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CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH: AT HYDERABAD.

O.A. No. 708/89

Date of Decision: 25.9.92

T.A. No.

M.V.Balasubramanyam and 19 others.

Petitioner.

Mr.G.Bikshapathy

Advocate for
the Petitioner(s)

Secretary, Ministry of Defence,
Versus

New Delhi and 2 others.

Respondent.

Mr.N.V.Ramana

Advocate for
the Respondent
(s)

CCR, M:

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

THE HON'BLE MR.

1. Whether Reporters of local papers may be allowed to see the Judgment ?
2. To be referred to the Reporters 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.)

No

T.C.S.R
(HTCSR)
M(J)

(59)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH
AT HYDERABAD

O.A.No. 708/89

Date of Order: 25.9.1992

BETWEEN:

1. M.V.Balasubramanyam
2. E.V.R.Rao.
3. R.C.Reddenna.
4. K.Madhusudana Rao.
5. Meduri Subramaniam.
6. D.Gopala Bala Krishna.
7. Mrs. Vydehi A.Joshi.
8. G.Jagannath.
9. K.Subba Rao.
10. S.K.Gupta.
11. J.Gyaneshwar Rao.
12. P.Sudhakar Rao.
13. P.Pullaiah.
14. G.S.Radha Krishna.
15. Sandapola Balappa.
16. K.B.Frasad.
17. D.B.Govind Rao.
18. P.Chandraiah.
19. K.Satyaprasad.
20. K.Somaraju.

.. Applicants.

A-N D

1. The Union of India, rep. by Secretary to Govt., Ministry of Defence, Defence Research and Development Organisation, B Wing, Sena Bhavan, Defence Headquarters, New Delhi-11.
2. The Scientific Adviser to Minister of Defence & Director General, Research and Development Organisation, Ministry of Defence, New Delhi - 11.
3. The Director, Defence Mettallurgical Research Laboratory, Kanchanbagh, Hyderabad.

.. Respondents.

Counsel for the Applicants

.. Mr.G.Bikshapathy

Counsel for the Respondents

.. Mr.V.Rajeswara Rao
for
Mr.N.V.Ramana, *Adv.*

CORAM:

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

(Order of the Single Member Bench delivered by
Hon'ble Shri T.Chandrasekhara Reddy, Member(Judl.)).

T - C.R

This is an application filed under Section 19 of the Administrative Tribunals Act, to direct the respondents to implement the award of Arbitration (Joint Consultative Machinery) Ministry of Labour w.e.f. 22.9.82 and pass such other orders as may seem fit and proper in the circumstances of the case.

The facts giving rise to this OA in brief are as follows:

A common award was passed by the Board of Arbitration in favour of Senior Scientific Assistants who were entitled to the Senior Scale of Rs.840-1040. According to the applicants, they are entitled to the benefit of the said award, as they are also Senior Scientific Assistants. The fact that the applicants herein are Senior Scientific Assistants is not in dispute. According to the applicants the said award ~~is~~ ^{to be} was enforced w.e.f. 22.9.1982 onwards.

Government issued a notification on 11.11.1988 accepting the said award passed by the Board of Arbitrators to implement the same. But, the Govt. modified the date of its applicability from 1.1.1988 onwards.

It is the contention of the applicants that the Government has no power to alter the date of applicability of the said award and that the said award is applicable w.e.f. 22.9.1982 onwards and that the applicants are entitled to all the benefits under the said award. Hence, the present OA is filed by the applicants herein for the relief as already indicated above.

Counter is filed by the respondents opposing this OA.

Today, we have heard Mr G.Bikshapathy, Advocate for the applicant and Mr V. Rajeswara Rao, for Mr NV Ramana standing Counsel for the respondents.

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OA 952/86 was filed by the applicants therein before the Principal Bench, CAT New Delhi for similar reliefs as claimed in this OA by the applicants herein. The said OA 952/86 was allowed by the Principal Bench CAT New Delhi as per its Judgement dated 10.8.89. The Union of India which was also a respondent in the said OA 952/86 preferred an appeal before the ~~Supreme~~ Court as against the Judgement dated 10.8.89 in the said OA 952/86. In the appeal, it was brought to the notice of the Supreme Court that Parliament had made the award applicable from 1.1.1988 onwards in view of the recommendations of the Government. In view of the said fact, that was brought to the notice of the Supreme Court, the Supreme Court directed the Union of India and others who were the Appellants before it to file a Petition before the C.A.T., Principal Bench, New Delhi ~~said~~ for review of the Judgement dated 10.8.1989 ~~in~~ OA 952/86 ~~on its file~~. Accordingly, Review Application No.30/90 was filed by the respondents in the said OA 952/86 to review the Judgement dated 10.8.89. The said review petition 30/90 was dismissed by the Principal Bench C.A.T., New Delhi by its orders dated 10.4.90. As against the orders dated 10.4.90 in Review Application 30/90 on the file of Principal Bench, C.A.T., New Delhi, Civil Appeal No.3769/90 was preferred by the respondents in OA 952/86 before the ~~Supreme~~ Court of India. As per the orders of the Supreme Court dated 10.2.92, the Supreme Court granted 8 weeks time to the Appellants in CA 3769/90 (review petitioners in RA 30/90 and respondents in OA 952/86 on the file of the Principal Bench, CAT New Delhi) for filing Additional material ^{which} ~~had~~ directed ^{for filing} the Supreme Court ~~directed~~ that the CA No.3769/90 would stand dismissed without further reference to the Hon'ble Supreme Court. As the said order dated 10.2.92 was not

