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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD
BENCH : AT HYDERABAD :

O.A.No.485 of 1987.

Date of Judgment: 7-12-89.

S.Satyanarayana

...Applicant

Versus

The Chief Executive,
Department of Atomic Energy,
Nuclear Fuel Complex,
Hyderabad-500 762 & another

...Respondents

Counsel for the Applicant : Shri A.Gopal Reddy

Counsel for the Respondents : Shri N.Bhaskar Rao, Adv. C.C.S.C.

CORAM:

HONOURABLE SHRI D.SURYA RAO : MEMBER (JUDL) (I)

HONOURABLE SHRI R.BALA SUBRAMANIAN : MEMBER (A)

(Judgment of the Bench dictated by Hon'ble

The applicant herein is an employee of the Nuclear Fuel Complex, Hyderabad. This is a unit of the Department of Atomic Energy, Government of India. Charges were framed against the applicant for unauthorised absence on various dates. This resulted in his removal from service. This order of removal was confirmed by an appellate order dated 22-1-82. The matter was carried to the High Court of Andhra Pradesh by way of a writ petition No.1109 of 1982. The Hon'ble High Court by its judgment dated 8-8-84 set aside the ^{order of} removal of the applicant on the ground that no enquiry had been conducted. The matter was ^{recommended} recommended to the Chief Executive for enquiry afresh in accordance with the rules.

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Thereafter the applicant was restored to duty and an enquiry was conducted. On 28-1-87 the Disciplinary Authority passed an order directing that the applicant should be reduced in the rank from Tradesman-'C' to Tradesman-'B' for a period of two years. The order also reads that he should be reduced until he is found fit to be restored to the higher post of Tradesman-'C'. The order further makes it clear that the reduction in rank shall have the effect of postponing his future increments, that he will regain his original seniority on restoration in the grade of Tradesman-'C' and that he will draw a pay of Rs.1300/- in the scale of Rs.1150-25-1500 in the grade of Tradesman-'B' on reduction. This was followed by an order dated 21-7-87 regulating the pay of the applicant from time to time. This latter order shows that he was eligible to a salary of Rs.1410/- on 1-1-86 Rs.1440/- from 1-2-86 and Rs.1300/- from 28-1-87. The pay of Rs.1410/- and Rs.1440/- was fixed in the grade of Tradesman-'C' consequent on revision of pay scales from 1-1-86 and grant of one increment on 1-2-86 while his pay was fixed at Rs.1300/- from 28-1-87 due to the imposition of the penalty reducing him to the grade of Tradesman-'B' in the scale of Rs.1150-25-1500. The order dt.21-7-87 however contains the following further direction "Arrears payable on account of regulation of pay as indicated above may be adjusted against bonus amount already paid for the

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period from 10-12-80 and balance if any, may be recovered from his salary".

2. It is contended by the applicant in this application that fixation of pay at Rs.1300/- on 28-1-87 is contrary to the order of punishment imposed upon him. It is further contended, that the order dated 21-7-87 directing recovery of bonus which according to him is Rs.5,775-65ps. is arbitrary and illegal. He therefore sought a direction to quash the order dated 28-1-87 to the extent that it fixes his pay at Rs.1300/- from 28-1-87, to direct the respondent to fix his basic pay at Rs.1440/- on reduction to the lower grade, and to declare that the bonus for the period from 10-12-80 to 16-10-85 cannot be recovered.

3. Respondents have filed a counter denying the various claims made by the applicant. It is contended that fixation of pay in the lower grade has been validly done in accordance with the rules. So far as the recovery of the bonus is concerned, it is contended that the bonus is an incentive meant for the persons involved in raising the production. The applicant having not worked and not having contributed his mite for production, is not entitled to the incentive.

4. We have heard the learned counsel for the applicant Shri A.Gopal Reddy and Shri N.Bhaskar Rao, Additional Standing Counsel for the Central Government. The first question which arises for consideration is whether fixation of pay at Rs.1300/- in the category of Tradesman-B, consequent upon imposition of the punishment of reversion is illegal

contd.

