

CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE

DATED THIS THE 1ST DAY OF JUNE, 1988

Present: { Hon'ble Shri Justice K.S. Puttaswamy, Vice-Chairman
and
{ Hon'ble Shri P. Srinivasan, Member (A)

CONTEMPT OF COURT APPLICATION NO. 17/1988

Shri C. Dharmapala Chetty,
Major, C/o Station Supdt,
Arasikere,
Hasean District.

... Petitioner.

(Shri T.N. Raghavaiah, Advocate)

v.

1. The Divisional Railway Manager,
Mysore Division,
Mysore.
2. Divisional Personnel Officer,
Southern Railway,
Mysore.
3. Station Superintendent,
Southern Railway,
Bangalore City.

... Contemnors.

(Shri A.N. Venugopal, Advocate)

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

O R D E R

In this petition made under Section 17 of the
Administrative Tribunals Act, 1985 and the Contempt of
Courts Act, 1971, the petitioner complains that the
respondents have not implemented the order made in his
favour on 5.9.1986 in A.No. 221/86.


2. In A.No.221/86, which was a transferred application,
the applicant had challenged an order of removal made on
12.10.1973 by the Divisional Personnel Officer, Southern
Railway, Mysore (DPO) which was contested by the respon-
dents.

3. On an examination of the claim, a Division Bench consisting of Shri L.H.A. Rego, Member (A) and Shri Ch. Ramakrishna Rao, Member (J), made an order in these terms:

"Taking all the facts and circumstances into account, we are satisfied that the penalty imposed on the applicant is unduly severe, viewed in the context of the charge levelled against him. The Supreme Court has laid down in BHAGAT RAM v. STATE OF HIMACHAL PRADESH (1983 (2)AISLJ page 323), that the penalty should be commensurate with the charge and applying the rationals of this decision to the present case, we consider that the ends of justice would be met if the order of removal from service is set aside and instead the following order is passed:

(1) That the applicant shall be reinstated in the post which he was holding at the time of his removal from service;

(2) that the seniority of the applicant shall be restored, but he is not entitled to claim any pay & allowances for the period from the date of his removal from service till he is reinstated; and



(3) that the pay of the applicant on reinstatement shall be fixed, deeming him to be in service for the entire period and drawn increments as and when they fell due.


(4) The order removing the applicant from service is accordingly set aside subject to the conditions imposed above. The applicant shall be reinstated into service within 15 days from the date of receipt of this order and the directions complied with within a month thereof.

(5) In the result, the application is allowed to the extent indicated above."

3. In pursuance of this order, the petitioner has been reinstated to service from 29.1.1987 as a Hamal. But the petitioner contends that he should have been reinstated to service as a Corridor Coach Attendant (CCA), the post he claims to have held on the date of his removal from service and for restoration of seniority in that very cadre.

4. In their reply, the respondents have asserted that the applicant was holding the post of Hamal only as on the date of his removal from service and therefore he had been rightly reinstated as Hamal and seniority due in that post had been restored to him.


5. Shri T.N. Raghavaiah, learned Counsel for the petitioner strenuously contends that the petitioner was holding the post of CCA as on the date of his removal from service, and therefore, he should have only been reinstated in that post only and not as Hamal.

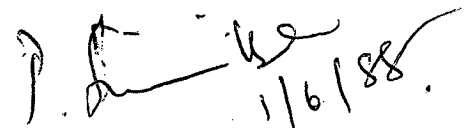


6. Shri A.N. Venugopal, learned Counsel for the respondents, refuting the contention of Shri Raghavaiah, contends that the applicant was holding the post of Hamal only as on the date of his removal from service as his claim to continue as a CCA had been negatived by the High Court of Karnataka in W.P. No.305 decided on 14.2.1975.

7. We have carefully examined the order made by this Tribunal, the records and the contentions made by both sides. We are satisfied that on the date of his removal, the applicant was holding the post of Hamal only and not the post of CCA. If that is so, then the reinstatement of the applicant as Hamal and restoration of seniority is in conformity with the order of this Tribunal. We find no merit in the contrary claim of the applicant.

8. On the foregoing discussion, we hold that these proceedings are liable to be dropped. We, therefore, drop these Contempt of Court proceedings with no order as to costs.


VICE-CHAIRMAN
17/6/88


MEMBER (A)
17/6/88

dms/Mrv.