

(23)

CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH: AT HYDERABAD.

O.A. No. 275/91

Date of Decision: 25.8.1992

~~T.A. No.~~

M. Sreerama Murthy Petitioner.

Mr. G. Mohan Rao Advocate for
the Petitioner(s)

VERSUS

The Senior Divisional Personal Officer,
S.C. Rly., Vijayawada and 2 others. Respondent.

Mr. V. Bhimanna Advocate for
the Respondent
(s)

CORAM:

THE HON'BLE MR. T. CHANDRASLEKHARA REDDY, MEMBER (JUDL.)

THE HON'BLE MR.

1. Whether Reporters of local papers may be allowed to see the Judgment ?
2. To be referred to the Reporters or not ?
3. whether their Lordships wish to see the fair copy of the Judgment ?
4. Whether it needs to be circulated to other Benches of the Tribunal ?
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.)

No

T. C. N.
(HTCSR)
M(J)

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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH
AT HYDERABAD

O.A.No.275/91

Date of Order: 25.8.1992

BETWEEN:

M.Sreerama Murthy

.. Applicant.

A N D

1. The Senior Divisional Personal Officer,
South Central Railway, Vijayawada.

2. The Railway Board, rep. by its
Secretary, Ministry of Railways,
New Delhi.

3. The General Manager, S.C.Rly.,
Secunderabad.

.. Respondents.

Counsel for the Applicant

.. Mr.G.Mohan Rao

Counsel for the Respondents

.. Mr.V.Bhimanna

CCRAM:

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

(Order of the Single Member Bench delivered by
Hon'ble Shri T.Chandrasekhara Reddy, Member(Judl.)).

MP
27/8/92

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This is an application filed under Section 19 of the Administrative Tribunals Act to direct the respondents to pay the applicant's D.C.R.G. amount of Rs.7,327-35ps. with an interest of 24% per annum from the date of retirement up to the date of payment and to pass such other order or orders as may deem fit and proper in the circumstances of the case.

The facts giving raise to this OA in brief are as follows:

2. The applicant had worked as Assistant Personnel Officer in the S.C.Railway. The date of birth of the applicant was recorded as 15.7.1927 in his service register. The applicant had filed O.S.820/85 on the file of the District Munsif Court, Vijayawada to declare that his correct date of birth is 21.3.1928. In the said O.S.820/85 the applicant filed I.A.489/85 and obtained temporary injunction orders in his favour, directing the railways to continue the petitioner in service beyond 31.7.1985. As against the said temporary injunction orders obtained in I.A.489/85 the department preferred an appeal in C.M.A.No.15/85 on the file of the Sub Court, Vijayawada. The Sub-Judge, Vijayawada did not interfere with the said temporary injunction order obtained by the applicant in his favour. ^{before the High Court of Andhra Pradesh} The department preferred revision in C.R.P.No.3353/85 as against the said orders of the Sub-Judge, Vijayawada passed in C.M.A.No.15/85. The High Court of A.P. as per its orders dated 31.10.1985 vacated the said temporary injunctio orders passed in I.A.489/85. So the applicant was retired by the department on 1.11.1985.

3. After the Central Administrative Tribunal Bench was constituted at Hyderabad, the said O.S.820/85 was transferred to this Tribunal as the said suit related to the "service" matter of a railway employee. After transfer of the said O.S. to this Tribunal the same was numbered as T.A.1104/86 on the file of this

22/86
3/11

Tribunal. The said T.A.1004/86 was decided by this Tribunal by its Judgement dated 17.8.1989 giving a direction to the respondents to decide the representation of the applicant with regard to the correction of the date of birth of the applicant on merits.

4. The respondents had paid the salary to the applicant for the said period of 3 months the applicant had worked in pursuance of the said temporary injunction orders. But the respondents had withheld a sum of Rs.7,327-35 from out of the D.C.R.G. payable to the applicant. According to the applicant the said action of the respondents in withholding the said amount of Rs.7,327-35 ps. is illegal and void. Hence the present OA is filed by the applicant for the relief as indicated above.

5. Today we have heard Mr.G.Mohan Rao, Advocate for the applicant and Mr.V.Bhimanna, Standing counsel for the respondents.

6. It is brought to our notice that the said amount of Rs.7,327-35 had been withheld towards the salary that had been paid to the applicant for those 3 months and also towards the pensionary benefits that had been paid to the applicant for the said 3 months.

7. The fact that this applicant had worked from 1.8.85 up to 31.10.1985 in pursuance of the said temporary injunction orders passed by a competent court is not in dispute in this OA.

~~As per~~ the applicant had worked for the said period of 3 months the said temporary injunction orders that were passed in his favour had been vacated by the High Court. On the principle of *Quantum Meruit* the applicant is liable to be paid ^{salary} for those 3 months. The applicant was liable to paid salary for those 3 months at the same rate as he was paid in the month of July, 1985 in which month the applicant had actually been retired. So it is not open for the respondents to withhold from out of the gratuity amount the salary that had been paid for the said 3 months. The learned counsel for the applicant Mr.Moha

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Copy to:-

1. The Senior Divisional Personal Officer, South Central Railway, Vijayawada.
2. The Secretary, Ministry of Railways, Railway Board, New-Delhi.
3. The General Manager, South Central Railway, Secunderabad.
4. One copy to Sri. G.Mohan Rao, advocate, 3-5-703, 'Maya' Opp. Old M.L.A. Quarters, Hyd.
5. One copy to Sri. V.Bhimanna, SC for Railways, CAT, Hyd.
6. One spare copy.

Rsm/-

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fairly conceded that the applicant is not entitled for any pensionary benefits for the period of 3 months, the applicant had worked in pursuance of the court orders. So, out of the said gratuity amount the respondents have got a right to withhold if any ~~that~~ amount had been paid towards pensionary benefits for those 3 months.

8. The applicant had claimed interest on the D.C.R.G. amount that had been withheld. But in view of the facts and circumstances of the case we are of the opinion that this is not a fit case to award any interest to the applicant on the said D.C.R.G. amount.

9. In the result we direct the respondents to pay the balance of the amount from out of the amount of Rs.7,327-35ps. that is withheld from out of the gratuity that is payable to the applicant after deducting the pensionary benefits if any that had been paid to the applicant. The directions in the CA shall be implemented within 2 months from the date of the receipt of this order.

CA is allowed accordingly leaving the parties to bear their own costs.

T. Chandrasekhar Reddy
(T. CHANDRASEKHARA REDDY)
Member (Judl.)

Dated: 25th August, 1992

(Dictated in the Open Court)

8/8/92
Dy. Registrar (Judl.)

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O.A. 275191

TYPED BY

COMPARED BY

CHECKED BY

APPROVED BY

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH

THE HON'BLE MR.

AND

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

AND

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

AND

THE HON'BLE MR. C. J. ROY : MEMBER (J)

Dated:

25/8/1992

ORDER / JUDGMENT

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

in

O.A. No.

275191

T.A. No.

(W.P. No)

Admitted and interim directions
issued

Allowed.

Disposed of with directions

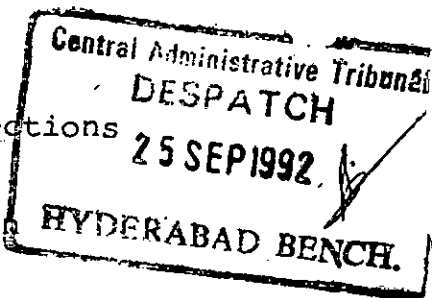
Dismissed

Dismissed as withdrawn

Dismissed for default

M.A. Ordered / Rejected

No orders as to costs.



pvm.

25/8/92