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

D.A.No. 617/91
T.A.No.

DATE OF DECISION:- 28-8-92

Between:-

C.T. Rangamani

Petitioner(s)

K.S.R. Anjaneyulu

Advocate for the
petitioner(s)

Versus

The Secretary, Min. of Railways, New Delhi,
and three others

Respondent.

V. Bhimanna

Advocate for the
Respondent(s)

CORAM:

THE HON'BLE MR.T. CHANDRASEKHARA 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 Reporter 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 Tribunals ?
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)

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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL: : HYDERABAD BENCH
AT HYDERABAD

Original Application No.617/91

Date of Judgement: 28th August, 92

date 28-8-92

C.T. Rangamani : Applicant

versus

Union of India, rep. by

1. The Secretary to Govt.
Ministry of Railways
New Delhi

2. The General Manager
SC Railway, Secunderabad

3. The Chief Personnel Officer
SC Railway, Secunderabad

4. The Divisional Railway Manager(P)
SC Railways, Vijayawada : Respondents

Counsel for the applicant : K.S.R. Anjaneyulu
Advocate

Counsel for the respondents : V. Sheemanna, Standing
Counsel for Railways

CORAM

HON. Mr. T. CHANDRASEKHARA REDDY, MEMBER(JUDL.)

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(Judgement of the Single Member Bench delivered by
Hon. Mr. T. Chandrasekhara Reddy, Member(Judl.)

This is an application filed under Section 19 of the Administrative Tribunals Act, to declare that the applicant retired from service on 31-12-1990 and on the basis of the retirement date of the applicant as 31-12-1990, to direct the respondents to pay the applicant, pensionary and other benefits and further to direct the respondents to pay interest to the applicant on the said pensionary and retirement benefits at 18% per month for the delayed payment of the same.

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2. The facts giving rise to this OA in brief are as follows :-

The applicant while working as Inspector of Works Grade.II was due to retire from service on the basis of his date of birth as 7-7-1927. The applicant put in a representation to the respondents to alter his date of birth from 7-7-1927 to 31-12-1932. This application was rejected as time barred by the respondents. Afterwards, the applicant approached Civil Court and filed a suit to declare that his date of birth is 31-12-1932 and to alter the date of birth from 7-7-1927 as entered in the service register to 31-12-1932. The applicant in the said Civil Suit obtained temporary injunction in his favour and against the respondents herein from retiring the applicant on the basis of date of birth from 7-7-1927 and to retire the applicant on the basis of date of birth as 31-12-1932. While the said civil suit was pending, the Administrative Tribunals Act, 1985 came into force and after the Bench of the Central Administrative Tribunal at Hyderabad was constituted, the said civil suit was transferred to this Tribunal and the said civil suit was numbered as TA.1089/86. The said TA.1089/86 was decided by the Bench of this Tribunal on 17-8-1989 by giving a direction to the respondents to pass final orders on the representation of the applicant within three months, in the judgement dated 17-8-1989. Even though the said TA.1089/86 was decided on 17-8-1989 as referred to above, the respondents allowed the applicant to continue in service and ultimately the respondents retired the applicant from service on 31-12-90. The respondents have paid the pensionary benefits to the applicant on the basis of his date of birth as 7-7-1927 i.e. after the date of retirement of the applicant is taken as 31-7-1985. It is the grievance of the applicant that the pensionary benefits to him are liable to be calculated on the basis of

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the date of retirement of the applicant as 31-12-1990.

Hence, the present OA is filed for the relief as already indicated above.

3. Counter is filed by the respondents opposing this OA. In the counter of the respondents, it is maintained that the applicant has already been paid all the retirement benefits due to him on the basis of date of birth of the applicant as entered in the Service Register and on the basis of date of retirement of the applicant as 31-7-1985. It is the case of the respondents that the applicant had no legal right to continue in service from 31-7-1985 to 31-12-1990 in as much as the applicant was in service on the basis of the said injunction order of the Civil Court and not under the orders passed by this Tribunal and so that this OA is liable to be dismissed.

4. It is further maintained as against TA.1089/86 Judgement, the respondents have filed Special Leave Petition before Supreme Court and in view of this position also that the OA is liable to be dismissed.

