

(36)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL: HYDERABAD BENCH  
AT HYDERABAD

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O.A No.531/89

Date of order: 19.8.93

Between

The Divisional Railway Manager  
South Central Railway  
VIJAYAWADA

.. Applicant

and

1. B.Subba Rao  
Retd.Sr.A.B.C.  
Kondusivari Street  
Innispet  
RAJAHMUNDRY

2. The Presiding Officer  
Labour Court  
Visakhapatnam

.. Respondents

Counsel for the Applicant

:: Mr NR Devraj, Sr.CGSC

Counsel for Respondent 1

:: Mr M.Lakshmana Sarma

CORAM:

HON'BLE SHRI A.B. GORTHY, MEMBER(ADMN)

HON'BLE SHRI T. CHANDRASEKHARA REDDY, MEMBER(JUDL.)

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ORDER OF THE DIVISION BENCH DELIVERED BY HON'BLE SHRI  
T. CHANDRASEKHARA REDDY, MEMBER(JUDL.)

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This is an application filed under Section 19 of the Central Administrative Tribunals Act, to set aside the order of the second respondent dated 2.4.88 passed in CMP 351/86 and <sup>IA</sup> No.14/88 in CMP 351/86 dated 17.10.88 as illegal.

2. The first respondent before us in this OA is the applicant in CMP 356/89 filed before the Presiding Officer Labour Court, Visakhapatnam. He had filed CMP 351/86 under sub-section 21 of Section 33(c) of the Industrial Disputes Act, 1947, claiming a sum of Rs.14,947/- towards the difference in allowances in pay and HRA. The case of the first respondent in this OA, ~~IN~~ (petitioner in CMP 356/89) is that, he ~~has~~ <sup>is</sup> being

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having joined as commercial clerk in railways on 17.6.47, had been deprived of annual increments without any valid reasons. His case further is, that his juniors were promoted from 1.12.1964 to non-selection posts of Senior Commercial Clerk in the grade of Rs.330-560 and the petitioner ought to have been promoted to the said non-selection post with effect from 1.12.1964 and his pay ought to have been fixed at the stage of Rs.175 from 1964 in the old scale, and in the revised scale of Rs.330-560 from 1964. The applicant before us in this OA <sup>who</sup> is the sole respondent in CMP 351/86, had filed a counter opposing CMP 351/86. ~~Counter is filed by the Respondent 1 also opposing this OA.~~

3. In the counter filed by the applicant herein (Respondent in the Labour Court), it was maintained that the Labour Court had no jurisdiction to entertain that petition. It was further maintained that the claim of the petitioner was barred by time. So it was contended that the said CMP 351/86 was liable to be dismissed.

4. The learned Presiding Officer, Labour Court, Visakhapatnam as per his order dated 2.4.88 allowed the claim of the first respondent herein. Aggrieved by the said judgement dated 2.4.88, the respondent in CMP 351/86 <sup>had</sup> filed the present OA to set aside the order dated 2.4.88 passed by the Presiding Officer, Labour Court (Visakhapatnam) in CMP 351/86. The very same contentions raised on behalf of the respondents in CMP 351/86, are raised in this OA also.

5. We have heard Mr NR Devraj, Standing counsel for the applicant and Mr M.Lakshmana Sarma, Counsel for Respondent 1, in this OA.

T. C. R.

2nd AG

6. None of the contentions raised on behalf of the respondent in CMP 351/86 were met by the learned Presiding Officer, Labour Court in his order dated 2.4.88. It is contended on behalf of the applicant in this OA that, certain punishments had been inflicted on the respondent 1, and, as a result of the said punishments, that the increments of the respondent no.1 had been withheld, and, that, the first respondent was not entitled to the increments as prayed for, by him. It is also further brought to our notice on behalf of the applicant herein, due to the unauthorised absence of the respondent 1 herein, for certain period, the annual increments of the first respondent were <sup>denied</sup> ~~denied~~ and that the same had not been considered by the Presiding Officer, Labour Court, Visakhapatnam. It is also further maintained on behalf of the applicant herein, that in view of the enormous delay on the part of first respondent herein (applicant before the Labour Court, Visakhapatnam) in approaching the Labour Court that he is not entitled for any relief, and that, his prayer is liable to be rejected.

