

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL:HYDERABAD BENCH
AT HYDERABAD

ORIGINAL APPLICATION NO.213/92

DATE OF JUDGEMENT: 24/5 APRIL, 1992

BETWEEN

Sri S. Veluswamy

.. Applicant

AND

1. The General Manager,
South Central Railway,
Secunderabad

2. The Chief Personnel Officer,
South Central Railway,
Secunderabad

.. Respondents

Counsel for the Applicant : Sri P.V. Krishnaiah

Counsel for the Respondents:Sri N.R. Devaraj,SC for Rlys

CORAM:

THE HON'BLE SHRI R. BALASUBRAMANIAN, MEMBER (ADMN)

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

T. C. N. R.

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JUDGEMENT OF THE DIVISION BENCH DELIVERED BY
HON'BLE SHRI T. CHANDRASEKHARA REDDY, MEMBER, (JUDL)

This is an application filed by the Applicant herein under Section 19 of the Administrative Tribunals Act, 1985, to declare the proceedings No.P(Gaz.) 446 of T.C. dated 1.10.1991 issued by the 2nd respondent and not treating the applicant's suspension period from 17.4.1952 to 24.11.1954 as on duty, even though the applicant was honourably acquitted by the Criminal Court as arbitrary, illegal, offending and further direct the respondents to treat the suspension period of the applicant as on duty and pay him full salary during the suspension period and issue consequential direction for all benefits i.e. pension as per 33 years of qualifying service and pay arrears of salary, leave salary, difference of gratuity and other benefits, for which he is entitled, and pass such other orders as may seem fit and proper in the circumstances of the case.

The facts, giving rise to this OA in brief may be stated as follows:

1. The applicant was appointed as Junior Commercial Clerk at Guntakal on 19.9.1947 and later, he was promoted as Assistant Station Master and on 1.3.1962, [redacted] promoted as Chief Station Master [redacted] on 20.1.1969 was promoted as Traffic Inspector, on 29.4.1969 as Senior Traffic Inspector and finally on 30.9.1981 promoted and posted as Divisional Safety Officer (M.G), Hyderabad Division at Secunderabad.

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2. While the applicant was working as Assistant Goods Clerk at Hindupur Railway Station, Guntakkal District, a criminal case was lodged against the applicant, by the Railway Police, Guntakkal. That case was tried by the Sub-Divisional Magistrate, Dharmavaram, Guntakkal Division. Therefore, the applicant was kept under suspension during the pendency of the criminal proceeding w.e.f. 29.1.1952 to 23.11.1954. The applicant was acquitted in the said criminal proceedings on 4.6.1954. After the said acquittal, the applicant was reinstated into service w.e.f. 24.11.1954. On 9.7.1991, the South Central Railway Employees' Sangh on behalf of the applicant had put in a representation to treat the said suspension period as duty period, and also the entire period of suspension to treat as qualifying service ~~for calculation~~ for calculation of pensionary benefits.

3. As per the proceedings dated 1.10.1991 of General Manager's Office, the Secretary of the South Central Railway Employees' Sangh was informed that the period from 17.4.1952 to 24.11.1954 which is the suspension period of the applicant cannot be counted for qualifying service for retirement benefits. It is the said GM's Office Proceeding that is questioned in this OA as indicated above.

4. In the representation dated 9.7.1991, on behalf of the applicant, which is Annexure I to this OA, the South Central Railway Employees' Sangh has stated at Para 1 and 2 as follows:

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"Shri S. Veluswamy, while working as Assistant Goods Clerk in Guntakal Division was placed under Suspension from 29.1.1952 to 24.11.1954 due to a Court case against him. He was acquitted in the case. While revoking the suspension, the Administration had treated the period of suspension as "Leave Due" as under as per the ~~Leave~~ entries in the Leave Account.

<u>PERIOD</u>	<u>No. of days</u>	<u>Nature of leave</u>
a) 29.01.1952 to 29.02.1952	32 days	LAP
b) 01.03.1952 to 16.04.1952	47 days	LHAP
c) 17.04.1952 to 25.11.1954	508 days	Leave without pay

(Actually the period works out to 952 days)

Shri Veluswamy retired as STO (HQs) on superannuation on 30.6.1982. While working out qualifying service, the period from 17.04.1952 to 24.11.1954 was treated as non-qualifying service which resulted in the loss of settlement dues."

