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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH
AT HYDERABAD.

D.A. No. 455/91.

Dt. of Decision : 30-8-94.

M.S.S.R. Sastry

.. Applicant.

Vs

1. The Director,
General Tobacco Research Institute,
Rajahmundry, E.G. Dist., A.P.
2. The Labour Officer,
Govt. of A.P., Gandhipuram No.2,
Rajahmundry.
3. The Industrial Tribunal-cum-Labour
Court,
rep. by its Presiding Officer,
Ramnagar, Visakhapatnam.
4. M. Jesuratnam
5. M.S.N. Achari
6. D.S.R. Sastry
7. T. Lakshmana Rao
8. N.V.B. Rao
9. G.K. Rao
10. M. Venkata Rao
11. M.N. Raju
12. Ayyappa Naidu
13. G. Ganga Raju
14. M. Sankara Rao
15. Y. Venkanna
16. M. Trinath
17. P.V.V.R. Srinivasa Rao
18. G.H. Mohan Acharyulu
19. R. Ramakrishna

(Respondents 4 to 19 are working in different Grades
in the Central Tobacco Research Institute,
Rajahmundry.)

.. Respondents.

Counsel for the Applicant : Mr. S. Lakshma Reddy

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

CORAM:

THE HON'BLE SHRI JUSTICE V. NEELAORI RAO : VICE CHAIRMAN

THE HON'BLE SHRI R.B. GORTHY : MEMBER (ADMN.)

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O.A.NO.455/91.

JUDGMENT

Dt:30.8.94

(AS PER HON'BLE SHRI JUSTICE V.NEELADRI RAO, VICE CHAIRMAN)

Heard Shri S.Lakshma Reddy, learned counsel for the applicant and Shri N.V.Ramana, learned standing counsel for the respondents.

2. The applicant, a Matriculate, was appointed as Laboratory Boy on casual basis in R-I organisation on 9.12.1975. When he was removed from service by the order dated 6.11.1977, he along with another who was also removed, approached the Government with a request to refer the matter to the Labour Court under Section 10 of Industrial Disputes Act. Then, the same was referred to and registered as ID 101/78 on the file of the Labour Court, Guntur. The same was disposed of by the Award dated 5.5.1980 whereby R-I was directed to give the applicant back wages upto 30.9.1979 and further directed that he should be given continuity of service with all attendant benefits. Then, the applicant was reinstated on 17.12.1980. He filed Writ Petition No.2630/82 before the High Court of Andhra Pradesh praying for a direction to R-I to regularise his ^{services} as those who joined later on casual basis were regularised. The said Writ Petition was transferred to this Tribunal and registered as T.A. No.98/87 and the same was disposed of by the order

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dated 17.11.1987 by observing that it is for the Labour Officer to monitor implementation of the Award. The Labour Officer addressed the letter dated 3.2.1988 to R-1 for implementation of the Award dated 5.5.1980. The applicant also addressed the letter dated 23.2.1988 to the Labour Officer requesting for taking steps for implementation of the Award. Then, the Labour Officer again addressed the letter dated 20.8.1988 to R-I. Even before the letter dated 20.8.1988 was issued, R-I informed the Labour Officer that the Award was implemented in toto. Being aggrieved, the applicant filed this OA praying for declaration that the action of the respondents in not giving the benefits of seniority, continuity of service, promotion, difference in wages etc., to the applicant as per the Award dated 5.5.1980 in ID 101/78 is illegal and arbitrary and for consequential^{al} direction to R-I to give the benefits of continuity of service, seniority from the date of his initial appointment and also promotion to the post of Frashes/Beldar with effect from 27.3.1978, the date on which his immediate junior was promoted with all other monetary benefits such as difference in pay and emoluments etc.

3. The operative portion of the Award dated 5.5.1980 in ID 101/78 on the file of the Labour Court, Guntur is as under:-

"they are entitled to be reinstated
with continuity of service and with

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~~continuity of service and with~~ all attendant benefits together with back wages upto the date of reinstatement for the 1st claimant and upto 30.9.1979 for the 2nd claimant."

