

CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH
AT HYDERABAD

Original Application No.540 of 2013
Date of order : 07-02-2018

Between :

G.Vishnuvardhana Rao,
S/o G.Venkateswara Rao, Aged 65 years,
Occ: Tradesman-F (Technical Service Group)(Retired),
ISTRAC, Bangalore, R/o Flat No.201, Nagamalla Castle,
Road No.2, Krishnanagar Colony, Moulali, Hyderabad.Applicant

AND

The Union of India represented by

1. The Chairman,
Indian Space Research Organization/
Secretary, Department of Space,
Antariksha Bhavan, Bangalore.
2. The Director,
Indian Space Research Organization,
ISRO, Telemetry Tracking & Command Net Work,
ISTRAC, Department of Space, Government of India,
Bangalore. ...Respondents

Counsel for the Applicant : Mr. G. T. Gopal Rao
Counsel for the Respondents : Mr. V. Vinod Kumar, Sr. CGSC

CORAM :

THE HON'BLE MR.JUSTICE R.KANTHA RAO, JUDICIAL MEMBER

THE HON'BLE MRS. MINNIE MATHEW, ADMINISTRATIVE MEMBER

(Oral order per Hon'ble Mr.Justice R.Kantha Rao, Judicial Member)

Heard Mr.G.T.GopalRao, learned counsel appearing for the applicant
and Mr.V.VinodKumar, learned Senior Central Govt., Standing Counsel for
Respondents.

2. The applicant filed the OA to issue a direction to the Respondents to

restore his promotion to the post of Tradesman 'G' and subsequent promotions as Senior Technician-A, B & C with effect from 01.04.1998, 01.04.2002 and 01.04.2007 respectively as directed by the CAT in OA No.944/2000 which was upheld by the Hon'ble High Court in WP No.21066 of 2001, dated 28.07.2010.

3. The brief facts leading to the filing of this OA are the applicant joined the services of ISRO in the year 1971 as Tradesman 'B' . Subsequently on 15.01.1998 an order reverting him from Tradesman 'G' to Gradesman 'F ' Pursuant to a disciplinary enquiry held against him on the charge of unauthorised absence from duty was passed. The order is as follows :-

“That the applicant be reduced with immediate effect to the lower post of **Tradesman “F”** in the revised pay scale of Rs.5000-150-8000, starting at the stage of Rs.5600/- as basic pay, until he is found fit, after a period of three years from the date of this order, to be restored to the higher post of **Tradesman “G”** “.

4. While the said punishment was in force, the Director, ISTRAT, in exercise of their powers under Rule-56(j) of Fundamental Rules, retired him on 01.06.1999 with immediate effect. He challenged the said order by filing OA No.944 of 2000. The OA was allowed directing the Respondents to reinstate the applicant in to service within one month from the date of receipt of copy of the order with all consequential benefits.

5. Aggrieved by the said order, the Respondents filed WP No.21066 of 2001 before the Hon'ble High Court of Andhra Pradesh and the same was dismissed on the ground of devoid of merits vide order dated 28.07.2010. In

the meanwhile he applicant attained the age of superannuation on 31.10.2007 by which time the matter was pending before the Hon'ble High Court in the aforementioned Writ Petition. Pursuant to the orders passed in the Writ Petition, the Respondents paid all terminal benefits including the backwages till his date of superannuation in the cadre of Tradesman 'F'.

6. The grievance of the applicant is that if the Compulsory Retirement order dated 01.06.1999 passed in exercise of powers under clause (j) of Rule 56 of the Fundamental Rules had not been there, he would have completed the punishment period and further he would have earned further promotions by improving his performance.

7. On the above point, it is submitted by the learned counsel appearing for the applicant that since the order of Compulsory Retirement has been set aside by the Tribunal and the same has been upheld by the Hon'ble High Court, after completing the period under the penalty order, the applicant would have been restored to the higher post of Tradesman 'G' and therefrom would have earned further promotions.

8. On the otherhand, it is the contention of the learned Standing Counsel for the Respondents that the penalty order dated 15.01.1998 indicates that until he is found fit, he would not be restored to the higher post of Tradesman 'G'. Respondents considered the representations submitted by the applicant and basing on his service record, they found the applicant 'not fit for the higher post' and therefore he cannot contend in

the present case that he should have been promoted to Tradesman 'G' and that automatically would have acquired further promotions.

9. Having gone through the submissions made on either side, it appears that earlier to the disciplinary action initiated on the applicant, he earned some promotions and was working as Technician 'G' (Group-B post). In the interregnum period, according to the Respondents, his services were not satisfactory. Therefore it can be stated that but for the Compulsory Retirement under FR 56(j), applicant would have completed the punishment period and would have been restored to the post of Tradesman 'G'. The order of Compulsory Retirement, in our view, prevented him from improving his performance from 1999 onwards and therefore we do not wish to take the view that basing on the previous performance, he might not have restored to the higher post of Tradesman 'F'. Therefore, according to us, the Respondents ought to have reconsidered order of restoring him to Tradesman 'G' based on the order passed by the Hon'ble High Court in WP No.21066 of 2001 and Respondents ought to have restored the applicant in the post of Tradesman 'G' and not in Tradesman 'F'. With regard to the subsequent promotional posts of Senior Technical-A, B & C, since they are merit based and also there is no certainty for the applicant to get those future promotions, we are not inclined to pass an order enabling the applicant that he is entitled for future promotions.

10. For the forgoing reasons, the order No. ISTRAC/P&GA/Estt.1/200, dated 24.10.2011 is set aside. The Respondents are directed to restore the applicant to the post of Tradesman 'G' with effect from 15.01.2001 and pay

him the terminal benefits as if he was restored to Tradesman 'G' instead of Tradesman 'F'.

11. Consequently the Original Application is partly allowed. There shall be no order as to costs.

(MINNIE MATHEW)
ADMINISTRATIVE MEMBER

(R.KANTHA RAO)
JUDICIAL MEMBER

Dated : 7th February, 2018.
Dictated in Open Court.

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