

# Central Administrative Tribunal

HYDERABAD BENCH : AT HYDERABAD

O.A. No. 35/89.

Date of Decision : 3.6.92.

~~T.A. No.~~

<u>P. Deva Sahayam</u>	Petitioner.
<u>Sri C.V. Mohan Reddy</u>	Advocate for the petitioner (s)
Versus	
<u>Flag Officer Commander in-Chief, Nava Sena Base, Visakapatnam &amp; another</u>	Respondent.
<u>Sri Naram Bhaskar Rao, Addl. CGSC</u>	Advocate for the Respondent (s)

CORAM :

THE HON'BLE MR. R. BALASUBRAMANIAN, MEMBER (A)

THE HON'BLE MR. C.J. ROY, MEMBER (J)

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

HRBS  
M(A)

HQJR  
M(J)

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

O.A.No. 35/89.

Date of Judgment: 3.6.99

Between:

P. Deva Sahayam .. Applicant

Vs.

1. Flag Officer Commander In Chief,  
Nava Sena Base,  
Visakapatnam.
2. Naval Armament Supply Officer  
Naval Armament Depot,  
Visakapatnam. .. Respondents

Counsel for the Applicant : Sri C.V.Mohan Reddy

Counsel for the Respondents : Sri Naram Bhaskara Rao,  
Addl.Standing Counsel for  
Central Govt.

CORAM:

HON'BLE SRI R.BALASUBRAMANIAN, MEMBER (ADMN.)

HON'BLE SRI C.J. ROY, MEMBER (JUDL.).

{ Judgment as per Hon'ble Shri C.J. Roy, Member (Jdl.) }

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This application is filed under sec. 19 of the Administrative Tribunals Act, 1985 by the applicant claiming the relief to declare the proceedings of the 2nd respondent in VAE:0187 dt. 3.3.1988 as arbitrary, illegal and violative of the fundamental rights guaranteed to the Applicant under Articles 14 & 16 of the Constitution of India and to issue consequential direction to the 2nd respondent to place the applicant on the basic pay of Rs.464/- with future increments with effect from 12-1-1980 in the scale of pay of Rs.380-12-500-EB-15-560 and for passing such other or further orders.

.....2.

2. The facts of the case are, being a Fuse Mechanic, Category III post in the Naval Armament Depot, Visakapatnam, the applicant was in financial difficulties and had committed certain LTC irregularities. When questioned he pleaded guilty and 1st respondent by his proceedings dt. 2-2-1978 in C.E. Order No.1/78 imposed the following punishment -

"Reduction of pay by two lower stages from Rs.440/- to Rs.416/- w.e.f. 12-1-1978 in the time scale of pay of Rs.380-12-500-EB-15-560 for a period of two years with further directions:-

- (a) that he will not earn increment of pay during the period of reduction; and
- (b) that the reduction will not have effect of postponing the further increments of pay."

It is also averred that in punishment order nowhere it is contained cumulative effect and 2nd respondent construed that stoppage of increment with cumulative effect and that the applicant was supposed to have been placed on a basic pay of Rs.464/- as on 12-1-1980 in the pay scale of Rs.380-12-500-EB-15-560. In view of the imposition of punishment, he was not entitled for the increment during the period from 12-1-1978 to 12-1-1980. The applicant claimed that he is entitled to be placed on a basic pay of Rs.464/- and made several representations dt. 27-11-1987 and 24-2-1988. It is stated that when the applicant contacted he was orally informed by the 2nd respondent that he sought clarification. The applicant stated that he asked for an order imposing the punishment since he had no original. The 2nd respondent rejected the representation of the applicant by his proceedings dt. 3-3-1988. It is further averred that he is an active trade unionist and that 2nd respondent arbitrarily refused to grant him basic pay for which he is entitled. The applicant alleged that the action of the respondents is arbitrary, colourable exercise of powers and violative of Articles 14 & 16 of the Constitution

and hence filed this O.A.

3. The respondents have filed counter and denied the allegations made by the applicant. It is stated that the proceedings dt. 3.3.1988 issued by the 2nd respondent are not at all an order as alleged by the applicant. It is stated by the respondent that the said communication is in reply to his representation. It is averred that the proceedings dt. 7-6-1984 which were communicated to the applicant only stands good. It is their case that the punishment was imposed on the applicant vide proceedings dt. 12-1-1978 vide HQ ENC Order CE/1903 as under -

"Reduction of pay by two lower stages i.e. from Rs.440/- to Rs.416/- in the time scale of pay of Rs.380-12-500-EB-15-560 for a period of two years with further directions that -

- (a) he will not earn increment of pay during the period of reduction; and
- (b) the reduction will not have the effect of postponing the further increments of pay"

It is stated that the punishment period was for two years from 12-1-1978 to 11-1-1980 and that during the said period the pay of applicant was reduced from Rs.440/- to Rs.416/- and on completion of punishment period, his pay was restored to Rs.440/- with effect from 12-1-1980. The respondents state that the applicant submitted a representation dt. 9-6-1983 claiming that his pay should be fixed at Rs.464/- and not as Rs.440/- after completion of the punishment period, and the matter was referred to the Area Accounts Officer (Local Audit Authority) vide proceedings dt. 16-7-1983 which was simultaneously referred to the Controller of Defence Accounts (Navy), Bombay, the appropriate competent higher Audit Authority for clarification.

....4.

