

CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE BENCH

Commercial Complex (BDA)
Indiranagar
Bangalore - 560 038

Dated : 30 JUN 1988

APPLICATION NO.

98

/ 88(F)

W.P. NO.

Applicant(s)

Shri C. Pillappa
To

Respondent(s)

V/s The Divisional Personnel Officer, Southern Rly,
Bangalore

1. Shri C. Pillappa
17B, I Main Road
Byrasandra
Jayanagar East
Bangalore - 560 011
2. Shri M. Raghavendra Achar
Advocate
1074-1075, Banashankari I Stage
Sreenivasanagar II Phase
Bangalore - 560 050
3. The Divisional Personnel Officer
Southern Railway
Bangalore Division
Bangalore - 23
4. Shri M. Sreerangaiah
Railway Advocate
3, S.P. Building, 10th Cross
Cubbonpet Main Road
Bangalore - 560 002

Subject : SENDING COPIES OF ORDER PASSED BY THE BENCH

Please find enclosed herewith the copy of ORDER/~~STAY/INTERIM ORDER~~
passed by this Tribunal in the above said application(s) on 24-6-88.

Encl : As above

DEPUTY REGISTRAR
(JUDICIAL)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE BENCH: BANGALORE

Dated the 24th day of June, 1988.

Present

THE HON'BLE SHRI L.H.A. REGO MEMBER(A)

THE HON'BLE SHRI CH.RAMAKRISHNA RAO:MEMBER(J)

APPLICATION NO. 98 OF 1988(F)

C.Pillappa S/o Chowdappa,
59 years, 178, I Main Road,
Byrasandra, Jayanagar East,
Bangalore-11.

.. Applicant

(By Sri M.R.Achar, Advocate for the applicant)

-vs.-

The Divisional Personnel Officer,
Southern Railways,
Bangalore Division,
Bangalore.

.. Respondent

(Sri M.Sreerangaiah, Counsel for Respt)

This application coming on for hearing this
day, the Hon'ble Shri L.H.A.REGO, Member(A), made
the following:

O r d e r

The applicant challenges herein, the impugned
Order dated 24-9-1987 (Annexure-C), of the respon-
dent, withdrawing retrospectively with cumulative

effect



effect, for a period of two years, his annual increment which had accrued to him, with effect from 1-4-1978 and prays, that the respondent be directed, to refix his pay as on 1-1-1987 at Rs.1,350/- p.m., without any reduction and grant him all increments due and other consequential relief.

2. Succinctly, the background to this case, in so far as it is relevant to the questions raised in this application, is as follows: The applicant entered service in the Southern Railways, as Khalasi on 5-12-1952. In course of time, he came to be promoted as Carpenter(Skilled), in which capacity he is seen to have ^{been} penalised by the respondent, by his Order dated 1/13-10-1977, for certain misconduct, by withholding his increments for a period of 2 years, from 1-4-1978, with the effect of postponing his future increments ^{but} for some reason or the other, this does not seem to have been given effect to, until 24-9-1987 i.e., barely a week prior to his superannuation. Before imposition of this penalty, he was drawing pay of Rs.308/- p.m. in the pre-revised pay scale of Rs.260-400, in the post of Carpenter(Skilled). In the meanwhile, the applicant came to be promoted as Carpenter (High Skilled) Gr.II, on 14-10-1983(Annexure-A) and thereafter, as Carpenter (High Skilled) Gr.I, on 10-4-1987 (Annexure-B). He was due to retire on superannuation on 30-9-1987. About a week prior to



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his retirement, the Department is seen to have discovered belatedly, nearly after a decade, that the penalty imposed on the applicant as above, in the post of Carpenter(Skilled) on 1/13-10-1977, was not given effect to. This omission was rectified by the respondent by his Memorandum dated 24-9-1987 (Annexure-C), as aforementioned.

3. The applicant states, that at the time of his retirement, in 1987, he was drawing pay of Rs.1,350/-p.m. as on 1-3-1987. He alleges, that this pay, was reduced by the respondent to Rs.1,290/-p.m. by his aforesaid memo dated 24-9-1987, without notice to him and this had a concomitant adverse effect on his pension. He says, that he had submitted a representation in the matter to the respondent, but to no avail and as a result, he has come to the portals of this Tribunal for redress.