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complied by the appellants in CA 3769/90, the Supreme Court on 11.5.92, dismissed the said CA 3769/90. As against the said dismissal order dated 11.5.92 in CA 3769/90, the appellants in CA 3769/90 (respondents in OA 952/86) preferred a Review Petition before the Hon'ble Supreme Court. The Bench consisting of Justice Kuldip Singh and Justice Yogeshwar Dayal dismissed the said Review Petition on 7.9.92. Thus, as could be seen from the narration of the above facts, the Judgement of the Principal Bench, C.A.T., New Delhi should be deemed to have been confirmed by the Supreme Court for all purposes. As already pointed out, the applicants, herein and the applicants in OA 952/86 stand on the same footing in all respects. So, we see no reason in not extending the benefit of the Judgement of OA 952/86 on the file of the Principal Bench, CAT, New Delhi to the applicants herein also. Hence, appropriate directions are liable to be given to the respondents in this OA on the same lines that are given in OA 952/86 on the file of the Principal Bench, CAT, New Delhi.

Mr V. Rajeswar Rao for Mr NV Ramana, for the respondents contended that in similar matters that the Bangalore and Bombay Benches have decided the matter against the applicants therein and in view of this position, it will be fit and proper to dismiss this OA. We are informed across the bar by Mr Bikshapathy that the Madras Bench has also taken a similar view to that of the Delhi Bench. As already pointed out, by us, the Judgement of the Principal Bench, New Delhi for all purposes, should be deemed to have been confirmed by the Supreme Court of India. So, in view of this position, we are inclined to fall in line with the Judgement delivered in OA 952/86 on the file of ~~the Bench~~ → Principal → Bench →

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C.A.T. New Delhi, but not with Bangalore and Bombay Bench Judgements due to the fact that the Judgements therein had not been carried in appeal to the Supreme Court.

M.A.724/91 had been filed by the applicants herein for permission to amend the prayer in OA 708/89 as hereunder:

1. to set-aside the resolution of the Lok Sabha dated 13.10.89 and the resolutions of the Rajya Sabha dated 29.12.89; and,
2. to set-aside the orders dated 11.11.88 of the respondents which had subsequently been ratified by the Lok Sabha and Rajya Sabha.

This Tribunal by its order dated 1.10.91 had dismissed the said MA 724. So it is the contention of Mr Rajeswara Rao that the orders in the said MA 724/91 would operate as ~~re~~judicata and hence, the applicant cannot be given more than the benefit of the resolutions passed by the Parliament as approved by the Govt. of India.

The applicants herein are not seeking any benefit ~~on~~ on the basis of the resolutions passed by the Rajya Sabha and Lok Sabha that were approved by the Govt. of India. The applicants are seeking relief purely on the basis of the Judgement of the CAT delivered in OA 952/86 and which Judgement for all purposes has got to be said to have been approved by the Supreme Court. So, the said resolutions absolutely have no relevance in granting relief to the applicants and it is not open for the applicants to raise the plea of ~~re~~judicata.

Nevertheless, we may point out that any interim order passed by any Tribunal with regard to the matters that are pending before it, the said interim order get merged in the final orders passed by that Tribunal. So, it ~~is~~ will not be open for any party to contend that earlier interim orders passed would come in the way of the Tribunal in giving appropriate relief while passing final orders. The learned counsel Mr V.Rajeswara

S. S. 10/92
Deputy Registrar (Judl.)

Copy to:-

1. Secretary to Govt., Ministry of Defence, Defence Research and Development Organisation, B Wing, Sena Bhavan, Defence Headquarters, Union of India, New Delhi.
2. The Scientific Adviser to Minister of Defence & Director General, Research and Development Organisation, Ministry of Defence, New Delhi-11.
3. The Director, Defence Metallurgical Research Laboratory, Kanchanbagh, Hyderabad.
4. One copy to Sri. G. Bikshapathy, advocate, Race course road, Old Malakpet, Hyd.
5. One copy to Sri. N.V. Ramana, Addl. CGSC, CAT, Hyd.
6. One spare copy.

7. one copy to D.R.J
Rsm/-

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of
[Signature]

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Rao appearing for the respondents, relied on a Judgement of Delhi High Court reported in AIR 1992, Delhi 267 in support of his contention that the orders dated 1.10.91 passed in MA 724/91 would operate as resjudicata and maintained that the relief has got to be restricted only from the year 1989 onwards in conformity with the resolutions passed by the Parliament that were approved by the Government of India. We have gone through the said decision. In the said decision, the Delhi High Court had dealt with a matrimonial matter regarding divorce. We do not think that in a service matter that the observations therein could be relied upon. Hence, we are not inclined to follow the said judgement.

Mr V. Rajeswara Rao contended that the arrears may be restricted only for a period of one year prior to 22.9.89. In view of the impugned orders dated 11.11.89 denying the benefit from 22.9.82, the applicants are entitled for arrears right from 22.9.1982. Hence, the contention of the learned counsel for the respondents cannot be accepted.

During the course of the hearing it was conceded by Mr Bikshapathy, Counsel for the applicants, that, he is not pressing for payment of interest on the arrears to be paid to the applicants. Hence, applicants in this OA are not entitled for any interest on the arrears.

In the result, we direct the respondents to fix the pay of the applicants in the scale of Rs.840-1040/- w.e.f. 22.9.82 and pay all arrears and other benefits if any w.e.f. 22.9.82. The claim with regard to interest is refused. The directions herein shall be implemented within 4 months from the date of receipt of this Judgement. OA is allowed accordingly, leaving the parties to bear their own costs.

Dated: 25th September, 1992
Dictated in the Open Court

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