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and whether the applicant is entitled to fixation of pay at Rs.1440/- which he was drawing prior to imposition of punishment even in the grade of Tradesman-'B'. Fundamental Rule 28 provides that the authority which orders the transfer of a government servant from higher grade to lower grade or post may allow him to draw any pay not exceeding the maximum of the lower grade of post which it may think proper. The applicant prior to imposition of punishment was drawing a pay of Rs.1440/- as Tradesman-'C' in the scale of Rs.1200-1800. Consequent upon the imposition of punishment, he has been brought down to the scale of Rs.1150-25-1500 in the category of Tradesman-'B'. In terms of the Fundamental Rule 28, the Disciplinary Authority was competent to fix his pay at the stage of Rs.1300/- in the scale of Rs.1150-25-1500. We therefore see no illegality in the orders of the Disciplinary Authority in fixing his pay at Rs.1300/-.

The contention that his pay ought to have been fixed at Rs.1440/-, i.e. the pay he was drawing as Tradesman-'C' is accordingly rejected.

5. The next question is the order dated 21-7-87 directing the recovery of his bonus which was already paid to the applicant from 10-12-80 is valid or not. Admittedly the applicant was not allowed to perform his duty from 10-12-80 due to an order of removal from service which was held by the High Court to be illegal. Consequent contd...5.

To

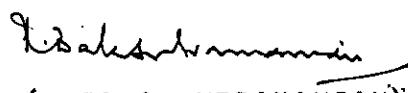
1. The Chief Executive, Department of Atomic Energy, Nuclear Fuel Complex, ECIL PO, Hyderabad-500762.
2. The Manager, Personnel and Admn., Nuclear Fuel Complex, Department of Atomic Energy, ECIL PO, Hyderabad-500762.
3. One copy to Mr.A.Gopal Reddy, Advocate, 3-3-42, Station road, Kachiguda, Hyderabad-500027.
4. One copy to Mr.N.Bhaskara Rao, Addl.CGSC, CAT, Hyderabad.
5. One spare copy.

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to the judgment of the High Court the applicant was restored to duty and given all benefits including arrears of salary. If he could be paid arrears of salary because he was illegally kept out of duty, there is no reason why the bonus due to him should be denied. It is clear that the bonus is sought to be denied because he was not on duty. As already stated supra, his absence was not due to his fault, but the fact that he ^{was} had kept away from duty by an order of removal which has been set aside. In the circumstances we are of the opinion that directing recovery of the bonus paid to the applicant for the period from 10-12-1980 onwards is illegal and to this extent the said order dated 21-7-87 is set aside. No recovery was in fact made due to an interim order dated 31-7-1987, passed by this Tribunal. Consequently the question of further recovery would not arise. The application is partly allowed to the extent indicated above. In the circumstances of the case there would be no order as to costs.

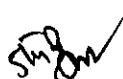

Member (J)


Member (A)

Dt. 7th December, 1989.
Dictated in open court


DEPUTY REGISTRAR (J)
M.P.T.O.

AVL.



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13/12/89*

Draft by: 412 Checked by: 412 Approved by
D.R.(J)

Typed by: 412 Compared by: ADM

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH.

HON'BLE MR. B.N. JAYASIMHA: (V.C.)
AND

HON'BLE MR. D. SURYA RAO: MEMBER (JUDL)
AND

HON'BLE MR. D.K. CHAKRAVORTY: MEMBER: (A)
AND

HON'BLE MR. J. NARASIMHA MURTHY: MEMBER (J)
Hon'BLE MR. R. BALASUBRA MANIAN
MEMBER (A)

DATED: 7.12.89

ORDER/JUDGMENT

M.A./R.A./C.A./No. _____ i.n.

T.A. No. _____ (W.P.No. _____)

O.A.No. 485187 ✓

Admitted and Interim directions
issued.

Allowed. ✓

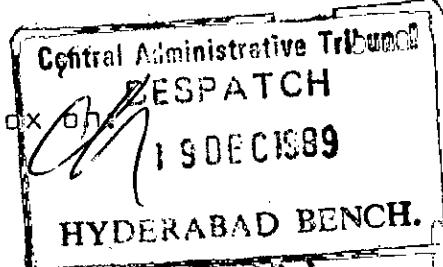
Dismissed.

Disposed of with direction.

M.A. Ordered.

No order as to costs.

② Sent to Xerox on:



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13/12/89*