

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH  
AT HYDERABAD

O.A.No.835/91

Date of Order: 3.2.94

BETWEEN :

Brojen Mukherjee

.. Applicant.

A N D

1. General Manager,  
South Eastern Railway,  
Calcutta - 43.
2. Divisional Railway Manager (DRM),  
S.E.Railway, Waltair.
3. Sr. Divisional Mechanical Engineer,  
(Diesel) S.E.Rly., Waltair,  
(Sr.D.M.E.(D) Visakhapatnam. .. Respondents.

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Counsel for the Applicant

.. Mr.M.Balakrishna Murthy

Counsel for the Respondents

.. Mr.N.R.Devraj

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CORAM:

HON'BLE SHRI V.NEELADRI RAO : VICE-CHAIRMAN

HON'BLE SHRI R.RAN GARAJAN : MEMBER (ADMN.)

Judgement

( As per Hon. Mr. Justice V. Neeladri Rao, Vice Chairman )

Heard Sri M. Balakrishna Murthy, learned counsel for the applicant and Sri N.R. Devaraj, learned Standing Counsel for the respondents.

2. The Senior Divisional Mechanical Engineer (Diesel), Waltair, issued order dated 24-1-1989 vide DPD/WAT/BWII/8/17 prematurely retiring the applicant on completion of three months therefrom. Thereupon the applicant preferred an appeal on 21-8-1989 to DRM, Waltair. He also filed DA. 355/89 challenging the order dated 24-1-1989.

3. The appellate authority passed the order dated 24-11-1989 ordering reinstatement of the applicant with immediate effect. It was also ordered therein <sup>that</sup> with the intervening period i.e. the period from 2-5-1989, the date of retirement to the date of his reinstatement (it is stated that the applicant is reinstated on 10-12-1989) shall be treated as leave due to the applicant.

4. When DA.355/89 had come up for consideration, order dated 24-11-1989 of the Appellate authority was brought to the notice of this Bench. Then the DA was disposed of on 18-12-1989 and the relevant portion of the order therein is as under :

"It is open to the applicant to make a representation against the order dated 24-11-1989 to the concerned competent authority in so far as treating the intervening period as leave and if aggrieved by any decision on such a representation it is always open to the applicant to seek appropriate legal remedies. In the present application however we are not going into the question as to the legality of the order dated 24-11-1989 as it is not impugned herein. The application is disposed of as it has become infructuous in view of the subsequent order dated 24-11-1989. No costs."

22 NOV 1989

To

1. The General Manager, S.E.Railway, Calcutta-43.
2. The Divisional Railway Manager (DRM) S.E.Railway, Waltair.
3. The S.E. Divisional Mechanical Engineer, (Diesel) S.E.Railway, Waltair, (Sr. D.M.E. (D), Visakhapatnam.
4. One copy to Mr. M. Balakrishna Murthy, Advocate, 49-35-27 Adidnagar, Akkayyapalem, Visakhapatnam.
5. One copy to Mr. N.R. Devraj, SC for Rlys, CAT.Hyd.
6. One copy to Library, CAT.Hyd.
7. One spare copy.

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5. There upon the applicant filed an appeal memorandum dated 8-1-1990 to the General Manager against that portion of the order dated 24-1-1989 which is against the applicant. When the said appeal was not disposed of by General Manager, this OA was filed on 23.8.1991 praying for a direction to the respondents to treat the period from 3-5-1989 to 10-12-1989 as on duty and for payment of pay and allowances for the said period with interest at 18% p.a. and for recalculation of leave due at the time of retirement and for payment towards leave encashment at the time of his retirement.

6. It is necessary to look into the record on the basis on which the premature retirement <sup>was ordered</sup> as per order dated 24-1-1989 <sup>for</sup> <sup>intg</sup> in order to consider as to whether the intervening period from 3-5-1989 to 10-12-1989 should be treated as on duty ~~or~~ as leave due as ordered by the DR(M). That record is not produced. It may be further noted that this Bench observed by order dated 18-12-1989 in OA.355/89 that it is for the appellate authority to consider the said question, and if the applicant is aggrieved by the order of the appellate authority he can move this Tribunal.

7. So, we feel in the circumstances, it is just and proper to direct the General Manager who is Respondent No.1 i.e. South Central Railway to dispose of the appeal preferred as per memo dated 8-1-1990 expeditiously and preferably within three months from the receipt of this letter. It is needless to say that if the applicant is going to be aggrieved by the order of the GM, he is free to move this Tribunal.

8. The OA is ordered accordingly and no order as to costs.

me  
(R. Rangarajan)  
Member (Admn)

V. Neeladri Rao  
Vice-Chairman

Dated : February 3, 94  
Dictated in the Open Court

*Amby 8.30 a.m.*  
Deputy Registrar

TYPED 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.GORTHI : MEMBER(A)

AND

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

AND

THE HON'BLE MR.R.RANGARAGAN : MEMBER  
(ADMN)

Dated: 3-2-1994.

ORDER/JUDGMENT:

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

in

C.A.No.

835/91

T.A.No.

(W.P.No. )

Admitted and Interim Directions  
issued.

Allowed.

Disposed of with directions.

Dismissed.

Dismissed as withdrawn.

Dismissed for Default.

Rejected/Ordered.

No order as to costs.

Central Adminis  
11/2/1994  
AN

pvm

*G. S. Rao*  
*3/13*