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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH

AT HYDERABAD

O.A.No.315/90

Date of Order: 29.12.1993

BETWEEN:

The Divisional Personnel Officer,
South Eastern Railway, Waltair.

.. Applicant.

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1. The Authority under payment of
Wages Act, Office of the Dy.
Labour Commissioner, Dwarakanagar,
Visakhapatnam

2. The Appellate Authority under payment
of Wages Act, 1936, District Court
Building, Visakhapatnam.

3. The Labour Enforcement Officer (Central),
Port Area, Visakhapatnam.

4. Shri D.Charles,
Mechanic Grade I,
Diesel Loco Shed, Waltair.

.. Respondents.

Counsel for the Applicant

.. Mr.N.R.Devraj

Counsel for the Respondents

.. Mr. D.Panduranga Reddy

Mr.P.Krishna Reddy
for R4.

CORAM:

HON'BLE SHRI A.B.GORTHI : MEMBER (ADMN.)

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

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Order of the Division Bench delivered by
Hon'ble Shri A.B.Gorthi, Member(Admn.).

This is an application filed by the Divisional Personnel Officer, South Eastern Railway, Waltair for setting aside the order of the Appellate authority under Payment of Wages Act dated 2.8.89 confirming the order of the authority under Payment of Wages Act in P.W.Case No.7/84 and to declare Sri D.Charles (Respondent No.4) is not entitled to the benefit of ~~any~~ differential wages for the period between 1977 and 1983.

2. Labour Enforcement Officer, Visakhapatnam filed P.W.Case No.7/84 on behalf of Sri D.Charles claiming a sum of Rs.8,309.30ps ^{as} and difference in the wages of Sri D.Charles and his junior Sri T.S.R.Murthy. The case was disposed of by the authority under the Payment of Wages Act by order dated 12.2.1985. In the said order the competent authority allowed difference of wages only for the period 1977-1983 for a sum of Rs.9950.40ps., but rejected the claim for difference of wages prior to the period of 1977, ^{as} also the claim for compensation amounting to Rs. ^{83090.00} ~~8309.30ps.~~ ^{9 1/2}

3. Sri N.R.Devraj, Learned counsel for the applicant has taken us through the career graphs of Sri D.Charles and Sri T.S.R.Murthy starting from the period 1957 and 1959 respectively. It will be material for us to note that Sri D.Charles was appointed as temporary Mechanic

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on 16.4.61 in the Grade of 110-180 whereas Sri T.S.R. Murthy was similarly appointed to the said ^{grade} ~~post~~ on 28.6.61. It is therefore apparent that Charles was senior to Murthy. From a perusal of the order of the PW authority also it would be clear that there was no dispute as regards the inter-se seniority of Charles and Murthy. Murthy got adhoc promotions to Grade II and Grade I due to local circumstances when he was working in Kharagpur Division. Though Murthy was promoted on a stop gap basis as Mechanic Grade I on 9.8.63 Charles had to wait till 9.8.66 to be promoted to that grade. Consequently Sri D.Charles claimed stepping up of his pay equal to that of Sri Murthy w.e.f. 9.8.63. This aspect of the matter was duly considered by the PW authority and was ~~rejected~~.

4. On 1.10.70 both Sri Charles and Sri Murthy were deputed to undergo training for promotion to the post of Chargeman Grade I. While undergoing training Sri Charles proceeded to Zambia where he worked for about 5 years. Sri Murthy however continued with ~~that~~ training, completed the same and was promoted as Chargeman w.e.f. 24.10.72. Sri D.Charles returned from Zambia on 31.1.75, reported for further training at Kharagpur and was then promoted as Chargeman in March 1977. Charles claimed ~~stepping up~~ of his pay equal to that of Murthy in the Grade of Chargeman, on the ground that he was sent to Zambia by the authorities concerned. On behalf of the Railway authorities it was contended that Charles was sent to Zambia at his own request and hence he cannot claim either promotion with retrospective effect

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or parity of pay with T.S.R.Murthy. It appears from the material before us that Charles was given promotion w.e.f. the due date keeping in view the date of promotion of Murthy but he was denied the monetary benefits. This aspect of the matter was ~~elaborately~~ discussed in the order of PW authority and he came to the conclusion that the Railway authorities were not justified in denying the request of Sri D.Charles for stepping up of his pay equal to that of Murthy. Consequently the difference in the wages for the period 1977 to 1983 was allowed. Relevant portion of the order of the PW authority is re-produced below:-

"However since the individual was promoted to the same grade in 1977 the national pay of the petitioner should be made equal, adhoc to his junior Sri Murthy as on the date of his promotion to the Chargemen Gr. and he is entitled for arrears since then. However the loyal increments which is also a part of pay of his junior cannot be treated for stepping up of this petitioner. Therefore the petitioner is entitled for the arrears from March, 1977 and it should be paid taking the basis of the scale of Sri Murthy as on 1.3.77. Since this is a claim for the period beyond 1.3.71 on which day both are in the same cadre, this claim before this authority is valid. As a result, I order that an amount of Rs.3,950.40ps to be paid by the Opposite Party to the applicant within 30 days of the receipt of the record direction or order or within 3 months from the date of pronouncement of this order through an uncrossed demand draft in favour of Authority under payment of Wages Act, Visakhapatnam payable at State Bank of India, Maharanipeta, Visakhapatnam."

5. Against the order of the PW authority an appeal was filed by the Divisional Personnel Officer, S.E.Railway, Waltair in the Court of District Judge, Visakhapatnam. The appeal was dismissed and the order

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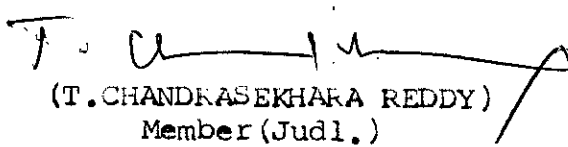
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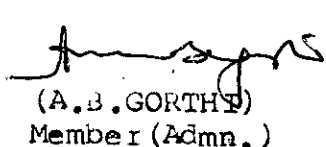
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of the PW authority was confirmed.

6. Having heard Mr.N.R.Devraj, learned counsel for the applicant and having perused the material before us we are of the considered view that the order of the PW authority suffered from no such irregularity or error as would warrant our interference therewith. The order of the PW authority is reasonable and based on the facts of the case. Accordingly we find the present O.A. is without merit and the same is therefore dismissed. There shall be no order as to costs.

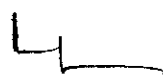

(T.CHANDRASEKHARA REDDY)
Member (Judl.)


(A.B.GORTHI)
Member (Admn.)

Dated: 29th December, 1993

(Dictated in Open Court)

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Deputy Registrar (Jubl.)

Copy to:-

1. The Authority under payment of Wages Act, O/O Dy. Labour Commissioner, Dwarakanagar, Visakhapatnam.
2. The Appellate Authority under Payment of Wages Act, 1936, District Court Building, Visakhapatnam.
3. The Labour Enforcement Officer (Central), Port Area, Visakhapatnam.
4. One copy to Sri. N.R.Devaraj, Sr. CGSC, CAT, Hyd.
5. The Divisional Personnel Officer, S.E.Railway, Waltair.
6. One copy to Sri. D.Panduranga Reddy, Sl. counsel for A.P.
7. One copy to Sri. P.Krishna Reddy, Advocate, for R-4, CAT, Hyd.
8. One copy to Library, CAT, Hyd.
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