The 2nd applicant therein is the applicant herein. As it was stated before the Labour Court that the applicant was engaged in a private firm from 1.10.79, the back wages from 1.10.1979 were not allowed, as order for back wages even in such^{or} case will amount to unfair advantage ~~of~~ to the employee. But it was made clear in the said Award that the applicant should be given the benefit of continuity of service with all attendant benefits. Hence, either the period from the date of termination or from 1.10.1979 till the date of reinstatement in December 1980 cannot be treated as break in service. Thus, the case of the applicant for regularisation has to be considered on the basis of his seniority by reckoning it from 9.12.1975, the date on which he was engaged as Laboratory Boy on casual basis.

4. The applicant was regularised as Beldar (Group 'D' post) on 3.01.1990. It is evident from the material paper No.29 that the services of Shri M.Jesurathnam who was initially engaged on 7.1.1976 were regularised on 27.3.1978. As the initial

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engagement of the applicant is earlier to the date of initial engagement of Shri M.Jesurathnam, the applicant claims that his services should be regularised with effect from 27.3.1978.

5. It is stated in the reply that the case of the applicant was considered in November 1981 and as he was not found suitable, his services were not regularised then. But, it may be noted that the post of Beldar is unskilled post. The applicant is a Matriculate. In view of the Award of the Labour Court, the case of the applicant for regularisation has to be considered as on 27.3.1978, the date on which his immediate junior was considered. In view of the nature of duties of the post and as the services of the applicant were already regularised in 1990, we feel that it is just and proper to direct R-I to regularise the services of the applicant in the post of Beldar with effect from 27.3.1978 instead of again convening a review select committee for consideration of the case of the applicant for regularisation as on 27.3.1978.

6. Hence, the services of the applicant in regard to the post of Beldar have to be regularised with effect from 27.3.1978 and the pay of the applicant in the ~~post~~ said post has to be notionally fixed as on that date and he has to be given the

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ASAR

To

1. The Director, General Tobacco Research Institute,
Rajahmundry, E.G. Dist. A.P.
2. The Labour Officer, Govt. of A.P.
Gandhipuram No.2, Rajahmundry.
3. The Presiding Officer, Industrial Tribunal-cum-Labour Court,
Ramnagar, Visakhapatnam.
4. One copy to Mr. S. Lakshma Reddy, Advocate, CAT. Hyd.
5. One copy to Mr. N. V. Ramana, Addl. CGSC: CAT. Hyd.
6. One copy to Library, CAT. Hyd.
7. One spare copy.

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24/10/52

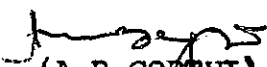
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difference in salary and emoluments from 1.4.1990 as this OA was filed on 19.4.1991, and as in the case of continuing right, this Tribunal ordering monetary benefits from about one year prior to the date of filing of the OA.

7. It is also stated for the applicant that Shri MSN Achari who was initially engaged on casual basis on 6.7.1976 and whose services in Group 'D' were regularised with effect from 26.1.1979, was even promoted as LDC ~~x~~ on 26.7.1984 and hence the case of the applicant for promotion as LDC as on that date has to be considered. But, the applicant had not prayed for such relief in this OA. So, in the circumstances, we merely direct that the case of the applicant for promotion to the post of LDC in regard to the next vacancy available for Group 'D' by way of promotion, ^{in accordance with rules} has to be considered on the basis of his seniority in Group 'D' by reckoning it from 27.3.1978.


8. The OA is ordered accordingly. No costs.


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


(V. NEELADRI RAO)
VICE CHAIRMAN

DATED: 30th August, 1994.
Open court dictation.

vsn


Deputy Registrar (D) CC

TYPED BY

CHECKED BY

COMPALED BY

APPROVED BY

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH AT HYDERABAD

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

AND

A. B. Gorthi

THE HON'BLE MR. ~~K. RANGARAJAN~~ : M(A.D.M)

DATE. 30-8 - 1994

ORDER/JUDGMENT

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

in

O.A.No.

455/91

(T.A.No.

(W.P.NO

Admitted and Interim directions
Issued.

Allowed.

Disposed of with directions.

Dismissed

Dismissed as withdrawn

Dismissed for Default.

Ordered/Rejected

No order as to costs.

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