

THE HON'BLE SRI JUSTICE G. CHANDRAIAH

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AND

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THE HON'BLE SRI JUSTICE U. DURGA PRASAD RAO

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WRIT PETITION No. 23351 of 2004

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ORDER: (per Hon'ble Sri Justice G. Chandraiah)

This writ petition is filed aggrieved by the orders dated 01.07.2004 in O.A.No.775 of 2000 on the file of the Andhra Pradesh Administrative Tribunal, Hyderabad. The petitioner herein is the applicant in the O.A.

2. Brief facts of the case are as follows:

The petitioner/applicant was appointed as Forest Guard on 04.03.1993 and he reported to duty on 01.04.1993 and his services were regularised from 01.04.1993. He was put at Basic Pay of Rs.950/- in the Time Scale of Rs.950-30-1250-35-1670 as per Revised Pay Scales, 1986. With the advent of Revised Pay Scales, 1993, his Basic Pay was fixed at Rs.1535/- w.e.f 01.04.1993 in the Time Scale of Rs.1535-30-1625-40-1825-50-2075-60-2375-75-2750-90-2840.

The grievance of the applicant is that at the time when he was appointed and put in Basic Pay of Rs.950 in the Revised Pay Scales, 1986, he used to get Rs.950/- + Rs.100/- (interim relief) + Rs.789/- (Dearness Allowance) totalling to Rs.1,839/-. As Revised Pay Scales, 1993, came into force, the 1st respondent, instead of protecting his pay by fixing his Basic Pay at Rs.1,839/-, incorrectly fixed his Basic Pay at Rs.1,535/-, which is the lower limit in the Revised Pay Scales, 1993, and thus, the applicant is losing an amount of Rs.304/- per month from 01.04.1993.

It is also his grievance that though the Government has issued G.O.Ms.No.92, dated 12.03.1994, wherein the Government has modified Rule 6 of the Revised Pay Scales, 1993, to the effect that such of those government employees who were appointed on or after 01.07.1992 and are drawing higher pay in the old scales than their new pay as per the Revised Pay Scales, 1999, then the difference of pay shall be given as Personal Pay. The applicant states that though he made a representation to the 2nd respondent on 09.12.1998 based on which the 2nd respondent passed orders dated 05.08.1999 directing the 1st respondent to fix the pay of the applicant at Rs.1,839/- as per G.O.Ms.No.92, the 1st respondent has not fixed his pay at Rs.1,839/-, instead informed the applicant that his pay was correctly fixed at Rs.1,535/- and no modification was required in that aspect.

It is his further grievance that one Mr. C. Satyanarayana, Office Superintendent, is playing fraud and is misguiding the officers and not fixing his pay at Rs.1,839/- due to which the applicant is suffering monetary loss.

The 1st respondent filed counter stating that as per Revised Pay Scales, 1993, the financial benefit was given from 01.04.1993 and since the applicant joined service on 01.04.1993, his pay was fixed at the minimum of scale i.e. at the Basic Pay of Rs.1,535/-. It is also stated in the counter that as per G.O.Ms.92 dated 12.03.1994, if an employee joined service on or after 01.07.1992 and is drawing higher pay in the old scale than his new pay as per the Revised Pay Scales, 1999, then the difference of pay shall be given as Personal Pay and the increase in Dearness Allowance from time to time should be adjusted against the personal pay. It is further stated that the Government, while introducing Revised Pay

Scales, 1993 vide G.O.T.No.162 dated 25.05.1993, has reduced the time scale of pay of Forest Guards from Rs.950-1675 to Rs.820-1420 (in earlier Pay Scales, 1986) and accordingly the pay of the applicant in the Revised Pay Scales, 1993, was fixed at Rs.1,535/-. Further, as contemplated in G.O.Ms.No.92 dated 12.03.1994, the pay of the applicant was fixed at Rs.1,535/- (PP Rs.304) + DA Rs.76 + Rs.228 (PP) as prescribed in Rule 6(C) of G.O.P.No.162 dated 20.05.1993 vide DFO proceedings dated 18.11.98; and hence the applicant is not losing Rs.304/- per month as the said amount is given to him as Personal Pay. It is also stated that Mr. C. Satyanarayana is an Office Superintendent and is not a decision-making authority.

