

(37)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH : HYDERABAD

D.A. No. 355 of 1989.

~~F.A. No.~~

DATE OF DECISION 18-12-89.

\_\_\_\_\_  
Petitioner

\_\_\_\_\_  
Advocate for the  
Petitioner(s)

Versus

\_\_\_\_\_  
Respondent

\_\_\_\_\_  
Advocate for the  
Respondent(s)

CORAM

The Hon'ble Mr. D.SURYA RAO : MEMBER (J) (I)

The Hon'ble Mr. R.BALA SUBRAMANIAN : MEMBER (A)

1. Whether Reporters of local papers may be  
allowed to see the Judgment ?

NO

2. To be referred to the Reporter or not ?

3. Whether their Lordships wish to see the  
fair copy of the Judgment ?

4. Whether it needs to be circulated to  
other Benches of the Tribunal ?

DSR  
HM(J)

RBS  
HM(A)

5. Remarks of Vice-Chairman on columns  
1,2,4 (To be submitted to Hon'ble  
Vice-Chairman where he is not on the  
Bench)

(38)

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

DA 355 of 1989.

Date of Order : 18-12-89.

B.Mukherjee

...Applicant

Versus

The Senior Divisional Mechanical Engineer (D),  
S.E.Railway, Waltair, & 2 others.

...Respondents

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Counsel for the Applicant : Shri C.Suryanarayana

Counsel for the Respondents : Shri P.Venkatarama Reddy

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CORUM:

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

HONOURABLE SHRI R.BALA SUBRAMANIAN : MEMBER (A)

(Judgment of the Bench dictated by Hon'ble  
Shri D.Surya Rao, Member (J) ).

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This application is filed questioning the order  
No.DPO/WAT.BU.IIB/17, dated 24-1-89 passed by the 1st  
respondent directing that the applicant be retired from  
service on the forenoon of the date of expiry of three  
months computed from the day following the date of service  
of the notice. The notice<sup>was</sup> served on the applicant on 3-2-89.  
The retirement of the applicant <sup>came into</sup> ~~give~~ effect on the forenoon  
of 3rd May, 1989. The impugned orders were passed under  
Rule 2046 of the Railway Establishment Code Vol.II. <sup>The</sup> Applicant  
filed a representation/appeal on 21-2-89. As no orders were  
passed immediately thereafter he filed the present applica-  
tion on 24-4-89. During the pendency of the application

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.. 2 ..

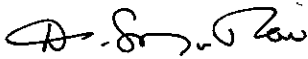
by an order dated 10-11-89 the Railway Administration was permitted to dispose of the representation made by the applicant. It is now brought to our notice by the Standing Counsel for the Railways that the Divisional Railway Manager by an order No.DPD/WAT/BS III/17 dated 24-11-89 had directed the reinstatement of the applicant with immediate effect. It is also directed that from the date of retirement i.e. 2-5-89 to the date of reinstatement the intervening period shall be treated as leave due to applicant. <sup>It is stated that</sup> The applicant re-joined on 11-11-1989 pursuant to this order.

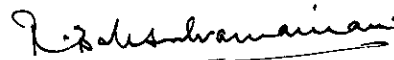
2. The Standing Counsel for the Railways Shri P.Venkata rama Reddy submits that the applicant <sup>has</sup> received the relief asked in the main application i.e. the impugned orders dated 24-1-89 has been set aside and the applicant has been reinstated into duty. It is therefore contended that there is no further relief which ~~the court~~ can be granted. Shri C.Suryanarayana, counsel for the applicant seeks to contend that the appellate order is ~~a~~ non-speaking order <sup>which</sup> and the intervening period i.e. from the date of retirement to the date of reinstatement into service is treated as leave and that ~~consequently~~ <sup>being</sup> he is compelled to be on leave for the no fault of his. It is open to the applicant to make a

contd...3.

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representation against the order dated 24-11-89 to the concerned competent authority in so far as treating the intervening period as leave and if aggrieved by any decision on such a representation it is always open to the applicant to seek appropriate legal remedies. In the present application however we are not going in to the question as to the legality of the order dated 24-11-1989 as it is not impugned herein. The application is disposed of as it has become infructuous in view of the subsequent order dated 24-11-1989. No costs.

  
(D.SURYA RAO)  
Member (J)

  
(R.BALA SUBRAMANIAN)  
Member (A)

Dt.18th December, 1989.  
Dictated in open court.

  
DEPUTY REGISTRAR(J)  
22/12/89

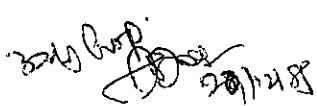
avl.

TO:

1. The Senior Divisional Mechanical Engineer(D), S.E.Railway, Waltair-530 008.
2. The General Manager, south eastern railway, Garden Reach, Calcutta-700 043.
3. The Chairman, Rly.Board, (representing Union of India) Rail Bhawan, New Delhi-110 001.
4. One copy to Mr.C.Suryanarayana, Advocate, 1-2-593/50, Srinilayam, Sri Sri Marg, Gaganmahal, Hyderabad-500 029.
5. One copy to Mr.P.Venkatarama Reddy, SC for Rlys., CAT, Hyderabad.
6. One spare copy.

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kj.



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

Typed by:-- Compared by:

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)~~

DATED: 18.12.89.

ORDER/JUDGMENT

M.A./R.A./G.A./No. in

T.A.No.

(U.P.No. )

O.A.No. 355/89.

Admitted and Interim directions  
issued.

Allowed.

Dismissed.

Disposed of with direction. No costs ✓

M.A. Ordered.

No order as to costs.

Sent to Xerox Central Administrative Tribunal

DESPATCH

JAN 1990

HYDERABAD BENCH.