5. In TA.1089/86 to which we have made a reference, the direction given by this Bench to the respondents was to dispose of the representation of the applicant for correction of date of birth within three months from the date of receipt of the order in the said TA.1089/86. After the said TA was decided on 17-8-1989 nothing came in the way of the respondents to pass appropriate orders with regard to the date of retirement of the applicant. But the respondents had allowed the applicant to continue in service upto 31-12-1990. Even though the Civil Court had granted injunction order in favour of the applicant, no steps had been taken by the respondents before this Tribunal to get the said injunction order vacated prior to 17-8-1989, on which date the said TA.1089/86 was decided. So, it is quite evident that the respondents are alone responsible for allowing the applicant to continue in service upto 31-12-1990..

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20/12/89

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No doubt, the applicant had continued in service from 1-8-1985 upto 31-12-1990 under the strength of the injunction order³ passed in his favour by the Civil Court. In this context, we may refer to a decision reported in ATR 1988, (I) CAT-186, wherein it is laid down as follows :

"When an employee continues to work beyond the date of his retirement on the basis of the date of birth as claimed by him on the strength of an order of the court (without any reference or consent of the employer) then he should be deemed to be in continuous service and if that is so, then he will get all advantages so far as his retiral benefits are concerned."

6. So, in view of the said decision in as much as the applicant herein continued to work from 1-8-1985 to 31-12-1990, in our opinion, the respondents are liable to pay the pensionary benefits to the applicant on the basis of the retirement date of the applicant as 31-12-1990. Hence, a direction is liable to be given to the respondents accordingly.

7. No doubt, interest is claimed on the pensionary benefits that are to be paid to the applicant. But in circumstances of the case, we are not inclined to grant any interest to the applicant for the pensionary benefits that are to be paid to the applicant.

8. The learned counsel appearing for the respondents, Sri V. Bhimanna contended as SLP filed as against ^{the} judgement dated 17-8-1985 in TA.1089/86, that the applicant is not entitled for payment of pensionary benefits on the basis of the retirement ~~date of~~ the applicant as 31-12-1990. If ^{would be} any orders are passed in the said SLP, the orders therein bind the applicant as well as the respondents herein as the parties in the present OA and in the said SLP before the Supreme Court are one and the same.

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10/11/88

To

1. The Secretary to Govt. Union of India,
Ministry of Railways, New Delhi.
2. The General Manager, S.C.Railway,
Secunderabad.
3. The Chief Personnel Officer,
S.C.Rly. Secunderabad.
4. The Divisional Railway Manager (P)
S.C.Railways, Vijayawada.
5. One copy to Mr.K.S.R.Anjaneyulu, Advocate, CAT.Hyd.
6. One copy to Mr.V.Bheemanna, SC for Rlys, CAT.Hyd.
7. One spare copy.

pvm.

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So, that being the position, we are of the opinion that

interests of the Justice would be met if reasonable time is

granted to the respondents for implementation of the

directions herein and in the meanwhile as it will be open

for the respondents to obtain suitable directions with regard

to the payment of pensionary benefits to the applicant.

9. Probably if the TA.1089/86 had been dismissed, the

applicant might not have become entitled for the pensionary

benefits for the period he has worked from 1-8-1985 to 31-12-90.

But as could be seen, the said TA.1089/86 that has been filed

by the applicant for the alteration of the date of birth from

7-7-1927 to 31-12-1932, had not been disposed of on merits.

So, as already pointed out, the applicant continued in service

upto 31-12-1990 and the respondents allowed him to continue in

service upto 31-12-1990 in spite of the said TA was decided on

17-8-1989. The inescapable conclusion in this case is that the

respondents are to pay the pensionary benefits of the applicant

until he actually retired on 31-12-1990.

10. In the result, respondents are hereby directed to workout

the pension, gratuity and other

paid to the applicant on the basis that the applicant retired

on 31-12-1990 and to pay the same to the applicant. The relief

prayed for by the applicant for payment of interest is disallowed.

b. The respondents are further directed to pay the

difference of the amount after deducting the pensionary bene-

fits that are already paid to the applicant on the basis of the

date of retirement of the applicant as 31-7-1985.

11. The OA is allowed accordingly as indicated above leaving

the parties to bear their own costs.

(T. CHANDRASEKHARA REDDY)
Member(Judl.)

Dated : 28 August, 1992

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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 (C)

AND

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

Dated: 28 - 8 - 1992

ORDER / JUDGMENT

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

in

O.A.No. 617/91

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.