4. Shri M.R.Achar, learned Counsel for the applicant, contended, that reduction of pay of the applicant, ^{he} was as above retrospectively, as long back as after nearly a decade, with adverse effect on his pension and without notice to him, inspite of the fact, that he had secured promotions successively, on 14-10-1983 and 10-4-1987 as Carpenter (High Skilled) Gr.II and Gr.I, was illegal and bad in law, being violative of the principles of natural justice. The very fact that the respondent, had granted him the benefit of two successive promotions after 1-4-1978

i.e.,



i.e., the date from which the punishment was imposed on him retrospectively, he argued, led to the inevitable inference that the punishment imposed by the respondent on his client, by his Order dated 24-9-1987 (Annexure-C), was condoned:

5. The next point urged by Shri Achar was, in regard to the bar of limitation. According to him, the respondent could not have reduced the pay of the applicant, with adverse effect on his pension, after the expiry of 3 years, from the date of imposition of the penalty, which period he said, expired long back on 13-10-1981. Taking all these factors into account, Shri Achar pleaded, that his client was justified, in claiming reliefs, as prayed for in his application.

6. The respondent has filed his reply resisting the application. Shri M.Sreerangaiah, learned Counsel for the respondent, refuting the above contention of Shri Achar, explained, that owing to inadvertence, the punishment imposed on the applicant in October 1977, remained to be given effect to, which fact he said, came to light, when the pension papers of the applicant, were being processed on the eve of his retirement. This inadvertent error, he said, was rectified by the respondent by his Memo dated 24-9-1987 (Annexure-C), no sooner than it came to notice. He



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asserted, that this was a plain and simple correction of a bona fide error, which had gone unnoticed. Such an error, he argued, could be corrected by administrative action, without notice to the applicant, as it did not attract the frown of Article 311 of the Constitution of India.

7. The plea of limitation raised by Shri Achar, he contended, was ill-founded, as the error was rectified well within the outer limit of 30 years, stipulated under Article 112 of the Limitation Act, 1963, as the period of limitation. In view of the above facts, Shri Sreerangaiah submitted, that the case of the applicant was devoid of merit, and deserved to be rejected.

8. We have bestowed due thought on the rival contentions and examined carefully the material placed before us. It is clearly manifest, from the entire episode, that the applicant is seeking to gain undue advantage of or rather capitalise, on the oversight of the respondent, in enforcing the punishment meted out to him, by the Order dated 1/13-10-1977. The applicant has not alleged that this punishment as on that date, was unjustified and that it was then imposed on him in violation of the principles of natural justice.

9. The plea of limitation raised by Shri Achar, has to be merely stated to be rejected, in terms of



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Article

Article 112 of the Limitation Act, 1963, which clearly permitted the respondent to rectify the administrative error, within a period of 30 years. We, therefore, negative this plea of Shri Achar.

10. As regards the other contention of Shri Achar, that the principles of natural justice were violated by the respondent, in imposing the punishment on his client, by his Order dated 24-9-1987 (Annexure-C) retrospectively, without notice, the ratio of the following two decisions of the then High Court⁴⁴ of Punjab and Haryana, with which we are respectfully in agreement, appear to be in point, the cases being analogous:

(i) 1970 SLR 59, SUNDER LAL AND OTHERS -vs.- STATE OF PUNJAB;

(ii) 1971 SLR 561, RANJIT SINGH -vs.-THE PRESIDENT OF INDIA & ORS.

