

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL:HYDERABAD BENCH
AT HYDERABAD

O.A.No.500/91

Dt. of Order: 08.06.1994

Between

P. Sathirajulu

.. Applicant

and

1. The Director Exploratory Fisheries
Project, Bombay,

2. The Dy. Director
Exploratory Fisheries Project,
Visakhapatnam Base, Port Area,
Visakhapatnam-1.

.. Respondents

Counsel for the Applicant :: Mr D.V.Sitharama Murthy

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

CORAM:

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

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

ORDER

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

The applicant was initially appointed on a regular basis as a Net Mender in Exploratory Fisheries Project, Visakhapatnam Base in 1962. After he had rendered service for 22 years, the respondents terminated his service on 2.3.1984, on the ground that he did not possess the minimum educational required/qualification namely, 8th Std. Aggrieved by the termination of his service, he approached the AP High Court with W.P.No.8086/84. The Hon'ble AP High Court issued an interim direction to the respondents not to terminate the services of the applicant. Consequently, he continued to

remain in service. In the meantime, the Writ Petition was transferred to the Tribunal and was numbered as TA 51/88. It was dismissed for default in September, 1988, but was restored subsequently. Vide its Judgement dated 13.12.88 in TA 51/88, the Tribunal found no justification for the respondents to terminate the services of the applicant and accordingly, allowed the TA with a direction to the respondents educational to consider relaxation of prescribed/qualification for the post and reinstate the applicant in the post of Net Mender. The question of relaxing the educational qualification was considered by the respondents and finally, it was decided that the applicant could be regularly appointed as a Net Mender after necessary relaxation of the educational qualification in his respect.

2. Due to the dismissal of the TA for default and its subsequent restoration, the applicant was out of service from 30.9.88 to 14.11.89. Excepting for this period, the applicant throughout was in the service of the respondents from 1962 when he was initially appointed.

3. The respondents have treated the reinstatement of the applicant w.e.f. 15.11.89 as a fresh appointment. Consequently, the pay of the applicant was fixed at the minimum of the pay scale for the post and also, the respondents have decided not to reckon the past service for the applicant for any purpose.

4. We have heard learned counsel for both the parties.

5. Mr Seetharama Murthy, learned counsel for the applicant stated that there could be some justification for the respondents not to pay wages to the applicant for the period from 30.9.88 to 14.11.89 when he did not actually work,

Copy to:-

1. The Director Exploratory Fisheries Project, Bombay.
2. The Dy. Director, Exploratory Fisheries Project, Visakhapatnam Base, Port Area, Visakhapatnam-1.
3. One copy to Sri. D.V.Sitharama Murthy, advocate, 1-1-591, Gandhinagar, 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/-

4th P
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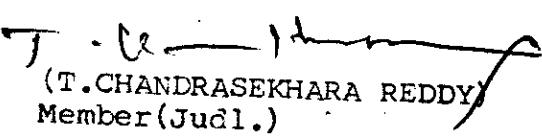
..3..

but, there could be absolutely no justification for denying the applicant, the benefit of counting his long and unblemished past service for the purpose of fixation of his pay, pensionary benefits, etc.

6. The respondents, in their reply affidavit have merely stated that as the question of relaxation of educational qualification was involved, his appointment w.e.f. 15.11.89 was treated as a fresh appointment only. There is nothing on record to show that the action of the respondents is justified by any rule or regulation under which they could forfeit the past services of the applicant. More so, when the applicant was not to be blamed at all. The respondents initially appointed the applicant as a Net Mender in 1962, knowing well his educational qualifications. Keeping in view the above factors, and also, taking into consideration that the Tribunal while disposing of TA 51/88, categorically directed the respondents to consider relaxation of educational qualifications and "to reinstate the applicant in the post of Net Mender", his "reinstatement" w.e.f. 15.11.89 cannot be viewed as a fresh appointment.

7. In view of the above circumstances of the case, we dispose of this application with a direction to the respondents to count the entire past service of the applicant including the period 30.9.88 to 14.11.89 for the purpose of fixation of pay, pension, seniority, etc. However, we agree with the respondents' decision not to pay him wages for the period from 30.9.88 to 14.11.89 on the principle of 'No work; No Pay'.

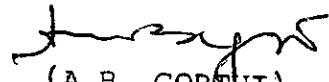
8. OA ordered accordingly. No costs.

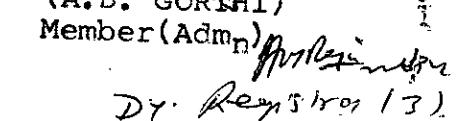

(T. CHANDRASEKHARA REDDY)
Member (Judl.)

Dated: The 08th June, 1994

(Dictated in the OpenCourt)

341 mv1


(A. B. GORATHI)
Member (Admn.)


D.Y. Registrar (13)

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O.A.500791

TEMED BY

COMPARED BY

CHECKED BY

APPROVED BY

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH AT HYDERABAD.

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

AND

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

AND

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

AND

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

Dated: 26/1/1994.

ORDER/JUDGMENT:

~~M.L.R.A/C.A.~~ No.

O.A.No.

500791

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

