

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

Original Application No.21/726/2014

Reserved on: 10.06.2019

Pronounced on: 11.06.2019

Between:

P. Sudershan Rao, S/o. P. Ramaiah,
Aged 68 years, H. No. 1-294,
Chaitanyapuri, Dilsukhnagar,
Hyderabad.

... Applicant

And

1. The Employees Provident Fund Organization,
Rep. by its Central Provident Fund Commissioner,
Bhavishyanaidhi Bhavan, 14-Bhikaji Cama Palace,
New Delhi.
2. The Regional Provident Fund Commissioner,
Employees Provident Fund Organization,
Andhra Pradesh Region,
Barkatpura, Hyderabad.
3. The Asst. Provident Fund Commissioner (Administration),
Employees Provident Fund Organization,
Region Office, Barkatpura, Hyderabad -27.

... Respondents

Counsel for the Applicant	...	Mr.M. Srinivasa Rao
Counsel for the Respondents	...	Mr.G. Jaya Prakash Babu, SC for EPFO

CORAM:

Hon'ble Mr. B.V. Sudhakar, Member (Admn.)

ORDER

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

The OA is filed contesting the fixation of pension for the applicant.

2. Applicant, who belongs to the 'SC' community, joined respondents organisation as LDC on 31.7.1968, got promoted as UDC in February 1973 and Head Clerk in October 1978. Thereafter, in October

1982 he was promoted as Enforcement Officer/AAO and drew 6 increments in the said cadre. Applicant was proceeded on disciplinary grounds and penalty of stoppage of an increment for a year vide orders dated 19.4.1988 was imposed on him, which, the applicant claims, has not been restored till the applicant retired on 30.06.2003. Due to an order of this Tribunal, seniority had to be revised leading to reversion of the applicant to the cadre of Head Clerk on 13.12.1988. However, on 4.2.1993 applicant was again promoted to the cadre of AAO and thereafter, he retired. Further, consequent to the implementation of the orders of Hon'ble Principal Bench of this Tribunal, services of the applicant were regularised w.e.f. 1.11.1994 vide orders dtd 28.1.2009 of the respondents. In view of the regularisation orders, applicant claims that, he has to be promoted as Asst. Provident Fund Commissioner (APFC) when vacancies are available and from a date when his junior has been promoted. Besides, paper promotion has to be given as per roster to the next level whenever he was considered for promotion in the past as per the date of regularisation. Applicant did file OA 226/96 questioning the reversion from Enforcement Officer/AAO to Head Clerk which was disposed directing the respondents to act as per directions in OA 986, 987 and 997/1995. Respondents, as per applicant, have not acted on the orders of the Tribunal. Applicant was prematurely retired without assigning reasons and that the 3 months pay to him in view of being prematurely retired has to be paid to him. Aggrieved over the inaction of the respondents in regard to the multiple grievances of the applicant, OA has been filed.

3. The contentions of the applicant are that respondents did not protect the pay of the applicant when he was reverted to the post of Head Clerk. Restoration of increment after the currency of the penalty has not been restored. Seniority of the applicant has not been revised despite orders of the Tribunal in OA 226/96. Promotion to the post of Asst. P.F. Commissioner was not granted, though eligible.

4. Respondents, in contrast, contend that the increment due consequent to the currency of the punishment being over has been restored. Pay of the official has been protected as per FR 22(1). No official junior to the applicant was promoted before the applicant retired and hence the claim of the applicant that he should be promoted as Asst. Provident Fund Commissioner is invalid. Besides, on being prematurely retired on administrative grounds, the amount due has been paid to the applicant. Amount due to the applicant has been made ready to be paid to the applicant but he refused to take the same despite being requested several times. Respondents have also mentioned that the applicant has been approaching the Tribunal on flimsy grounds too often and that the issues raised in the OA are more than two decades old, on which, he did not even represent to the competent authority.

5. Heard both the counsel and perused the documents including the written submissions made by the applicant.

6(I) There are multiple grievances of the applicant which have been raised in the OA. To begin, applicant claims that one increment which was withheld for a year vide respondent penalty proceedings

dt.19.04.1988 has not been restored. Respondents have submitted the copy of the Service Register and page No.16 of Volume II of the same clearly establishes that the increment has been restored. Therefore, applicant's submission that the increment has not been restored is incorrect.

(II) Based on order of the Tribunal, seniority has been revised and consequentially applicant was reverted as Head Clerk from the post of EO/AAO, in which position, applicant was working on an adhoc basis. On being reverted to the post of Head Clerk, the pay of the applicant in the said post was fixed as per FR 22 (1) by reckoning the numbers of years of service he has put in as AAO on adhoc basis. Respondents, thereby have followed the rule. As the applicant was working on adhoc basis as AAO, he cannot claim that the pay received in the higher post has to be protected. There is no rule which supports the claim of the applicant on this count.

(III) Further, based on the Hon'ble Principal Bench order, the services of the applicant were regularised on 01.11.1994, vide orders of the respondent dated 28.01.2009. Immediate junior to the applicant Mr.Kashmir Singh, who also belongs to the SC Community, was promoted as APFC on adhoc basis on 2.7.2009. Applicant retired on 30.06.2003. Hence his claim that he should have been promoted as Asst. P.F. Commissioner is untenable as his immediate junior was promoted only after his retirement.

(IV) The revision of seniority was as per of orders of this Tribunal in OA 491/1986, dt.13.10.1987. Respondents have abided by the same.

(V) Lastly, a sum of Rs.38,993/- has been drawn vide cheque No.339276 to be paid to the applicant on being prematurely retired. Respondents claim that the applicant refused to take the cheque. Through this OA applicant prays that the same may be handed over to him. Applicant is at liberty to go over to the respondents office and take the cheque whenever it is convenient to him, as the respondents have no objection to do so.

7. Thus, as can be seen from the above, respondents have fixed the pay as per rules in vogue. Hence the question of pension being paid after revision of pay as pleaded by the applicant does not arise. Therefore, based on the aforesaid, there is no merit to intercede on behalf of the applicant on any of the issues raised by him, that too, after lapse of more than two decades and hence, the OA is dismissed, with no order as to costs.

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

Dated, the 11th day of June, 2019

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