11. In SUNDER LAL's case, the learned Judge observed as under, as is pertinent to the case before us:

"If owing to some bona fide mistake, the Government has taken a decision regarding the confirmation of an officer, it can certainly revise its decision at a subsequent stage when the mistake comes its notice. The mistake can be corrected and it cannot be said that it should be allowed to perpetuate even when the same is discovered. The

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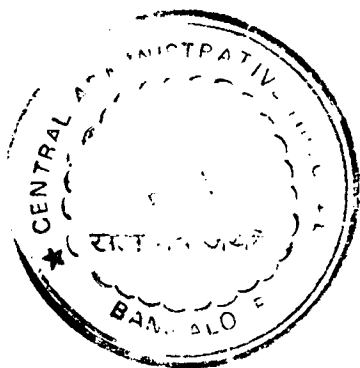


consequent reduction of the officer could not amount to reduction in rank and attract the applicability of Article 311 of the Constitution. Such a reduction is the necessary result of any routine administrative decision. It is only when an officer brings his case within the purview of Article 311 of the Constitution that he can attack the legality of any order passed by the Government, which might adversely affect his career in Government service. Such a case does not come within the four corners of Article 311 of the Constitution. In the instant case, the Government, after having misinterpreted the Rules, had given war service concessions to the petitioners. Subsequently, they realised their mistake and withdrew those benefits, with the result that the seniority of the petitioners was affected. The Government could correct the error and such a decision would not come within the ambit of Article 311 of the Constitution."

12. In RANJIT SINGH's case, the decision of the High Court, in so far as the matter is relevant to this case, is as under:

"The Constitution makers did not intend to give protection against any such consequences and the only protection given is when the case falls fairly and squarely within the ambit of Article 311, namely, when the public servant has been reverted

by



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by way of punishment. To invoke the principles of natural justice for giving protection to a Government servant against dismissal, removal or reduction in rank, in cases beyond those falling under Article 311, will be tantamount to introducing a new kind of protection not contemplated by the Constitution.

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Where an order was passed by the Government which was palpably an erroneous administrative decision which affected several senior officers, there was no rule of law which debarred a Government, while acting administratively, from remedying the wrong done by itself.

Every Administrative Authority has an inherent right to rectify its own mistakes unless there is some specific provision of law which prohibits such a course. An Officer holding an officiating post has no vested right to be heard or to urge that since he had obtained some benefit under a wrong decision made by a departmental authority, that decision be not rectified as it would result in the loss of that benefit to him."

13. It is clear from the ratio of the above two decisions of the then High Court of Punjab and Haryana, that the respondent in the case before us, was well within his right to rectify a palpably erroneous administrative decision, which did not

infringe



infringe on Article 311 of the Constitution, when that error came to his notice, though belatedly, but within the period of limitation. This is what he has precisely done in this case. The applicant is seen to have acquiesced in the punishment initially meted out to him, by the respondent, on 1/13-10-1977, but cryptically remained silent, when that punishment was not promptly given effect to. The net effect was, that the applicant drew the withheld annual increments, during the currency of the punishment (which had a cumulative effect) almost gratuitously and thereby derived the unintended benefit of interest, which the respondent has been gracious enough, not to recover from him. Thus, the applicant did not suffer dual punishment but on the contrary, the effect of the original punishment meted out to him in 1977, came to be deferred by nearly a decade and to an extent minimised, by allowing him the above unmerited benefit of interest.

14. What in effect, the respondent has done in this case, is that by his impugned order dated 24-9-1987 (Annexure-C), he has merely corrected a patent administrative error, though belatedly but within the period of limitation, but in that process, has not offended either the provisions of Article 311 of the Constitution, particularly the principles of natural justice or transgressed the bar of limitation for the reasons aforementioned.



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15. The plea of Shri Achar that grant of promotion to his client to the higher grade, twice successively, despite the punishment meted out to him, in 1977, but not given effect to, implied, that his client was subsequently absolved of that punishment, to say the least, is fatuous, against the above factual background.

16. In the light of the above facts and circumstances, it is apparent, that the application is bereft of any merit and is therefore liable to be dismissed. We, therefore, dismiss the same accordingly, but without order as to costs.



Sd/-

(L.H.A. REGO) 24.6.1988
MEMBER(A)

Sd/-

(CH. RAMAKRISHNA RAO)
MEMBER(J).

24.6.88

TRUE COPY

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

CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE BENCH
.....

Commercial Complex(BDA),
II Floor, Indiranagar,
Bangalore- 560 038.

