

(18)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL: HYDERABAD BENCH
AT HYDERABAD

D.A.No. 982/89

~~xxxxx~~

Dt. of Decision: 23.2.93

The GM, SC Rly, Sec'bad and 2 others Petitioner

Mr. J. Siddaiah

Advocate for
the Petitioner
(s)

Versus

Mr. Abdul Rahim and another

Respondent.

Mr. C. Suryanarayana Rao

Advocate for
the Respondent
(s)

CORAM:

THE HON'BLE MR. R. Balasubramanian, Member (Admn.)

THE HON'BLE MR. T. Chandrasekhara Reddy, Member (Judl.)

1. Whether Reporters of local papers may be allowed to see the judgment? Yes
2. To be referred to the Reporters or not? Yes
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

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M(A)


HPCR
M(J)

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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL: HYDERABAD BENCH:
AT HYDERABAD

ORIGINAL APPLICATION NO.982 of 1989

DATE OF JUDGMENT: 23rd February 1993

BETWEEN:

1. The General Manager,
South Central Railway,
Secunderabad.
 2. The Divisional Mechanical Engineer (BG),
S.C.Railway,
Secunderabad.
 3. The Loco Foreman,
Locoshed,
S.C.Railway,
Lallaguda,
Secunderabad.
- .. Applicants

AND

1. Mr. Abdul Rahim
 2. The Labour Court,
Andhra Pradesh,
Hyderabad.
Represented by its
Presiding Officer.
- .. Respondents

COUNSEL FOR THE APPLICANTS: Mr. Jalli Siddaiah, SC for
Railways.

COUNSEL FOR THE RESPONDENTS: Mr. C.Suryanarayana Rao,
Advocate.

CORAM: Hon'ble Shri R.Balasubramanian, Member (Admn.)
Hon'ble Shri T.Chandrasekhara Reddy, Member (Judl.)

contd....

15/10/93

JUDGMENT OF THE DIVISION BENCH DELIVERED BY THE HON'BLE
SHRI R.BALASUBRAMANIAN, MEMBER (ADMN.)

This OA was dismissed for default on 19.1.1993.
MA 145/93 has been filed for restoration of the OA. Shri
V.Rajeswara Rao representing Shri J.Siddaiah for the
applicants offered to plead the case of the applicants.
MA is allowed and the OA is restored to file.

2. This OA has been filed by the General Manager,
South Central Railway, Secunderabad and two others
against Shri Abdul Rahim and the Labour Court, Andhra
Pradesh, Hyderabad represented by its Presiding Officer.
The 1st respondent ^{was} at the relevant time ~~was~~ working as
Driver 'C'. After the due process in accordance with the
D&A Rules, he was reverted as Yard Khalasi by way of
punishment. During the disciplinary proceedings, he was
kept under suspension. On 30.8.1983 when he reported for
duty, he was asked to acknowledge the order reverting him
as Yard Khalasi which he refused. Hence, this order was
exhibited on the notice board on 31.8.1983 in the presence
of two Railway employees who witnessed the same. Again
on 5.9.1983 he was called to Loco Shed and asked to
receive the penalty order. This time also he refused
stating that he was on sick list and he will receive
the same after becoming fit. Hence, a copy of the memo
was pasted ^{on} ~~to~~ the door of his residence on 6.9.1983 in the
presence of two witnesses. While so, he filed WP No.
10644/83 in the High Court of Andhra Pradesh against
the order reducing him in the rank in November 1983.
The High Court disposed of the same on 6.2.1984 with a
direction to the 1st respondent herein to prefer an
appeal to the competent authority within 15 days. The
~~XXXXXXXXXXXXXXXXXXXX~~ 1st respondent accordingly submitted

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an appeal on 13.2.1984 which was rejected. He again filed WP 14167/84 in the High Court of Andhra Pradesh questioning the appellate order. This WP was transferred to this Tribunal and was registered as TA 799/86. This TA was decided on 18.2.1987 remitting the case back to the appellate authority to pass a speaking order. It is stated by Shri V.Rajeswara Rao for Mr. J.Siddaiah, Standing Counsel for the applicants that in pursuance of the directions of the Tribunal, a speaking appellate order was passed on 26.4.1987. While this process was going on, the applicant had approached the Labour Court, Hyderabad vide CMP 3/86 alleging that he was prevented from attending to duty claiming compensation of Rs.55,000/- together with interest @ 18% and 10 times penalty. The Labour Court vide its orders dated 9.6.1988 and 13.2.1989 ordered the applicant herein to pay an amount of Rs.53,452=40. The rest of the claim of the OA respondent No.1 was dismissed. It is against this order of the Labour Court that this OA has been filed by the Railways.