The Tribunal, after considering the material on record, dismissed the O.A., observing that initially in 1993, on the representation by certain employees for retrospective implementation of Revised Pay Scales, 1993, the Government has accepted the representation and implemented the same from the year 1992 due to which certain employees, who are on the verge of their retirement, were benefited to a certain extent than the new recruits, and obviously the applicant wanted to make an issue with regard to the date of coming into operation of new scales by virtue of amendment. The Government has also issued G.O.Ms.No.92 directing to fix the pay as per Revised Pay Scales, 1993 and if the pay in the old scale is more than the pay fixed in the new scale, to pay the difference amount as 'Personal Pay', which should be adjusted against future increases in Dearness Allowance.

3. Having heard both the learned counsel, the point that arises for consideration is whether the impugned order necessitates

interference of this Court under Article 226 of the Constitution of India.

4. There is no dispute with regard to the fact that the petitioner/applicant joined duty on 01.04.1993 and the monetary benefits consequent to Revised Pay Scales, 1993 were also to be given from 01.04.1993. Accordingly, the applicant, who was in the Basic Pay of Rs.950/- in the earlier pay scale, 1986, was put at Rs.1,535/- in the Revised Pay Scale, 1993. It is the contention of the applicant that at the time of implementation of Revised Pay Scales, 1993, he was drawing Rs.1,839/- in the old pay scale and hence his new Basic Pay should have been fixed at Rs.1,839/- and not at Rs.1,535/-. But the 1st respondent has fixed his pay at Rs.1,535/- instead of Rs.1,839/-. It is the contention of the learned counsel for the petitioner that some persons viz., N.K. Krishnudu, B. Eswaraiah and P. Sudhakar who were appointed as Forest Guards on 01.04.1993 along with the petitioner in the Time Scale of Rs.950-1670; and whose pay was initially fixed at Rs.1,535/- + Rs.304 PP in the Revised Pay Scales, 1993, and the said personal pay was absorbed in the annual increments, but later, on appeal, their pay was modified by the Divisional Forest Officer, Kurnool vide proceedings in Rc.No.1119/2003/H4 dated 27.02.2004 and the increments and the DA were sanctioned separately without touching the personal pay of Rs.304/- and it was absorbed only in Revised Pay Scales, 1999, whereas in the case of petitioner, it was absorbed from 01.04.1993 itself, thereby the petitioner suffered loss of personal pay from 1993 to 1999 along with one increment in Revised Pay Scales, 1999.

5. The contention raised by the petitioner before us is that his

case is similar to that of the aforesaid three persons; in the sense that all of them were appointed on the same day, in the same post and in the same scale, and hence his pay also should have been fixed on par with them. However, it is pertinent to note that though this contention was available to the petitioner when the matter was pending before the Tribunal, he did not choose to raise this contention before the Tribunal; and therefore, the Tribunal *prima facie* had no occasion to consider the alleged similarity of the case of applicant vis-à-vis the aforesaid persons and also as to why and in what circumstances the pay of the above mentioned three persons came to be fixed in a different manner from that of the petitioner. Hence, we do not see any reason to interfere with the impugned order and the writ petition is liable to be dismissed.

6. Accordingly, the writ petition is dismissed. However, the petitioner is given liberty to make a representation to the respondent authorities by referring to the abovesaid three persons in whose case the pay is said to have been fixed as per DFO, Kurnool, proceedings dated 27.02.2004, within a period of four weeks from the date of receipt of a copy of this order. On making such representation by the petitioner, the respondent authorities shall consider his case and pass appropriate orders within a period of two months from the date of receipt of representation of the petitioner. No costs. Miscellaneous petitions, if any pending, shall stand closed.

G. CHANDRAIAH, J

24th November, 2015

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THE HON'BLE SRI JUSTICE G. CHANDRAIAH

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