filed questioning the impugned order of the 1st respondent numbered as No 957-staff(Entt.I)/112-2012 dt. 9.9.2013, dealing with advancement of increment.

2. The applicant while working as clerk in the office of Accountant General, Andhra Pradesh got promoted as Section officer in Dec 2003 in the pay scale Rs 6,500-10,500. Consequent to the implementation of 6th CPC, the posts of

Section Officer and that of Assistant Audit officer, for which Section Officer cadre was the feeder cadre, were merged with pre revised scale of pay Rs.7,500-12,000 w.e.f 1.1.2006. The corresponding Pay Band as per 6th CPC is PB-2 with Grade Pay of Rs.4,800.

3. Some juniors were promoted as Asst. Audit Officers and their pay was fixed as Rs.13,950 in pay band -2 with Grade pay of Rs.4,800. As this was higher than that of the applicant, his pay was also stepped up on par with that of the juniors w.e.f the date of promotion of the juniors ie 19.1.2006. Consequently, the date of next increment was postponed to 1.7.2007. On representing, the applicant was informed that since he got a pay hike on 19.1.2006 he will be ineligible to get the next one on 1.7.06 since six months and more have not lapsed from 19/1/06 to 1/7/06. This is the ground for grievance and hence the O.A.

4. Applicant claims that since his pay was fixed in the revised pay structure on 1.1.2006 and as his date of next increment falls between 1st July 2006 and 1st Jan 2007, he would be entitled for the 1st increment in the new pay structure on 1.7.2006. To support his argument the applicant claims that as per rule 3 (8) of the revised pay structure, basic pay is defined as pay band plus grade pay. The applicant opted for 6th CPC from 1.1.2006 and the pay was fixed in Pay band-2 with grade pay of Rs.4,800. Even after his pay was revised due to step up he remained in the same pay band and the same grade pay. The two conditions laid down under Rule 10 quoted above, namely being in the revised pay structure as on 1.1.2006 and the date of 1st increment after fixation in the revised pay

structure falling between 1/7/2006 & 1/1/2007, his demand for fixing next increment on 1/7/2006 is justifiable as per rule.

5. The respondents in their defence, state that after the merger of the posts of Section Officer and Asst. Audit Officer, the pay has been fixed as per note 2(a) and 2 (b) of rule 7 of CPC and following the 6th CPC resolution dt 29.8.08 notified by G.O.I. The pay of the applicant was accordingly fixed at the stage of Rs 12,840 in the pay band along with a grade pay of Rs 4800. Further, as per rule 5 of CCS (RP) rules 2008, the pay of officials who were promoted between 1.1.2006 and 29.8.08 was fixed with reference to the pre-revised upgraded pay scale of Rs.7.500-12.000 with Grade Pay of Rs.4,800 at the stage of Rs 13,950, after they exercised the revised option to opt for revised pay structure from the date of their promotion. As the pay of a junior to the applicant was fixed at the stage of Rs.13,950 in the applicable pay band as on 19.1.2006, his pay was also stepped up to the same stage on the said date. Consequent to such step up with effect from 19-01-2006, his next increment could not be granted on 1.7.2006, in accordance to Rule 10 of CCS (RP) 2008, which postulates that "employees completing six months and above in the revised pay structure will be eligible to be granted an increment ". His entitlement to the next increment will be only on 01-07-2007.

6. Heard the counsel who presented their line of arguments corresponding to their pleadings. The crux of the arguments of the applicant hinges on the assertion that as on 1.1.06 he continues to be in the revised pay structure implying no change in pay band and grade pay despite the step up vis-à-vis the junior. In addition, a time gap of 6 months lapsing from 1.1.06 would make his contention seeking next increment on 1.7.06 unquestionable. The basis of the

argument of the applicant flows from the fact that he is making a distinction between pay and pay structure. As per his version, though the pay has increased yet he stays rooted to the same pay band and to the very same grade pay which he had as on 1.1.06, before step up in relation to a junior. The respondent's counsel singular line of rebuttal is on grounds of non compliance of rule 10 of CCS (RP) 2008 though they laboured over many issues but the essence was abiding by the said rule.

7. An intrinsic study of the documents placed and associated details, it is seen that the applicant opted for revised pay scale w.e.f. 01-01-2006. Had the aspect of stepping up of pay at par with juniors not intervened as on 19-01-2006, the applicant's next increment would have been granted as on 01-07-2006. However, since the promotion of the junior came in between on 19-01-2006, which resulted in the junior to the applicant drawing more pay than the applicant, his pay had also been revised w.e.f. 19-01-2006. It is this situation that has shifted his next increment to 01-07-2007. That the applicant's pay structure has been there since 01-01-2006 has nothing to do with his increment when intermediately he had been afforded stepping up of pay.

8. Thus it is vivid that, if the junior were not to get a promotion, the applicant would not have had the scope to agitate before this tribunal by trying to describe in his own way that a pay hike within the pay band is no hike whatsoever. The hair splitting argument of the applicant that he continues to be in the same pay band and grade pay despite the increase in pay on 19.1.06, does not stand to reason. If such logic were to be applied then the sanctity of fixing a date for increment is defiled and the whole edifice of pay fixation will be open to

illogical reasoning. It is also not out of place to state that no organisation will reward its employee financially on two occasions, within a span of six months, unless there is some extraordinary contribution by the employee or some major policy shift which calls for disbursal of such a financial incentive. Here is a case where the demand is emerging by an unreasonable interpretation of the circumstances and giving a go by to the rule. Financial gain was there on 19.1.06 and that would suffice to wait for next increment due on 1.7.07.

9. Therefore the applicant's case fails and hence the O.A is dismissed with no order as to costs.

(SWARUP KUMAR MISHRA)
MEMBER (JUDL.)

(B.V. SUDHAKAR)
MEMBER (ADMN.)

Dated, the 4th day of September, 2018

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