

(49)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH

AT HYDERABAD

O.A.No.441/90

Date of Order: 22.12.93

BETWEEN:

Kum. K.Aria

.. Applicant.

A N D

1. Union of India, rep. by
the Secretary, Ministry of
Communications, New Delhi - 1.

2. Director Telecom,
Hyderabad Area,
Secunderabad - 500 003.

3. Sri K.Prasada Rao,
Inquiry Officer,
AGM (TT) O/p CGM
Hyderabad.

.. Respondents.

Counsel for the Applicant

Mr. T.V.V.S. Murthy for
.. Mr.T.Jayant

Counsel for the Respondents

.. Mr.N.R.Devraj

CORAM:

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

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

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

The applicant was subjected to departmental proceedings and was removed from service by an order dt. 21.6.88. Aggrieved by the same, she approached the Tribunal with O.A.191/89 questioning the validity of the removal order on several grounds. The Tribunal allowed the O.A. setting aside the order of removal and remitted the case back to the competent authority for proceeding further from the stage of furnishing a copy of the enquiry officer's report to the applicant. The prayer of the applicant in this application is for a direction to the respondents to pay her arrears of pay and allowances for the period from 21.6.88 to 1.2.89.

2. The respondents in their reply affidavit have stated that as the applicant was not completely exonerated there was no question of paying her all the arrears and allowances. The same would be settled on the final conclusion of the disciplinary proceedings.

3. When this case came up for final hearing on 6.9.93 Mr.T.V.V.S.Murthy on behalf of Mr.T.Jayant stated that Mr.T.Jayant is no longer the Advocate for the applicant. Consequently notice was sent to the applicant but it was returned unserved. Again on 16.11.93 we gave a direction for issuance of notice to the applicant intimating the date of final hearing as 15.12.93. Notice issued in consequence has not been returned unserved. In view of this

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Copy to:-

1. Secretary, Ministry of Communications, Union of India, New Delhi-1.
2. Director Telecom, Hyderabad Area, Secunderabad-003.
3. One copy to Sri. T.Jayant, advocate, CAT, Hyd.
4. One copy to Sri. N.R.Devaraj, Sr. CGSC, CAT, Hyd.
5. One copy to Library, CAT, Hyd.
6. One spare copy.

Rsm/-

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circumstances we have heard Mr.N.R.Devraj, Learned Standing Counsel for the Respondents and perused the O.A. before us.

4. The applicant filed the O.A. at a stage when the disciplinary proceedings pending against her did not conclude. The question of giving any direction to the respondents regarding the payment of the arrears of ~~all the~~ pay and allowances does not therefore arise. In this context we may refer to the recent decision of the Supreme Court Managing Director, ECIL V. B.Karunakar (1993 25 ~~ATC~~ 704) relevant passage from the judgement is reproduced below:-

"The question whether the employee would be entitled to the back-wages and other benefits from the date of his dismissal to the date of his reinstatement if ultimately ordered, should invariably be left to be decided by the authority concerned according to law, after the culmination of the proceedings and depending on the final outcome. If the employee succeeds in the fresh inquiry and is directed to be reinstated, the authority should be at liberty to decide according to law how it will treat the period from the date of dismissal till the reinstatement and to what benefits, if any and the extent of the benefits, he will be entitled. The reinstatement made as a result of the setting aside of the inquiry for failure to furnish the report, should be treated as a reinstatement for the purpose of holding the fresh inquiry from the stage of furnishing the report and no more, where such fresh inquiry is held. That will also be the correct position in law."

5. In view of the above settled position and also as the learned counsel for the respondents ^{has} ~~as~~ stated before us, under instructions, that the applicant had since been dismissed from service, the applicant is not entitled to the relief claimed from this Tribunal. Hence this O.A. is dismissed without any order as to costs.

(T.CHANDRASEKHARA REDDY)
Member (Judl.)

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

Dated: 22nd December, 1993

(Dictated in Open Court)

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Deputy Registrar
Comd. 41

PW

OA-441/90

(11)

TYPED BY

COMPARED BY

CHECKED BY

APPROVED BY

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH : HYDERABAD

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

AND

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

AND

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

AND

THE HON'BLE MR. R. RANGARAJAN : MEMBER(A)

Dated: 22/12/-1993

ORDER/JUDGMENT: _____

M.A/R.A/C.A.No. _____

O.A.No. _____

in
AA1/90

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

