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CENTRAL ADMINISTRATIVE TRIBUNAL, PRINCIPAL BENCH

OA No.44/96
MA-467/2000
MA-468/2000
MA-1168/2000

New Delhi this the 18th day of August, 2000.

Hon'ble Mr. Justice V. Rajagopal Reddy, Vice-Chairman (J)
Hon'ble ~~Shri~~ Govindan S. Tampi, Member (A)

Shri Sukh Lal, through LRs,
Harish Chandra,
R/o House No.326,
Kumarpur,
Bareilly (UP).

...Applicant

(By Advocates Sh. Pankaj Srivastava and Sh. R.S. Rawat,
proxy for Sh. Mahesh Srivastava)

-Versus-

1. The Chairman,
Railway Board,
Government of India,
Rail Bhawan,
New Delhi.

2. The General Manager,
North East Railway,
Gorakhpur (UP).

3. The Divisional Railway Manager,
North East Railway,
Izzatnagar,
Bareilly (UP).

...Respondents

(By Advocate Shri B.S. Jain)

O R D E R (ORAL)

By Justice V. Rajagopala Reddy:

Heard the learned counsel for the applicant and
the respondents.

2. MA-468/2000 is filed for condonation of delay
in filing the application for bringing the legal heirs on
record. In view of the facts and circumstances stated in
the MA, the delay is condoned and the MA is allowed.

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3. MA-467/2000 is for impleading the legal heirs of the deceased applicant in the OA. No objection was taken by the respondents to the impleadment of the applicant, son of the deceased, being legal heirs of the deceased applicant in the OA. MA is, therefore, allowed.

4. Consequently MA-1168/2000 for setting aside the abatement of the OA is allowed.

5. The deceased applicant was a Constable Driver in the Railways. He was dismissed from service alleging that he had participated in the loco running staff strike held in 1981, invoking Rule 14 (2) of the Railway Servants (Discipline and Appeal) Rules, 1968. Thereupon he approached the Allahabad Bench of the Central Administrative Tribunal, which, however, dismissed the OA by its order dated 18.9.91.

6. In a similar matter in Union of India and Others v. R. Reddappa and Another, 1994 (26) ATC 117, where a railway employee has been dismissed from service, he approached the Hon'ble Supreme Court and the Supreme Court, considering the facts and circumstances of the case and the circumstances which led to the loco running staff strike, issued the following directions:

"(i) Employees who were dismissed under Rule 14 (ii) for having participated in the Loco Staff strike of 1981 shall be restored to their respective post within a period of three months from today.

(ii) (a) Since more than three years have elapsed from the date the orders were found to be bad on merits by one of the tribunals it is just and fair to direct the appellant to pay the employees compensation equivalent to three years' salary inclusive of dearness allowance calculated on the scale of pay prevalent in the year the judgment was delivered, that is, in 1990.

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(b) This benefit shall be available even to those employees who have retired from service. In those cases where the employees are dead the compensation shall be paid to their dependents. The compensation shall be calculated on the scale prevalent three years immediately before the date of retirement or death."

7. The applicant had expired on 6.10.96. Thereafter the applicant has been impleaded as legal heirs after condoning the delay in filing the application for impleadment and setting aside abatement.

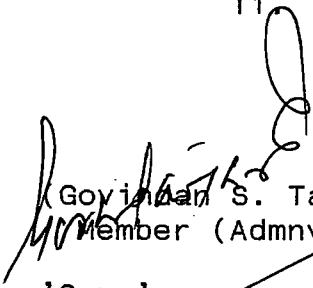
8. The learned counsel for the applicant (impleaded applicant) submits that in view of the directions issued by the Supreme Court since he is the legal heir of the deceased employee he is entitled to the benefit of the judgment of the Supreme Court in the above case.

9. The learned counsel for the respondents, however, vehemently contends that the judgement of the Supreme Court is not applicable to the applicant since the charge against the deceased applicant is entirely different as he was alleged to have paralysed the entire Loco, ^{movement} It should be noted that the strike was intended to paralyse the running of the loco. We have perused the charge against the deceased applicant. The only allegation against him was that he has participated in the strike which in fact paralysed the Railways. Though the OA filed by the applicant has been dismissed in 1991, in view of the directions given by the Supreme Court in the above judgement the present applicant is entitled for the benefit of the judgment of the Supreme Court.




10. The OA, therefore, succeeds. The respondents are directed to give the benefit of the judgement of the Supreme Court in Union of India & Others v. R. Reddappa and Another, 1994 (26) ATC 117 to the present applicant, legal heir of the deceased applicant, within a period of three months from the date of receipt of a copy of this order.

11. The O.A. is accordingly allowed. No costs.


(Gopinath S. Tampi)
Member (Admin)

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(V. Rajagopala Reddy)
Vice-Chairman (J)