

31

Central Administrative Tribunal

HYDERABAD BENCH : AT HYDERABAD

M.A. No.86/90 in

O.A. No. 145/90

T.A.No.

Date of Decision : 16th August, 1990

P. Ramasarma

Petitioner.

Mr. M Laxman Rao,

Advocate for the
petitioner (s)

Versus

G.M., SCR, Secundrabad

Respondent.

Mr. N. R. Dev Raj, Addl SC CG

Advocate for the
Respondent (s)

CORAM :

THE HON'BLE MR. B.N. JAYASIMHA, VC

THE HON'BLE MR. D. SURYA RAO, MEMBER (J)

1. Whether Reporters of local papers may be allowed to see the Judgement ? ^{NO}
2. To be referred to the Reporter or not ? ^{NO}
3. Whether their Lordships wish to see the fair copy of the Judgment ? ^{NO}
4. Whether it needs to be circulated to other Benches of the Tribunal ? ^{NO}
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)


(HBNJ)


(HDSR)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD
BENCH AT: HYDERABAD

M.A.No.86/90 in
O.A. No.145/90

Date of Order: 16.8.1990

BETWEEN

P. Ramasarma .. Applicant
Versus

Union of India, rep. by
General Manager, South
Central Railway, Secunderabad .. Respondent

APPEARANCE

For the Applicant : Shri M. Lakshman Rao, Advocate
For the Respondent : Shri N. R. Dev Raj, Standing
Counsel for Railways

CORAM

THE HON'BLE SHRI B.N. JAYASIMHA, VICE CHAIRMAN
THE HON'BLE SHRI D. SURYA RAO, MEMBER(JUDICIAL)

(Judgement of the bench delivered by Sri D. Surya Rao)
Hon'ble Member (Judicial)

The O.A. No.145/90 is filed by a retired Chief
Ticket Inspector of South Central Railway to direct the
respondents to grant the applicant proforma fixation of

Q

(Contd....)

pay in the grade 425-640 w.e.f. 1-1-84, Rs.550-700 w.e.f. 1-1-84 and Rs.700-900 (RS)/(2000-3200 (RSRP) w.e.f. 21-4-1986. The grievance of the applicant is against the seniority list of the TTEs published in the year 1982 in the Gr.'D' of South Central Railway. The applicant was shown at S.No.27 whereas his junior was shown at S.No.15. The list was not circulated. After learning about the same he preferred an appeal on 13-6-85 to the Chief Personnel Officer. He sent a reminder on 14-7-86. He alleges that the Administration found truth and justification in the appeal and proposed to fix the applicant below S.No. 4 and above S.No.5 in the panel of Chief Ticket Inspectors (700-900/- (RS)/Rs.2000-3200 (RSRP). A notice dt. 24-7-87 was issued to one Sri P.Vasvani and two others who would be effected by this proposal. Thereafter the applicant retired from service. The applicant has enclosed a copy of the notice dated 24-7-87. The applicant claims that he should have been given same promotions and grades of pay paid to Sri Vasvani ever since 1-1-1984. He is claiming proforma fixation of pay and is not claiming arrears. He states that he made a representation on 13-6-85 and again made a representation on 12-5-89 for proforma fixation of pay. This was also followed by a legal notice through his legal counsel on 17-10-89.

- 2) Alongwith the O.A., a Miscellaneous Application No. 86/90 has been filed to condone the delay of 3 years and 6 days in filing the O.A.



3) We have heard Shri M. Laxman Rao, learned counsel for the applicant and Shri N. R. Devaraj, Standing counsel for the Railways on behalf of the Respondents.

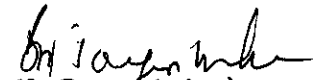
4) No counter has been filed by the Railways to the Miscellaneous Application. But Sri Devaraj seeks to contend on the facts as averred by the applicant that this is not a case wherein sufficient cause has been shown for condoning the delay. Sri Devaraj contends that once the notice dated 24-7-87 has been issued to Sri P. Vasanani and others and no action was taken in regard thereto within a reasonable time, the applicant should have approached the Tribunal. Sri Devaraj would seek to contend that the reasonable time is one year from 24-7-1987 and the applicant should have, therefore, filed the application by 24-7-1988. He also contends that the applicant cannot say that he has been waiting indefinitely for orders on his representation of 1985.

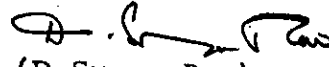
5) The question whether the delay should be condoned or not has been the subject matter of consideration by the Supreme Court of India in AIR 1987 SC 1353 (Collector, Land Acquisitions, Anantnag Vs. Mst. Katiji and others). The Supreme Court observed that ordinarily a litigant does not stand to benefit by lodging an appeal late and that refusal to condone delay can result in a meritorious matter being thrown out at the very threshold and the cause of justice being defeated. The court further observed that when substantial justice

22

and technical considerations are pitted against each other, the cause of ^{substantial} justice deserves to be preferred. This decision was considered by the Division Bench of the Bangalore Bench of the Tribunal in Application No.143/1989 on 16-5-1990 by the hon'ble Chairman Sri Justice Amitav Banerji and the Hon'ble Member(Admn) Sri L.H.A.Rego. That was a case wherein the order of termination dated 20-2-1986 was sought to be questioned in the year 1989 and the condone delay petition was filed only on 4-4-1990. Applying the Supreme Court's decision in AIR 1987 SC 1353, the Bangalore Bench condoned the delay. In the instant case before us no question of seniors being reverted would arise since the applicant is only asking for proforma promotion. No substantial ^{loss} ~~damage~~ would also ^{be} ~~caused~~ to the Railways in that they are not liable to pay any arrears. The applicant himself, because of the delay, is being denied the arrears of pay which he would normally have been entitled to if his application has been filed in time. If the application is to be allowed the only benefit that the applicant would be getting is a higher quantum of pension. ^{If the application is rejected at this threshold he will lose a few Rupees pension for his wife.} In the case of such a low paid employees, we are of the view that the principle of substantial justice could prevail as against the technical consideration or rule as contained in Section 21 of the Administrative Tribunals Act, 1985.

6) In the circumstances, the delay in preferring the application is condoned. The O.A. be posted for admission.


(B.N. Jayasimha)
Vice-Chairman


(D. Surya Rao)
Member(J).

Dated: 16 th August, 1990.