Dated: 30 JUN 1988

To

1. Shri.Sanjeev Malhotra,
All India Services Law Journal,
Hakikat Nagar, Mal Road,
New Delhi- 110 009.
2. Administrative Tribunal Reporter,
Post Box No.1518,
Delhi- 110 006.
3. The Editor,
Administrative Tribunal Cases,
C/o.Eastern Book Co.,
34, Lal Bagh,
Lucknow- 226 001.
4. The Editor,
Administrative Tribunal Law Times,
5335, Jawahar Nagar,
(Kolhapur Road),
Delhi- 110 007.
5. M/s.All India Reporter,
Congressnagar,
Nagpur.

Sir,

I am directed to forward herewith a copy of the under mentioned order passed by a Bench of this Tribunal comprising of Hon'ble Mr. L. H. A. Rego Vice-Chairman/ Member(A) and Hon'ble Mr. Ch. Ramakrishna Rao Member(A) with a request for publication of the order in the journals.

Order dated 24-6-88 passed in A.Nos. 78/88(F).

Yours faithfully,

B.V. Venkata Reddy
(B.V.VENKATA REDDY)
DEPUTY REGISTRAR(J).

o/c

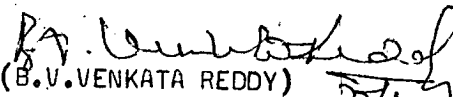
Produced
B. M. 192
30-6-88

Copy with enclosure forwarded for information to:

1. The Registrar, Central Administrative Tribunal, Principal Bench, Faridkot House, Copernicus Marg, New Delhi- 110 001.
2. The Registrar, Central Administrative Tribunal, Tamil Nadu Text Book Society Building, D.P.I.Compunds, Nungambakkam, Madras-600 006.
3. The Registrar, Central Administrative Tribunal, C.G.O.Complex, 234/4, AJC Bose Road, Nizem Palace, Calcutta- 700 020.
4. The Registrar, Central Administrative Tribunal, CGO Complex(CBD), 1st Floor, Near Kankon Bhavan, New Bombay- 400 614.
5. The Registrar, Central Administrative Tribunal, 23-A, Post Bag No. 013, Thorn Hill Road, Allahabad- 211 001.
6. The Registrar, Central Administrative Tribunal, S.C.O.102/103, Sector 34-A, Chandigarh.
7. The Registrar, Central Administrative Tribunal, Rajgarh Road, Off Shilong Road, Guwahati- 781 005.
8. The Registrar, Central Administrative Tribunal, Kandamkulathil Towers, 5th & 6th Floor, Opp.Maharaja College, M.G.Road, Ernakulam, Cochin-682001.
9. The Registrar, Central Administrative Tribunal, CARAVS Complex, 15 Civil Lines, Jabalpur-(MP).
10. The Registrar, Central Administrative Tribunal, 88-A B.M.Enterprises, Shri Krishna Nagar, Patna-1.
11. The Registrar, Central Administrative Tribunal, C/o.Rajasthan High Court, Jodhpur(Rajasthan).
12. The Registrar, Central Administrative Tribunal, New Insurance Building Complex, 6th Floor, Tilak Road, Hyderabad.
13. The Registrar, Central Administrative Tribunal, Navrangpura, Near Sardar Patel Colony, Usmanapura, Ahmedabad.
14. The Registrar, Central Administrative Tribunal, Dolamundai, Cuttak- 753 001.

Copy with enclosure also to:

1. Court Officer (Court I)
2. Court Officer (Court II)


(B.V.VENKATA REDDY)
DEPUTY REGISTRAR(J). 20/6/7

o/c

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE BENCH: BANGALORE

Dated the 24th day of June, 1988.

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THE HON'BLE SHRI CH.RAMAKRISHNA RAO:MEMBER(J)

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C.Pillappa S/o Chowdappa,
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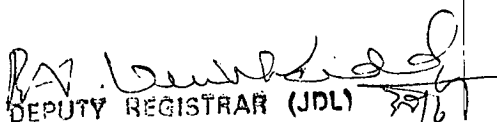
sd/-

(L.H.A. REGO) ^{24.6.1988}
MEMBER(A)

sd/-

(CH. RAMAKRISHNA RAO)
MEMBER(J). ^{24.6.88}

TRUE COPY


DEPUTY REGISTRAR (JDL)
CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE