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CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI

D.A. No. 1816/1993

New Delhi, This the 27th Day of September 1994

Hon'ble Shri P.T.Thiruvengadam, Member(A)

Shri Umesh Chandra Misra Ex-Assistant Station
Master, Bareilly S/o Late Shri R.G.Misra
aged 61 years R/o Katghar Garikhana Moradabad(U P)

..Applicant

By Applicant in person

Versus

1. Union of India through General Manager
Northern Railway, Baroda House, New Delhi.
2. Divisional Railway Manager, Northern Railway
Moradabad.

..Respondents

By Shri K K Patel, Advocate

O R D E R (Oral)

Hon'ble Shri P. T. Thiruvengadam, Member(A)

1. MA 1051/94 has been filed for condoning the delay in filing this OA. This MA is allowed.
2. MP 2413/93 has been filed for taking on record the order and judgement passed by this Tribunal in OA 2600/93 dated 27.12.93. This MP is also allowed.
3. The applicant was working as Asst Station Master at Bareily in the Northern Railway drawing at the relevant time basic salary of Rs.404/- in the pay scale of Rs.330-560/-. On 9.5.1974, he was arrested in connection with May 1974 Railway Strike. On 10.5.1974 he was dismissed from service without inquiry, on account of his arrest. However, on his acquittal by the Judicial Magistrate (Transport) on 11.9.1974, he was reinstated in service w.e.f. 3.10.1974. At the time of the reinstatement of service, the Divisional Supdt Moradabad after giving an interview to the applicant passed the following order of punishment in lieu of the dismissal from service, viz., (i)

reduction in pay to Rs.350/- in the grade of Rs.330-560/- (ii) stoppage of increment for three years; and (iii) the period from 7.5.1974 to 3.10.1974 to be treated as suspension.

3. The applicant preferred proceedings before the Payment of Wages Authority under section 15 of the payment of Wages Act, 1936 for recovery of his dues. The Authority allowed most of the claims and rejected some. The applicant as well as the Railways preferred appeals against the said decision before the District Judge, Moradabad. During the pendency of the appeals, Administrative Tribunals Act 1985 came into force and both the said appeals were transferred to the Central Administrative Tribunal, Allahabad Bench. The Tribunal allowed the appeal of the respondent-Railway and dismissed that of the applicant.

4. The applicant then filed a Civil Appeal No.4214-15 of 1992 before the Hon'ble Supreme Court against the orders of the Tribunal. The operative portion of the order passed by the Apex Court reads as under:-

"On the facts and circumstances of the case, therefore, we set aside the order of the Tribunal and direct the respondents to pay to the appellant the following amounts; subsistence allowance (i) from 20.11.1975 to 19.5.1975 at the rate of 50% of the salary and (ii) from 20.5.1976 to 17.2.1977 at the rate of 75% of the salary with interest on both the amounts thereon at the rate of 10% per annum from 26.9.1979 on which date the appellant had filed his claim before the payment of

wages Authority till the date of payment.

We further direct that the subsistence allowance be paid on the basis of the revised scale of salary, if any, which was prevalent and due to the appellant during the relevant period for which subsistence allowance is directed to be paid. We further direct that the payment be made to the appellant within six weeks from today."

5. This OA has been filed with the following prayers:-

(a) It is prayed that the decree of Rs.21,625.92 may be ordered to be paid to the applicant.

(b) That the interest at the rate of 20% per year be ordered to be paid from 26.9.79 the date of filing the claim before the Payment of Wages Authority.

6. During argument it was conceded by the applicant that as per the final orders of the Hon'ble Supreme Court rendered on 14.12.92 in the Civil Appeal filed by him payments have been made to the respondents. However, ^{is} it his contention that the Apex Court had not considered certain periods for which the Payment of Wages Authority allowed certain payment as per the decree passed.

7. On this, the learned counsel for the respondents ^{argued} that with the passing of the above order by Hon'ble Supreme Court all orders passed by the lower authority automatically got merged and the decree as such does not survive any more. I

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agree with the arguments advanced by the respondents.

8. The second relief claimed has already been covered by the orders of the Hon'ble Supreme Court and no modifications can be effected by this Tribunal. In the circumstances this OA is liable to be dismissed.

9. At this stage the applicant pleaded that certain payments due to him for the period 3.10.74 to 19.11.75 have not been made to him and this is the period which had not been gone into by the Hon'ble Supreme Court. Though this issue cannot be entertained at this stage still purely in the interest of justice the respondents are directed to check up whether the payment as due to the applicant for the said period has been made and if this has not been made arrangement for payment within a period of three months from the date of receipt of this order. The OA is disposed of on the above lines. No costs.

P. J. *[Signature]*

(P.T. THIRUVENGADAM)
Member (A)
27-9-94

LCP