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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH

O.A. No. 2508/92

Date: 25.3.94

New Delhi, dated the 2th March, 1994

Hon'ble Sh. N.V. Krishnan, Vice Chairman (A)
Hon'ble Sh. B.S. Hegde, Member (J)

Shri Ram Dularey Trolley-man,
son of Shri Kailash,
L-73, Railway Quarters,
4360, Himalton Road, Delhi

... Applicant

(By Advocate Sh. R.L. Sethi)

Versus

Union of India through

1. The Genl. Manager,
Northern Railway,
Baroda House, N/Delhi
2. The Divisional Rly Manager,
Northern Railway,
Bikaner.
3. The Divisional Engineer (MG)
Northern Railway, N/Delhi

.. Respondents

(By Advocate Sh. D.S. Mehendru, proxy counsel
for Sh. P.S. Mehendru)

ORDER (ORAL)

(Hon'ble Sh. N.V. Krishnan, Vice Chairman (A)

This application has been filed against
the impugned order Ann.A.1 dated 19.6.92 by which
the applicant was suspended with immediate effect
as disciplinary proceeding was contemplated/as stated
in para (1) of the OA. The applicant has made the
following prayers in para 8:-

pending against him

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- (i) take applicant back on duty and release
his salary and allowance from 14.5.81

in terms of judgment dated 26.10.91
in TA 159/1987 ;

- ii) restrained from taking action with regard to suspension or initiating disciplinary action with regard to the alleged incident of 1981 after the expiry of stipulated time in CAT judgment dated 25.10.91 in TA 159/89 which by now has assumed finality and

2. He has also prayed for the following interim

direction:-

" Pending final disposal of the O.A. Respondents be restrained and stay the operation of impugned order of suspension as manifestly applicant without being taken on duty in terms of judgment dated 25.10.1991 cannot be placed under suspension."

3. Respondents have filed a reply stating that in pursuance of judgment in TA No. 159/1987 delivered on 28.10.91, the applicant was taken back on duty on 17.8.1992. He was thereafter suspended by the impugned order dated 19.6.92(Ann.A.1). However, this order of suspension has since been revoked on 3.8.92 and the applicant again joined duty on 17.8.1992.

4. The judgment in TA 159/87 is at Ann.A.2 and para 7 reads as follows:-

" Consequently, we allow this T.A. and quash the order of removal from service of the plaintiff/applicant. The defendants/respondents shall be at liberty to conduct a departmental enquiry in accordance with the provisions of the Rules within a period of six months from the date of the receipt of a copy of this judgment. If no enquiry is concluded within this period or the applicant/plaintiff is found to have been exonerated, then he shall be entitled to all his pay salary and allowances if he was not gainfully employed elsewhere during the period the date of removal from service till the date of judgment."

we

5. As/found that the prayers made in para 8 are inconsistent with the Ann.A.1 order which is impugned, we directed the respondents to furnish further information. On this direction, the learned counsel for the respondents has filed a copy of a letter addressed him by the Respondents which stated that applicant has been paid full payment of Rs 331.75 for the period from 15.4.1981 to 14.5.1981 which is only the payment made in this regard. Learned counsel for the respondents contended that no prayer has been made in this O.A. for the proper implementation of the relief granted to him by the earlier judgment of this Tribunal (Ann.A.2) Therefore, the applicant cannot claim in this O.A. payments, even if due in accordance with that judgement.

6. We have carefully considered the matter.

7. Obviously, the cause of action in this case ^{arose} by the issue of the suspension (Ann.A.1). The prayers made in para 8 are, therefore, not consistent with this cause of action. These prayers could, perhaps, arise if the applicant was seeking implementation of the Ann.A.2 judgment.

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8. In the circumstances, we are of the view, that this O.A. can be disposed of at this stage with the following observations/ directions:-

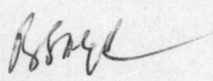
- (i) In so far as the impugned Ann.A.1 order dated 19.6.92 is concerned, as the respondents have already revoked the same from 3.8.92, this application has become infructuous and it, therefore, liable to be dismissed.
- (ii) The applicant has filed MA 2427/93 for direction to the respondents to release his suspension allowance. Ld.counsel for the applicant states that this is with reference to the period from 14.5.1981. In so far as the period from 14.5.81 is concerned we have already held in para 7 that any prayer connected with the Ann.A.2 judgment is inconsistent with the main cause of action in the case, which is the suspension from 19.6.92 (Ann.A.1) We only declare that the applicant is entitled to subsistence allowance consequent upon his suspension w.e.f. 19.6.92 till he was reinstated on 17.8.92 when he joined the duty after the suspension was revoked. If this amount is not already paid, the same be paid within one month from the date of receipt of this order. MA is disposed of accordingly.
- (iii) In so far as the prayers in para 8 are concerned, they do not arise out of the cause of action.
- (iv) OA is, therefore, dismissed with the above observation/ directions.

We make it clear that this order will not in

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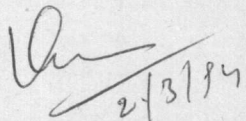
the stand of way of the applicant from
seeking any further relief , if so advised,
based on the Ann.A.2 judgment of this
Tribunal.



(B.S. Hegde)

Member(J)

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(N.V. Krishnan)

Vice Chairman(A)