2. We shall first take up the legality and vaility arising from the jurisdiction of the Labour Court to adjudicate the case filed before them. The subject matter relates to service conditions of the Central ^{Govt} Railway employee and according to Sections ^{and 14 of} 3(q) / of the Administrative Tribunals Act, 1985 which came

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30/10/85

To

1. The General Manager, S.C.Rly, Secunderabad.
2. The Divisional Mechanical Engineer (BG)
S.C.Rly, Secunderabad.
3. The Loco Foreman, Locoshed,
S.C.Rly, Lallaguda, Secunderabad.
4. The Presiding Officer, Labour Court, A.P.Hyderabad.
5. One copy to Mr.J.Siddaiah, SC for Rlys, CAT.Hyd.
6. One copy to Mr.C.Suryanarayana, Advocate, CAT.Hyd.
7. One copy to ~~Deputy~~ Registrar(J)CAT.Hyd.
8. Copy to All Reporters as per standard list of CAT.Hyd.
- 9.. One spare copy.

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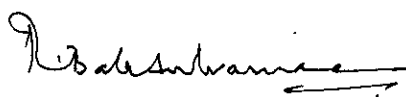
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into force with effect from 1.11.1985 itself, the CMP 3/86 ought not to have been filed before the Labour Court. We have no doubt that the Labour Court has no jurisdiction into the matter at all. Such being the case, the Judgment dated 9.6.1988 and 13.2.1989 passed by the Labour Court in CMP 3/86 is void. As it is void, the order of the Labour Court is set-aside and the OA is allowed with no order as to costs.

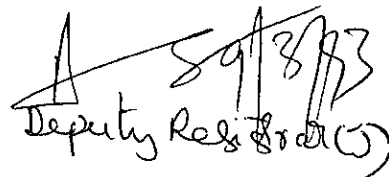
3. While admitting the case on 20.12.1989, an interim order had been given by this Bench directing the General Manager, South Central Railway, to deposit 50% of the total amount ordered to be paid by the Labour Court and giving liberty to the OA respondent to withdraw the amount without any security. In the order, it has also been specified that in the event of the success of the Railways in the main application, it is open to them to take steps against the respondent herein for restitution of the amount deposited and withdrawn. Since we have allowed the application filed by the General Manager, South Central Railway, Secunderabad, the General Manager is at liberty to recover the amount withdrawn in accordance with law.

(Dictated in the open Court).


(R. BALASUBRAMANIAN)
Member (Admn.)


(T. CHANDRASEKHARA REDDY)
Member (Judl.)

Dated: 23rd February 1993.


Deputy Registrar

TYPED BY

COMPALED BY

CHECKED BY

APPROVED BY

(5)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
HYDRABAD BENCH AT HYDERABAD

THE HON'BLE MR. V. NEELADRI RAO :V.C.

AND

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

AND

THE HON'BLE MR. CHANDRA SEKHAR REDDY
:MEMBER(J)

AND

THE HON'BLE MR.

DATED: 23-2-1993

ORDER/JUDGMENT:

For Typing

R.P./C.B/M.A. No.

in

C.A.No. 984/89

T.A.No.

(W.P.No.)

Admitted and Interim directions
issued.

Allowed

Disposed of with directions

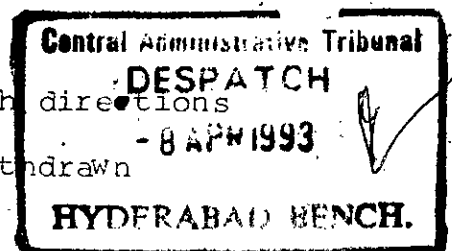
Dismissed as withdrawn

Dismissed

Dismissed for default

Rejected/Ordered

No order as to costs.



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Seg 7 HR 188 in
order sheet