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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD
BENCH : AT HYDERABAD :

DA No.965/90.

Date of order: 6-12-1990.

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|--------------------|----------------------|
| 1. B.Venkata Rao | 18.M.Madhusudana Rao |
| 2. Sk.Pandusabh | 19.R.Silk |
| 3. K.Gopaiah | 20.D.Malakondaiah |
| 4. N.Koteswara Rao | 21.K.Kamaiah |
| 5. K.Katom Raj | 22.R.Kotaiah |
| 6. K.Venkaiah | 23.D.Prakasham |
| 7. G.Badraiah | 24.K.Surya Rao |
| 8.A.Malakondaiah | 25.A.Sunder Rao |
| 9. N.Anginelu | 26.K.Jaya Raju |
| 10.Sk.Miravali | 27.K.Raghava Rao |
| 11.A.Samuel | 28.S.Guravaiah |
| 12.G.Samual | 29.K.Nageswara Rao |
| 13.B.Venkataratnam | 30.P.John Yesh |
| 14.N.Abel | 31.S.Sanjeeva Rao |
| 15.K.Johnpaul | 32.S.Kondal Rao |
| 16.B.Sambasiva Rao | |
| 17.P.Jyothivelu |Applicants |

Vs.

1. The General Manager,
South Central Railway,
Rail Nilayam, Secunderabad.
2. The Chief Personnel Officer,
South Central Railway,
Rail Nilayam, Secunderabad.
3. The Divisional Engineer (Doubling),
South Central Railway, Vijayawada.
4. The Chief Permanent Way Inspector,
Secunderabad (BG) Division, SC Railway,
Kondapalli.

.....Respondents

Counsel for the Applicants : Shri P.Krishna Reddy

Counsel for the Respondents : Shri N.R.Devaraj, SC for Rlys

CORAM:

THE HON'BLE SHRI B.N.JAYASIMHA : VICE-CHAIRMAN

THE HON'BLE SHRI D.SURYA RAO : MEMBER (JUDICIAL)

(Orders) of the Division Bench delivered by
Hon'ble Shri D.Surya Rao, Member (J).

contd....2...

MA 964/90 ordered.

The applicants who were working as Gangmen in the VTPS had earlier filed OA 597/89 questioning the order of the Chief Personnel Officer, SC Railway, Secunderabad dated 29-4-1987 directing recovery of House Rent Allowance payable to the applicants and also directing recovery of over-payments. The said OA was dismissed by this Tribunal by an order dt. 4-8-1989 holding that the applicants had not exhausted the alternative remedy available to them and the application is premature. A direction was given to the applicants to prefer an appeal within a period of two weeks from the date of receipt of the order in OA 597/89. It was also ordered that till the disposal of the appeal by the General Manager, the recoveries directed to be made pursuant to the order dt. 29-4-1987 as communicated by the 2nd respondent on 31-3-89 shall be stayed. In the present application it is contended that the applicants had submitted an appeal as directed in OA 597/89 and that the appeal is yet to be disposed of. However, the respondents are continuing to recover the HRA amounts from the applicants in violation of the orders of this Tribunal in OA 597/89. They have therefore once again filed the application for direction to declare the order dt. 29-4-1987 as illegal, discriminatory and without jurisdiction, and to set aside the said order. The reasons for seeking quashing the said order by filing the present OA is that no decision on the appeal has been communicated to them.

contd..3..

2. We have heard Shri P. Krishna Reddy, learned counsel for the applicants and Shri N.R. Devaraj, learned standing counsel for the Railways, who has taken notice at the admission stage. Shri Devraj contends that the present application is not maintainable in that, if the respondents have not complied with the directions of this Tribunal in OA 597/89 and their remedy is to move a contempt application and not to approach this Tribunal by way of a fresh Original Application. Shri Krishna Reddy, however contends that it is open to the applicants to question the order dt. 29-4-1987 since the previous order of the Tribunal in OA 597/89 is not resjudicata, since no final decision was rendered therein, that previously the application was rejected on the ground of non-exhaustion of the alternative remedy available, that by preferring an appeal the applicants has satisfied the requirements of Section 20 of the Administrative Tribunals Act, 1985 and that the applicants are not bound to wait indefinitely for a decision of the appellate authority. In the present application the relief asked for is not for a direction to implement the orders of the Tribunal in OA 597/89 directing suspension of the recoveries sought to be made but for quashing the orders dt. 29-4-1987 giving rise to the recoveries. The applicant continues to be aggrieved by the order dt. 29-4-1987 and since his appeal has not been disposed of despite his waiting for six months, there is no legal bar to the filing of the present application. We agree with Shri Krishna Reddy that the applicants cannot

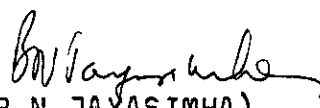
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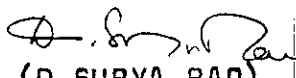
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be compelled to file a contempt application. We accordingly admit the application. Notices do issue to all the Respondents for filing a counter before the Registrar within four weeks of receipt of the notice.

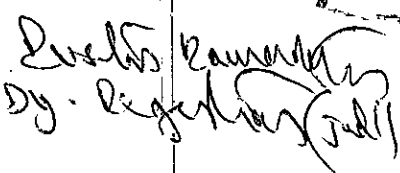
3. BY WAY OF INTERIM RELIEF, the applicants have prayed for directions to re-pay the amounts of Rs.350/- already recovered. We see no reason to direct the re-payment of the amounts already recovered. However, the respondents are directed not to recover any amounts in pursuant to the orders dt.29-4-1987 from the applicants during the pendency of the present application.

4. The admission of this application will not preclude the General Manager, from disposing of the appeal which the applicants alleged to have been preferred if not already been disposed-of.


(B.N. JAYASIMHA)
Vice-Chairman


(D. SURYA RAO)
Member (J)

Dated: 6th December, 1990.
Dictated in Open Court.


Dy. Registrar (J)

- To avl/
1. The General Manager, S.C.Rly, Railnilayam, Secunderabad
2. The Chief Personnel Officer, S.C.Rly, Railnilayam, Secunderabad
3. The Divisional Engineer(Doubling) S.C.Rly, vijayawada.
4. The Chief Permanent Way Inspector, Secunderabad(BG)Division,
S.C.Rly, Kondapalli.
5. One copy to Mr. P.Krishna Reddy, Advocate
3-5-899, Himayatnagar, Hyderabad.
6. One copy to Mr.N.R.Devraj, SC for Rlys, CAT.Hyd.
7. One spare copy.

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CHECKED BY
TYPED BY

RVS
17/12/90
APPROVED BY
COMPARED BY

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH AT HYDERABAD.

THE HON'BLE MR. B. N. JAYASIMHA : V.C.
AND

THE HON'BLE MR. D. SURYA RAO : M(J)
AND

THE HON'BLE MR. J. NARASIMHA MURTY : M(J)
AND

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

DATE: ~~24-9~~ *6/12/90*

ORDER / ~~JUDGEMENT~~

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

in

T.A. No.

W.P. No.

O.A. No.

9/65/90

Admitted and Interim directions
issued.

Allowed.

Dismissed for default.

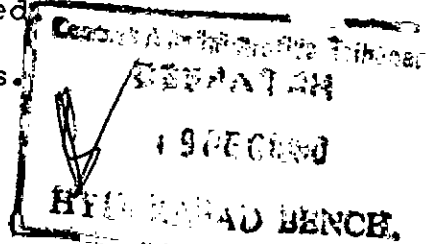
Dismissed as withdrawn.

Dismissed.

Disposed of with direction.

M.A. Ordered/Rejected.

No order as to costs.



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