

REGISTERED

• CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE BENCH

Commercial Complex (BDA)
Indiranagar
Bangalore - 560 038

Dated : 21 JUL 1988

CONTEMPT OF COURT APPLICATION NO.
IN APPLICATION NO. 281/86(T)
W.P. NO.

47 / 87

Applicant(s)

Shri Sriramulu
To

Respondent(s)

V/s The Divisional Railway Manager, South Central Rly,
Guntakal & 3 Ors

1. Shri Sriramulu
Shunting Jamedar/RC (Retd)
B-34, Railway Quarters
Raichur
2. Shri Basavaraj V. Sabarad
Advocate
No. 895, 16th Main
III Block
Rajajinagar
Bangalore - 560 010
3. The Divisional Railway Manager
South Central Railway
Guntakal
4. The Divisional Personnel Officer
South Central Railway
Guntakal

5. The Divisional Superintendent
South Central Railway
Guntakal
6. The General Manager
South Central Railway
Secunderabad (Andhra Pradesh)
7. Shri M. Sreerangaiah
Railway Advocate
3, S.P. Building, 10th Cross
Cubbonpet Main Road
Bangalore - 560 002

CENTRAL ADMINISTRATIVE TRIBUNAL: BANGALORE

DATED THIS THE 6TH DAY OF JULY, 1988.

PRESENT:

Hon'ble Mr. Justice K.S. Puttaswamy,

.. Vice-Chairman.

And:

Hon'ble Mr. L.H.A. Rego,

.. Member(A)

CONTEMPT OF COURT APPLICATION NUMBER 47 OF 1987

Sriramulu,
S/o Yankappa, Major,
Retired Shunting Jamedar/RC
Railway Quarter, No.B-34, Raichur.

.. Petitioner.

(By Sri Basavaraj V. Sabarad, Advocate)

v.

1. The Divisional Railway Manager,
South Central Railway,
Guntakal.
2. The Divisional Personnel Officer,
South Central Railway,
Guntakal.
3. The Divisional Superintendent,
South Central Railway,
Guntakal.
4. The General Manager,
South Central Railway,
Secundrabad.

.. Respondents.

(By Sri M. Sreerangaiah, Advocate)

This application having come up for hearing this day, Vice-Chairman made the following:

ORDER

This is a petition made by the petitioner under Section 17 of the Administrative Tribunals Act, 1985 ('AT Act') and the Contempt of Courts Act, 1971 ('CC Act').

2. As early as on 24-4-1945, the petitioner joined service in the Indian Railways and was working from that date in one or the other capacity at one or the other place. When he was working at Raichur Railway Station in a departmental proceeding, he was removed



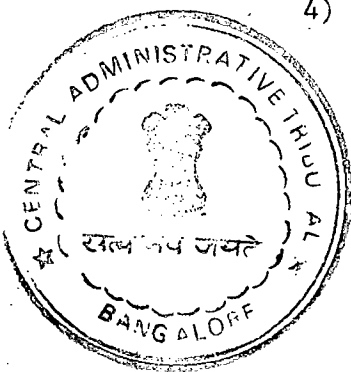
from service from 15-3-1976, which was affirmed in appeal and revision filed before the respective authorities, the validity of which was challenged by him before the High Court of Karnataka in Writ Petition No.6360 of 1980, which on transfer to this Tribunal was registered as Application No.281 of 1986 (T). On 28-11-1986, we disposed of the same modifying the punishment of removal from service to one of compulsory retirement from service with directions on the payment of rents and other incidental matters in these terms:

26. In the light of our above discussion, we make the following orders and directions:

- 1) We dismiss this application in so far as it challenges the orders of the disciplinary, appellate and revisional authorities holding him guilty of the charges levelled against him and the same, therefore, justified punishment under the Rules.
- 2) We allow this application in part, modify the punishment of removal imposed by the disciplinary authority and affirmed in appeal and revision, to one of compulsory retirement under the Rules and direct the respondents, to settle the pensionary and other terminal benefits due to the applicant thereto, under the relevant rules regulating them.
- 3) We permit the applicant to occupy the railway quarters which he is now occupying, till 31-12-1986 and hand over its possession to the competent officer on or before 31-12-1986.
- 4) We permit the respondents to deduct the entire amount of rental so far due from the applicant, towards the occupation of the railway quarters, from out of the arrears of pension and other terminal benefits payable to the applicant and only make payment of the balance due to him. We also permit the respondents to withhold the payment of arrears of pension and future pension and other terminal benefits due to the applicant till he vacates the railway quarters and hands over its possession to the competent officer and then only make payment of these dues.

