

CENTRAL ADMINISTRATIVE TRIBUNAL, PRINCIPAL BENCH

O.A. 1200 of 1996

New Delhi this the 28th day of August, 1997

HON'BLE MR. K. MUTHUKUMAR, MEMBER (A)

Shri Braham Singh
S/o Shri Singham Singh,
R/o C/o Shri Sant Lal, Advocate,
C-21(B) New Multan Nagar,
Delhi-110 056.

...Applicant

By Advocate Shri Sant Lal

VERSUS

The Union of India
through the Secretary,
Ministry of Communications,
Department of Telecommunications,
Sanchar Bhawan,
New Delhi-110 001.

...Respondents

None for the respondents.

ORDER (ORAL)

Hon'ble Mr. K. Muthukumar, Member (A)

The applicant suffered penalty of compulsory retirement following certain disciplinary proceedings initiated against him and he was compulsorily retired with effect from 17.9.1984. His appeal against the said order having failed, he filed an application in this Tribunal. His application was allowed and the punishment orders were quashed, and reinstatement was ordered. Consequent on the SLP filed by the respondents on the aforesaid judgment, the Apex Court stayed the operation of the order but, however, directed that the applicant be paid monthly salary with effect from 1.1.1989. The SLP was finally disposed of by remanding this matter to the Tribunal for reconsideration of the case in view of the

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Constitution Bench judgment in the case of Managing Director, ECIL, Hyderabad Vs. B. Karunakar, 1993 (6) JT 1 and the stay order was vacated leaving it open to the applicant to seek appropriate order in this behalf by the Tribunal when they ~~were~~ finally disposed of the matter. In pursuance of the above directions, the application was again considered by this Tribunal and the order was passed in O.A. 1174 of 1986 on 15.3.1994. The operative part of the order reads as follows:-

"14. The applicant shall be reinstated in service. However, he will not be paid any back wages. Whatever amount has been received by him from the respondents under the aforequoted order of the Hon'ble Supreme Court, shall not be recoverable from him. The seniority of the applicant shall be reckoned on the footing that he continued to be in service all along without any interruption."

2. The applicant was thereupon reinstated in service with effect from 13.1.1995.

3. Applicant, in the present application, prays that the respondents may be directed to make payment of salary, i.e., difference between the amount arrived at between the pre-revised pay and the revised pay with effect from 1.1.1989 to 12.1.1995 and also full salary from the date of receipt of the judgment dated 15.3.1994 upto the date of reinstatement reduced by the amount already paid to him.

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4. Despite notice, there is no appearance on behalf of the respondents. Since the matter involved is relatively a short one, I have heard the learned counsel for the applicant and also perused the reply of the respondents and the rejoinder.


5. While it is true that the entire litigation finally ended in the reinstatement of the applicant with effect from 13.1.1995, it has been made clear in the order as explained above that the applicant will not be paid any back wages and whatever has been received by him in pursuance of the directions of the Apex Court, shall not be recovered from him. The learned counsel for the applicant submits that the respondents should have paid the salary as per the revised scales given in pursuance of the directions given by the Supreme Court, but have paid him only on the pre-revised scales. Adding to this, they have also delayed reinstatement of the applicant till January, 1995 although the order in the O.A. for his reinstatement was passed on 15.3.1994. The learned counsel pleaded that despite reinstatement, the applicant had suffered unduly on account of the respondents' action in not paying him in the revised scales w.e.f. 1.1.1989 ^{and} although the applicant was entitled to immediate reinstatement as per the aforesaid order, respondents delayed his reinstatement also and only after he filed the Contempt Petition, he was reinstated and, therefore, the Contempt Petition was also disposed of.

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6. I have considered the plea of the learned counsels for the applicant. It has been unequivocally held in the aforesaid order finally passed by the Tribunal in O.A. 1174 of 1996 that the applicant is not to be paid any back wages. Therefore, the question of paying any back wages from the date he was compulsory retired to the date of reinstatement, whether in the pre-revised scale or in the revised scale does not arise. However, the direction has specifically protected his interest by not ordering the recovery of the amount already paid to him in view of the order of the Apex Court. Beyond this, the applicant cannot have any grievance. It is no doubt true that there has been delay in his reinstatement. It was, however, open to the applicant to agitate for his earlier reinstatement but he filed the Contempt Petition also after a period of six months and he was reinstated before the Contempt Petition was disposed of. However, there can be no interference in this matter further and in the light of the facts and circumstances of the case and the orders passed by this Tribunal in this case ordering his reinstatement, the reliefs claimed by him in this application cannot be allowed.

In view of the above, this O.A. is dismissed. No order as to costs.


(K. MUTHUKUMAR)
MEMBER (A)

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