

(24)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, HYDERABAD BENCH
AT HYDERABAD.

--:- DATE OF ORDER. 16.2.1990

D.A.No.549 of 1987.
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Between:

Divisional Railway Manager,
South Central Railway,
Vijayawada.

Applicant.

Vs.

1. Presiding Officer, Labour Court
(Central), A.P. Guntur.
 2. K.Lurdhaiah, Retd. Guard 'C',
Block No.114, Ajit Singh Nagar,
Vijayawada 15.
- Respondents.

Sri N.R.Devaraj, learned Standing Counsel
for the Applicant.

CORAM:

Hon'ble Sri J.Narasimhamurty, Member (Judicial)

Hon'ble Sri R.Balasubramanian, Member (Administrative).

Judgment of the Bench delivered by
Hon'ble Sri J.Narasimhamurty,
Member (Judicial).

--:-

This Application is filed by the Divisional
Railway Manager South Central Railway, Vijayawada
for setting aside the order in C.M.P.No.103/82 on
the file of Respondent No.1 dated 15--4--1986.



The averments in the application are as
follows:

Respondent No.2 was employed in the Railways
as Guard 'C' at Tadepalli before his retirement.
He retired on 31--5--1980. Subsequently he filed

a Central Miscellaneous Petition No.103 of 1982 before the Labour Court (Central)Guntur. Respondent No.2, ~~xxxxxx~~ under Section 33(c)(ii) of Industrial Disputes Act sought for a direction from the said Court to the Applicant herein to compute his wages and pass an award of Rs.200/- being the amount of H.R.A., due to him and another amount of Rs.1,200/- towards over-time allowance claiming to be due to him from the Applicant Department. During the pendency of the C.M.P., H.R.A., which was due to the 2nd respondent herein was paid to him. But the claim of Rs.1200/- towards over-time allowance was contested by the applicant herein and evidence was let in by both sides. After considering the evidence and the arguments, the 1st respondent herein on 15--4--1986 passed an award of Rs.1200/- to the petitioner therein (2nd respondent herein).

3. The Applicant states that the 1st respondent herein has passed the orders which are contrary to its own finding in para 6 of the order passed in C.M.P.No. 103 of 1983. It reads as under:

"At the very outset I would like to mention that the petitioner claimed two reliefs that 1st is refund of Rs.200/- on H.R.A. It is the case of the respondent that the same amount has been paid in the meanwhile which is not disputed by the petitioner. Therefore, the claim is dismissed as not pressed. With regard to the 2nd claim of over-time allowance of Rs.1200/-, as per rules the petitioner has to file the over-time journals to the Department which are supplied to him by the respondent. He failed to file those journals therefore, there is no material before either with the Department or with the Court that he worked over-time and as such I consider his claim cannot sustain under law."



4. But surprisingly after holding that the second respondent's claim cannot be sustained under law, the 1st respondent herein in para 7 stated :

"in the result the petition with regard to the claim of Rs.200/-, H.R.A., is disallowed as not pressed. The claim of over-time is allowed."

The Applicant states that the direction in para 7 of the Order is in variance with the observations made in para 6 of the Judgment. Hence this application for setting aside the order.

5. Sri N.R.Deva Raju, learned Standing Counsel for the Applicant argued the matter.

6. To decide the case, it is relevant to read para 6 of the Order which reads as under:

"At the very outset I would like to mention that the petitioner claimed two reliefs that 1st is refund of Rs.200/- on H.R.A. It is the case of the respondent that the same amount has been paid in the meanwhile which is not disputed by the petitioner. Therefore, the claim is dismissed as not pressed. With regard to the 2nd claim of over-time allowance of Rs.1200/-. As per rules the petitioner has to file the over-time journals to the department which are supplied to him by the respondent. He failed to file those journals therefore, there is no material before either with the department or with the Court that he worked over-time and as such I consider his claim cannot sustain under law".

7. The very learned Judge in para 7 of the Judgment stated that "in the result the petition with regard to the claim of Rs.200/- H.R.A., is disallowed as not pressed.

will be

To:

1. The Divisional Railway Manager, south central railway, Vijayawada.
2. The Presiding officer, Labour court, (Central), A.P. Guntur.
3. One copy to Mr.N.R.Devaraj, SC for Rlys.,CAT,Hyderabad.
4. One spare copy.

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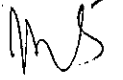
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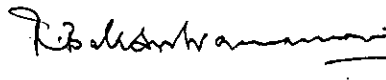
The claim of Rs.1200/- of over-time is allowed."

8. In para six (6), the learned Presiding Labour Court, Officer/has stated that "there is no material before either with the Department or with the Court that he worked over time and as such I consider his claim cannot sustain under law." In para 7 of the Judgment contrary to that he held "the petition with regard to the claim of H.R.A., is disallowed as not pressed. The claim of Rs.1200/- of over time is allowed." The appellant is perfectly justified in saying "Hence the order is illegal and this Applicant Department is unable to satisfy the Award."

9. In the circumstances, we hold that the Order dated 15.4--1986 in C.M.P.No.103/82 on the file of the Labour Court, Andhra Pradesh, Guntur cannot be sustained in law and it is liable to be set aside. We accordingly set aside the impugned order.

10. In the result the Application is allowed. There will be no order as to costs.


(J.NARASIMHAMURTY)
Member (Judicial)


(R.BALASUBRAMANIAN)
Member (Administrative)

Date: 16.2.90


SSS.
5/3/90.