27. Application is disposed of in the above terms. But, in the circumstances of the case, we direct the parties to bear their own costs.

The petitioner complains that the respondents have not extended the pensionary and other retiral benefits due to him in terms of this order and have wilfully disobeyed the same and therefore, they are liable to be dealt with under the CC Act.



3. In their reply, the respondents have asserted that the petitioner had not opted for the 'Pension Scheme' but was only entitled to payment of Compulsory Provident Fund (CPF) under which scheme he was only entitled to Rs.6121/- and the same had been paid to him on 19-1-1988. On these and other averments to be noticed and dealt in due course, the respondents contended that they had implemented the order made by us in letter and spirit.

4. Sri Basavaraj V.Sabarad, learned counsel for the petitioner contends, that in terms of the order made by this Tribunal, the respondents cannot plead and urge that the petitioner had not opted for the Pension Scheme and was only entitled to CPF and that deducting the rental due till 31-12-1986 were bound to settle pension and other retiral benefits due to him.

5. Sri M.Sreerangaiah, learned Railway Advocate appearing for respondents contends, that the order made by us must be read as only entitling the petitioner to CPF, and on that basis, the respondents were entitled to deduct penal rents, electricity charges and misappropriation amounting to Rs.2,411/- and in so doing they had complied with the order made by us.

6. In our Order, we have assumed and decided and also directed that the petitioner who had become a regular Government servant was entitled to payment of pension. We cannot at this stage permit the respondents to contend to the contrary. On this short ground, we should decline to examine the case of the respondents that the petitioner was only entitled to CPF and not pension.

7. Even otherwise, on the very peculiar facts and circumstances of the case, we should only hold that the petitioner had exercised the option to be governed by the 'Pension Scheme' on or before the stipulated dates. If that is so, then the respondents cannot deny



pension to the petitioner in terms of our earlier order.

8. On what we have expressed on the claim of the petitioner for pension, we should necessarily now direct the respondents to determine and compute the pension and other retiral benefits due to him as on 15-3-1986 and make payment thereof deducting the CPF of Rs.6,121/- paid to him in Court on 19-1-1988.

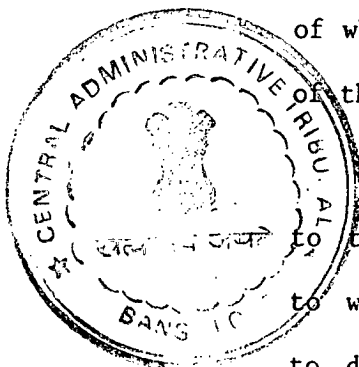
9. In our Order, we had permitted the petitioner to occupy the Railway Quarters till 31-12-1986 and in compliance of the same, he had handed over its possession earlier on 27-12-1986. On the very terms of our order, the petitioner is only liable to pay normal rent and the electricity charges till he vacated the quarters, which works out to Rs.5,241-75 and Rs.2,523-89 respectively. The respondents are, undoubtedly entitled to deduct these amounts from out of the arrears of pension and other terminal benefits payable to him.

10. In our Order, we have not permitted the recovery of Rs.2,411/- which had been misappropriated by the petitioner. In the absence of such a permission, it is not open to the respondents to recover the same, notwithstanding it was a misdemeanour on the basis of which only, there was a punishment. We see no merit in this claim of the respondents and we reject the same.

11. We are, however, satisfied that the respondents in holding to the contrary, were acting only bona fide and were not seeking to wilfully disobey our order. We, therefore, consider it proper to drop these proceedings granting reasonable time for compliance with our earlier order, as clarified herein.

12. In the light of our above discussion, we make the following orders and directions:

- i) We declare that the petitioner was entitled to the payment of pension as if he had exercised his option to 'Pension Scheme' before he retired from service.



- ii) We permit the respondents to determine and compute the pension and other retiral benefits due to the petitioner and make payment of those amounts deducting a sum of Rs.6,121-00 being the CPF contribution paid to the petitioner on 19-1-1988 in Court and a sum of Rs.5,241-75 towards the arrears of normal rent due for the period from 16-3-1976 to 27-12-1986 and a sum of Rs.2,523-89 towards electricity charges and not the sum of Rs.2,411/- misappropriated by him, with all such expedition as is possible in the circumstances of the case and in any event, within a period of three months from the date of receipt of this order.
- iii) But, in the meanwhile we drop these contempt of Court proceedings against the respondents with no order as to costs.

sd/-
VICE-CHAIRMAN.

sd/-
MEMBER (A)
6-7-88

kms/np-



TRUE COPY

[Signature]
DEPUTY REGISTRAR (JDL)
CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE