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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH
AT HYDERABAD

O.A. 274/91.

Dt. of Decision : 7.12.94.

K. Narasimha Murthy

.. Applicant.

Vs

1. The General Manager,
SC Rly, Secunderabad.
2. The Sr. Divisional Personnel Officer,
Vijayawada Division, SC Rly,
Vijayawada.

.. Respondents.

Counsel for the Applicant : Mr. P.V.S.S.S.Rama Rao

Counsel for the Respondents : Mr. N.V.Ramana, Addl.CGSC.

CORAM:

THE HON'BLE SHRI A.V. HARIDASAN : MEMBER (JUDL.)

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

O.A. 274/91.

Dt. of Decision : 7.12.1994.

ORDER

Q As per Hon'ble Shri A.B. Gorthi, Member (Admn.) Q

The applicant who is working as an Assistant Station Master (ASM) in SC Railway, claims by means of this OA that his pay should be refixed by the respondents as was done in respect of 8 other similarly situated employees.

2. The applicant was originally appointed as Works Supervisor in the Indian Railway Electrification Project at Adra on 14.9.1960. When the electrification work was over, he was transferred to DBK Railway Project where he worked as a Works Maistry from 1961 to 1969. With the declaration of several employees of the DBK Project as surplus, the applicant was offered alternative appointment as ASM in SC Railway and was directed to undergo the required training. On successful completion of the training, he was absorbed as an ASM on 11.4.1967 and his pay was fixed at Rs. 150/- in the scale of Rs. 130-240. His pay was raised to Rs. 187/- on 11.4.1969 and the same was continued upto 1974. In 1974, that is, after the applicant had worked for 7 years as ASM the respondents reduced the pay of the applicant by 7 increments.

3. ~~But~~ Pay of similarly situated employees was also thus reduced. Some of them approached the High Court of A.P. in W.P.No. 6215/1974. The said W.P. was disposed of on 16.7.1976 with a direction to the respondents to give an opportunity to the petitioners to be heard before

passing any final order on the question of reduction of their pay. The respondents in compliance with the said order heard the persons concerned (not the applicant) and once again passed the same orders reducing their pay. The petitioners (not including the applicant) once again approached the High Court of A.P. in W.P. No.3703/-1978. The High Court, having examined the case on merits came to the conclusion that the respondents were not justified in effecting reduction in the pay of the petitioners because the case of the petitioners was covered by Class B of para 1-B of Railway Board's letter dated 11th June 1953 which read as under:-

"In case the appointment to the lower post involves appointment to a regular cadre with immediate or future prospects of absorption a permanent Government servant, care should be taken to see that the grant of advance increments does not come into conflict with the pay fixed for other railway servants in the cadre".

4. Consequently the order of the respondents reducing the pay in respect of the petitioners was quashed. A Writ Appeal (No. 624/1980) filed by the SC Railways was dismissed on 23.12.1986.

5. As a result of the decision of the High Court of A.P., the respondents took necessary action to re-fix the pay of the petitioners in the said writ petition and paid them arrears vide order dated 29.8.1987.

6. Having come to know of the above developments the applicant started representing his grievance to the higher authorities requesting them to grant him also similar relief that was given to the employees who had

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approached High Court. His representations dated 2.11.89 and 9.1.1990 were considered by the respondents but were rejected vide their order dated 6.2.1990 on the ground that as the applicant was not a party to the judgement of the A.P. High Court in W.P.No. 3703/1978 the benefit therein could not be extended to the applicant. Hence this OA.

7. The respondents in their reply affidavit have at the out set, objected to the maintainability of this application on the ground that the grievance of the applicant pertained to the reduction in his pay effected in 1974, and as such this Tribunal has no jurisdiction. There is no doubt that the grievance of the applicant arose as a result of the reduction of his pay ordered by the respondents in 1974. But the facts stated in the preceding paragraph would show how some of the employees progressed their case with the A.P. High Court, how they got a favourable judgement and how thereafter the applicant pursued his case. It must also be borne in mind that the respondents themselves took almost 7 years to realise their so called mistake in the fixation of pay of the applicant and effected the reduction in his pay 7 years after it was initially fixed. In these circumstances, we are not convinced that this OA which was filed in 1991 should, at this stage, be dismissed on the ground of limitation.

8. As regards the merits of the case there can be no doubt that the applicant is similarly situated as the petitioners in W.P. No. 3703/1978. Accordingly the respondents themselves ought to have extended similar benefit to the applicant also on their own without giving the applicant to make representations and to approach the Tribunal.

Copy to:-

1. The General Manager, South Central Railway, Secunderabad.
2. The Sr. Divisional Personnel Officer, Vijayawada Division, South Central Railway, Vijayawada.
3. One copy to Sri. P.V.S.S.Rama Rao, advocate, CAT, Hyd.
4. One copy to Sri. N.V.Ramana, Addl. CGSC, CAT, Hyd.
5. One copy to Library, CAT, Hyd.
6. One spare copy.

Rsm/-

9. As the applicant took his own time even after the W.P. was disposed of in 1986, to approach this Tribunal, we are of the considered view that the applicant would not be entitled to any arrears accruing on account of extension ^{of} the benefit of the A.P. High Court judgement to the applicant also.

10. In the result this OA is allowed with the following directions to the respondents:-

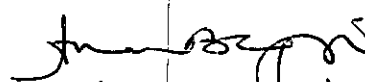
(1) The pay of the applicant will be refixed, notionally, with effect from 1974 as was done in respect of the petitioners in W.P.No.3730/1978.

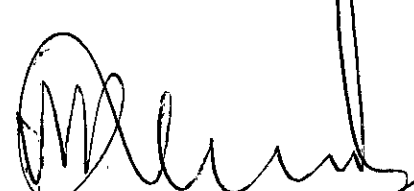
(2) After such notional fixation his present pay will correspondingly be revised. ✓

(3) Arrears accruing on account of the refixation of the pay of the applicant will be limited to one year prior to the filing of this OA. In otherwards, arrears accruing to the applicant will be calculated with effect from 1.3.1990 and paid to him.

(4) The respondents to comply with the above directions within a period of 4 months from the date of communication of this order.

11. The OA is ordered accordingly. No order as to costs.


(A.B. GORTHI)
MEMBER (ADMN.)


(A.V. HARIDASAN)
MEMBER (JUDL.)

Dated : The 7th December 1994.
(Dictated in Open Court)


DY. Registrar (5)

Contd... 6/-

Off 274/94

Typed by

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Checked by

Approved by

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH HYDERABAD

THE HON'BLE MR.A.V.HARIDASAN : MEMBER (J)

AND

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

DATED: 7/12/94

ORDER/JUDGMENT.

M.A./R.P/C.P.NO.

O.A.NO.

T.A.NO.

Admitted and Interim Directions
issued.

Allowed.

Disposed of with Direction.

Dismissed.

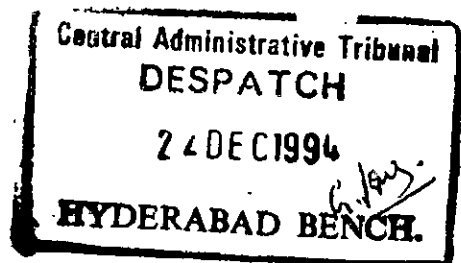
Dismissed as withdrawn

Dismissed for default

Rejected/Ordered

No order as to costs.

No spare copy.



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