7. As a matter of fact, the learned Presiding Officer, Labour Court, Visakhapatnam does not appear ~~to~~ to have gone through the records and delivered the judgement. It is brought to our notice ~~xxxx~~ during the hearing of this OA, that, after the matter had been disposed of by the Labour Court, IA No.14/88 had been filed to reopen the CMP 351/86 and to receive documents, hear afresh and deliver judgement. So, it is quite evident that all the records pertaining to this OA are available ~~on the file~~ in CMP 351/86 before the Presiding Officer, Labour Court, Visakhapatnam. The Judgement is vitiated due to

302/86

## Copy to:-

1. The Divisional Railway Manager, South Central Railway, Vijayawada.
2. The Presiding Officer, Labour Court, Visakhapatnam.
3. One copy to Sri. N.R. Devaraj, Sr. CGSC, CAT, Hyd.
4. One copy to Sri. M. Lakshmana Sarma, advocate, CAT, Hyd.
5. One copy to Library, CAT, Hyd.
6. One spare copy.

Rsm/-

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pre Q  
7/1/97

Attest: (Signature)

The Presiding Officer, Labour Court

..4..

Labour Court  
the fact that the learned Presiding Officer, Visakhapatnam  
had not given any valid reasons in his judgement for allowing  
CMP 351/86 against the applicant herein. The presiding Officer  
Labour Court, Visakhapatnam had given direction to the applicant  
herein to pay the sum of Rs.14,947/- towards difference in pay,  
DA and HRA which claim also includes in the post, for which the  
Respondent claims promotion. Now it is well established that  
the Tribunal/Court does not have any power to give directions  
to the respondents to promote the Government employee to a higher  
post. But, the only power that the Tribunal or the Courts have  
got is, to direct the competent authority, to consider the Government  
servant for promotion to the higher post. As a matter of fact,  
the judgement of the learned Presiding Officer, Labour Court,  
Visakhapatnam goes to show as if he had promoted the first  
respondent to the higher post and ordered for payment of the  
difference of wages. So, in view of this position also, we feel  
the order of the learned Presiding Officer, Labour Court Visakha-  
patnam dated 2.4.88 is <sup>bad</sup> ~~barred~~ apart from the reasons that we  
have indicated earlier. Hence, we find no other alternative  
except to set aside the order of the Presiding Officer, Labour Court  
Visakhapatnam, dated 2.4.88 passed in CMP 351/86 and to remit the  
matter to the Presiding Officer, Labour Court, Visakhapatnam  
with a direction to decide the matter afresh in accordance with  
law after restoring CMP 351/86 to file. OA is allowed accordingly.  
Parties shall bear their own costs.

T. Chandrasekhara Reddy  
(T.CHANDRASEKHARA REDDY)  
Member(Judl.)

A.B. GORTHY  
(A.B. GORTHY)  
Member(Admn)

Dated: The 19th August, 1993  
(Dictated in the open Court)

Dr. Registrar (Judl.)

mvl

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O.A. 531/89

TYPED BY

COMPARED BY

CHECKED BY

APPROVED BY

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
HYDERABAD BENCH AT HYDERABAD

THE HON'BLE MR. JUSTICE V. NEELADRI RAO  
VICE CHAIRMAN

AND

THE HON'BLE MR. A. B. GORTHY : MEMBER (A)

AND

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

AND

THE HON'BLE MR. P. T. TIRUVENGADAM : M (A)

Dated: 19/8-1993

ORDER/JUDGMENT: \_\_\_\_\_

M.A./R.A./C.A.N.

in

O.A. No.

531/89

T.A. No.

(W.P.)

Admitted and Interim directions  
issued.

✓ Allowed

Disposed of with directions

Dismissed

Dismissed as withdrawn

Dismissed for default.

Rejected/Ordered

✓ No order as to costs.

pvm

