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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH  
AT HYDERABAD

O.A.No.814/92

Date of Order: 28.9.1992

BETWEEN:

Mohd. Yousuf Ali

.. Applicant.

A N D

1. Union of India, rep. by its Secretary, Ministry of Defence, New Delhi.
2. The Scientific Adviser to the Minister of Defence & Director General Research & Development Dte., of Personnel, Minister of Defence, DHQ PO NEW DELHI.
3. The Director, Defence Electronics Research Laboratory, Chandrayanagutta, Hyderabad.

.. Respondents.

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Counsel for the Applicant

.. Mr.K.Sudhakar Reddy

Counsel for the Respondents

.. Mr. N.V.Ramana

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CORAM:

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

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

--- T.C.R. ---

18/9

This is an application filed by the applicant herein under Section 19 of the Administrative Tribunals Act to direct the respondents to pay the subsistence allowance to the applicant from November 1990 onwards and continue to pay the same till T.A.21/91 on the file of this Tribunal is finally disposed of.

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

The applicant was appointed as Tradesman Mate. He was promoted as Painter in the year 1967. In the year 1971 he was promoted as Artist. Certain disciplinary proceedings were initiated as against the applicant in the year 1976. The applicant was removed from service on 6.5.1981. The applicant filed Writ Petition No.6490/81 on the file of the High Court of A.P. challenging the said order of removal from service dated 6.5.1981. The Hon'ble High Court allowed the said W.P.6490/81 at the admission stage as per its orders dated 7.7.1982. The High Court seems to have been allowed the W.P. at the admission stage <sup>as</sup> ~~that~~ similar matters had been disposed of by the High Court on merits. As against the orders dated 7.7.1982 passed in the said W.P.6490/81 the respondents filed S.L.P. (C.A.No.2835/82) before the Hon'ble Supreme Court. As other similarly placed persons like the applicant were being paid subsistence allowance, Supreme Court also passed an order in favour of the applicant for payment of subsistence allowance. The said C.A.2835/82 was disposed of by the Supreme Court on 10.4.1990 and the matter was remanded to this Tribunal. This Tribunal had taken <sup>on remand</sup> ~~the~~ the said matter on the file as T.A.21/91. The said TA.21/91 is pending as on today.

The respondents had paid subsistence allowance to the applicant up to 16.11.1990. Subsequently the respondents had stopped payment of subsistence allowance to the applicant.

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

Today we have heard Mr. K. Sudhakar Reddy, for the applicant and Mr. V. Rajeswara Rao for Mr. N. V. Ramana, Standing Counsel for the respondents.

Admittedly during the pendency of W.P. 6490/81 on the file of the High Court of A.P. the applicant was not paid any subsistence allowance. There was no interim order ~~had been passed~~ in the said W.P. 6490/81 for payment of any subsistence allowance to the applicant. After the said ~~C.A. 2835/82~~ <sup>C.A. 2835/82</sup> was remitted back to this Tribunal, <sup>the parties held</sup> the parties stand ~~relegated~~ <sup>relegated</sup> to the very same position as they ~~were~~ <sup>were</sup> during the pendency of the W.P. 6490/81 on the file of the High Court of A.P. So as the applicant was not paid any subsistence allowance during the pendency of W.P. 6490/81 and no interim orders were there for payment of subsistence allowance to the applicant in the said W.P. 6490/81, the applicant is not entitled as of right to the payment of any subsistence allowance during the pendency of the present T.A. 21/91. Hence the OA of the applicant filed for payment of subsistence allowance during the pendency of T.A. 21/91 is liable to be rejected.

It is the contention of the learned counsel for the applicant as the applicant herein was paid subsistence allowance during the pendency of the C.A. 2835/82 on the file of the Supreme Court that he is liable to be paid subsistence allowance. We have gone through the remand orders of the Supreme Court in the C.A. 2835/82 and batch. The Supreme Court <sup>which</sup> ~~which~~ remitting the matter back to this Tribunal has not directed <sup>the respondent</sup> ~~this Tribunal~~ to pay subsistence ~~to~~ allowance to the applicant during the pendency of the T.A. <sup>Not</sup> ~~not~~ in law as already pointed out the applicant has got a right to be paid subsistence allowance due to the fact

To

1. The Secretary, Union of India, Ministry of Defence,  
New Delhi-
2. The Scientific Adviser to the Minister of Defence  
and Director General Research & Development  
Directorate of Personnel, Minister of Defence,  
DHQ PO, New Delhi.
3. The Director, Defence Electronics Research Laboratory,  
Chandrayanagutta, Hyderabad.
4. One copy to Mr. K. Sudhakar Reddy, Advocate, CAT. Hyd.
5. One copy to Mr. N. V. Ramana, Addl. CGSC. CAT. Hyd.
6. One spare copy.

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the applicant was <sup>not</sup> paid subsistence allowance during the pendency of the W.P.6490/81 on the file of High Court of AP.

Mr K. Sudhakar Reddy next contended that as the applicant is placed in a similar position to those who are being paid <sup>sub</sup>stance allowance, the same benefit may be extended to the applicant herein also. But those applicants who are paid subsistence allowance stand on a different footing. While the matters <sup>were</sup> pending before the judicial forum they were being paid subsistence allowance. The said matters of those applicants are remitted back to this Tribunal and are now pending before this Tribunal, the applicants therein get relegated to the very same position as they were prior to the disposal of those matters. As already pointed out, the applicant herein stands on a different footing. He had no order in his favour for payment of subsistence allowance when the matter was pending before the High Court. So, in view of this position, the contention of the learned counsel for the applicant can not be accepted. Hence, we see no merits in this OA and this OA is liable to be rejected and accordingly is rejected under the provisions of Section 19(3) of the Administrative Tribunals Act. The parties shall bear their own costs.

*T. Chandrasekhara Reddy*  
(T. CHANDRASEKHARA REDDY)  
Member (Judl.)

Dated: 28th September, 1992

(Dictated in the Open Court)

*[Signature]*  
Deputy Registrar (C)

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TYPED BY

COMPARED BY

CHECKED BY

RM

APPROVED BY

15/10

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
HYDERABAD BENCH : HYDERABAD

THE HON'BLE MR

AND

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

AND

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

AND

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

Dated: 28 - 9 - 1992

ORDER/JUDGMENT:

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

in

O.A.No.

814/92

~~T.A.No.~~

~~(wp.No)~~

Admitted and interim directions issued.

Allowed

Disposed of with directions

Dismissed

Dismissed as withdraw

Dismissed for default

M.A. Ordered/Rejected

No orders as to costs.

Central Administrative Tribunal  
DESPATCH  
18 NOV 1992  
HYDERABAD BENCH

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