4. The respondents stated that the Controller of Defence Accounts (Navy), Bombay had vide his signal DTG 252002/May, 84 confirmed the view point of the respondents as correct. It is further stated that the said authority confirmed the pay fixation of the application<sup>n</sup> is correct. The applicant was replied by letter dt. 7.6.1984 itself to that effect. It is alleged that the applicant had an opportunity to redress his grievance before the Tribunal within the stipulated time-limit subsequent to issuance of the reply dt. 7-6-1984. The respondents denied the ~~appx~~ allegation of the applicant that his representations were not replied. It is stated that in response to his representation dt. 9.6.1983, the respondents had replied by proceedings dt. 7.6.1984. It is stated that his representation dt. 24.2.1988 is for supply of copies of certain official documents and which were denied to him by letter dt. 3-3-1988. The respondents allege that the action of respondents in fixing his pay at Rs.440/- is in order and in accordance with clause (a) of punishment order. Hence after the completion of punishment <sup>on</sup> period i.e./12-1-1980 he was entitled to only Rs.440/- which was correctly paid to him. The respondents also averred that the matter was referred to the punishing authority as well as the Audit Authority and that the said authorities confirmed the matter and opined that the applicant was entitled to pay of Rs.440/- only and not Rs.464/- with effect from 12-1-1980. The respondents justify their action and desired the application be dismissed.

5. The applicant filed copies of proceedings dt. 3-3-1988 wherein the respondents denied the copies of certain letters and also that the decision given earlier by orders dt. 7.6.84 stands good in respect of subject matter, Order dt. 1/78 issued by the respondents which is the punishment order, and representations dt. 24-2-1988 and 27-11-1987 submitted by him to the respondents. The respondents also filed copies of documents viz. order dt. 12-1-1978 imposing the punishment on applicant,


Copy of telex message issued by the Controller of Defence Accounts confirming the view of the Headquarters by proceedings No.CE/1903 dt. 16-7-1983, copy of letter dt. 16-8-1983, Reply dated 7-6-1984 issued to the applicant, representation dt. 24-2-1988 of the applicant seeking certain copies of documents, and letter dt. 3-3-1988 issued by the respondents to the applicant denying the copies sought for by him etc.

6. We heard Sri Ravichander, proxy counsel for Sri C.V.Mohan Reddy, learned counsel for the applicant and Sri Naram Bhaskar Rao, learned Standing Counsel for respondents and perused the records carefully.

7. The points for consideration in this O.A. are that the interpretation given by the respondents in implementing the punishment order is in order or not, and also that the application is within limitation prescribed under the A.T.Act. The order of punishment dt. 12-1-1978 is clear "that the applicant will not earn increment of pay during the period of reduction; and that the reduction will not have the effect of postponing the further increments of pay." It can also be seen that the respondents referred the matter to the competent authority viz. Controller of Defence Accounts, Bombay in the matter and that the said authority confirmed the views taken by the respondents in fixing the pay of the applicant at Rs.44/- after completion of punishment. The respondents had also informed the applicant by letter dt. 8-6-1984 stating that the "increments granted by this office are in order." Therefore, it can be seen that the matter is decided by the competent authority and accordingly the applicant was informed. During the course of arguments, learned counsel for the applicant appears to have been satisfied with the stand taken by the respondents and stated that he will withdraw the allegations ~~of~~ made against the respondents viz. arbitrary, colourable exercise of power etc. We are satisfied with the contention raised by the respondents having gone through the annexures carefully. ~~and~~ We find no reason to interfere in the matter.

8. The other point for consideration is that whether the application is within limitation. It can be seen from the records that the applicant was informed in response to his representation dt. 9-6-1983 by a letter dt. 7-6-1984. The applicant acknowledged the same, but again represented in the matter by letter dt. 24-2-1988 stating that he had not received any reply from the respondents. The applicant instead of approaching the Tribunal, made further representation to the respondents. However, the respondents by letter dt. 3-3-1988 informed him that the decision given by them in the letter dt. 7-6-1984 stands good. It can be seen apparent on the face of the record that the applicant failed to approach the Tribunal within the stipulated time. Therefore, this point also goes in favour of respondents.

9. In the result, we find no merits in the application. Accordingly, the application is dismissed. There will be no order as to costs.

  
( R. Balasubramanian )  
Member (A)

  
( C. J. Roy )  
Member (J)

Dated 3-6-1992

  
Deputy Registrar(J)

To

1. The Flag Officer, Commander in Chief,  
Nava Sena Base, Visakhapatnam.
2. The Naval Armament Supply Officer,  
Naval Armament Depot, Visakhapatnam.
3. One copy to Mr. C. V. Mohan Reddy, Advocate  
1-10-249/2, Ashoknagar Extension, Hyderabad.
4. One copy to Mr. N. Bhaskar Rao, Addl. CGSC, CAT. Hyd.
5. One spare copy.

pvm



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TYPED BY

COMPARED BY

CHECKED BY

APPROVED BY

THE HON'BLE MR.

V.C.

AND

THE HON'BLE MR. R. BALASUBRAMANIAN : M(A)

AND

THE HON'BLE MR. T. CHANDRASEKHAR REDDY :  
MEMBER (JUDL)

AND

THE HON'BLE MR. C. J. ROY : MEMBER (JUDL)

Dated: 3 - 6 - 1992.

ORDER / JUDGMENT

~~R.A./C.A./M.A.No.~~

O.A.No. 35/89

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

Admitted and interim directions  
issued

Disposed of with directions

Dismissed

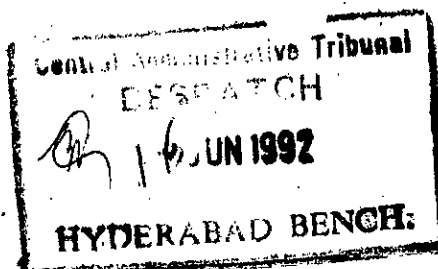
Dismissed as withdrawn

Dismissed for Default.

M.A. Ordered/Rejected.

No order as to costs.

pvm.



4/6/92