In the Para 4 of the above annexure it is stated-

"The question of regularising the period of suspension as leave due, will arise only if the employee has specifically requested for regularisation of the period of suspension as leave due vide proviso under Rule 2044(5) R.II. In this case, Sri Veluswamy had never requested for regularisation of the period of suspension as leave due".

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5. So from the ~~said~~ statements, it is amply evident that order with regard to suspension of the applicant from 17.04.1952 to 24.11.1954 was passed as early as in the year 1954 itself when the applicant was reinstated.

6. The applicant retired on 30.6.1982. So, it is quite evident that the Grievance of the applicant relates to a period prior to 1.11.1982. As a matter of fact, the grievance of the applicant relates to the year 1954~~as~~ when reinstatement order was passed.

7. So, as the grievance of the applicant relates to the year 1954, i.e. prior to 1.11.1982, it has to be seen whether this Tribunal has got jurisdiction to entertain the matter.

8. In this context, we may refer to the decision reported in ATR 1986 CAT 203 VK Mehra (Petitioner) vs Secretary, Ministry of Information and Broadcasting (Respondent) wherein it is laid down as follows:

"The Act does not vest any power or authority in the Tribunal to take cognizance of a grievance arising out of an order made prior to 1.11.1982. In such a case, there is no question of condoning the delay in filing the petition, but it is a question of the Tribunal having jurisdiction to entertain a petition in respect of grievance arising prior to 1.11.1982. The limited power that is vested to condone the delay in filing the application within the prescribed period is under Section 21 provided the grievance is in respect of an order made within 3 years of the Constitution of the Tribunal. The Tribunal has jurisdiction under Sub-section (2) of Section 21 to entertain an application in respect of any order made between 1.11.1982 and 1.11.1985."

Copy to:-

1. The General Manager, South Central Railway, Secunderabad.
2. The Chief Personnel Officer, South Central Railway, Secunderabad.
3. One copy to Sri. P.V.Krishnaiah, advocate, CAT, Hyd.
4. One copy to Sri. N.R.Devaraj, SC for Railways, CAT, Hyd.
5. One spare copy.

Rsm/-

Where therefore, the application relates to a grievance arising out of an order dated 22.5.1981, a date more than 3 years immediately preceding the Constitution of the Tribunal, the Tribunal shall have no jurisdiction, power or authority to entertain the same, though it is filed within six months of its constitution as contemplated by sub-section(3) of Section 21 of the Act."

9. From the said decision, it is quite evident that we do not have jurisdiction to entertain an original application under Administrative Tribunals Act, with regard to a grievance prior to 1.11.1982. The learned counsel for the applicant, Mr Krishnaiah had taken us through the decisions of-

- 1) AIR 1981(1) SC 547
- 2) AIR 1974 SC 259
- 3) 1981(3) SLR 556
- 4) 1988(5) SLR 486
- 5) ATR 1987(2) 399
- 6) 1990(2) SLR 798
- 7) 1989(7) SLR 278
- 8) 1989(7) SLR 209

10. We have gone through the said decisions. Absolutely, the said decisions are not on the point and also not relevant to this case. So, for want of jurisdiction, we are not prepared to entertain this OA. Hence, the OA is liable to be rejected and is accordingly rejected. The parties shall bear their own costs in the circumstances of the case.

R. Balasubramanian
(R. BALASUBRAMANIAN)
Member (Admn)

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

Date: 24 April, 1992

By Deputy Registrar STC

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O.A. 213/92

TYPED BY

COMPARED BY

CHECKED BY

APPROVED BY

THE HON'BLE MR.

V.C.

AND

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

AND

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

AND

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

Dated: 24/4/1992.

ORDER / JUDGMENT

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

O.A. No.

in
213/92

T.A. No.

(W.P. No.)

Admitted and interim directions
issued

Disposed of with directions

Dismissed

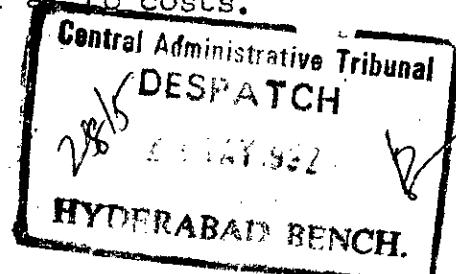
Dismissed as withdrawn

Dismissed for Default.

M.A. Ordered/Rejected.

No order as to costs.

pvm.



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