

(34)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL: HYDERABAD BENCH:
AT HYDERABAD

ORIGINAL APPLICATION NO. 957 of 1993

DATE OF JUDGMENT: 16th August, 1993

BETWEEN:

Mr. D.Krishna Murthy ..

Applicant

AND

1. The Secretary,
Department of Atomic Energy,
Bombay. C.S.M. Marg, Mohanlal Building,

2. The Chief Executive,
Nuclear Fuel Complex,
Hyderabad.

3. The Deputy Chief Executive(Admn.),
Nuclear Fuel Complex,
Hyderabad. ..

Respondents

HEARD:

COUNSEL FOR THE APPLICANT: Mrs. Shoba.N, Advocate

COUNSEL FOR THE RESPONDENTS: Mr. N.R.Devaraj, Sr.CGSC

CORAM:

Hon'ble Shri Justice V.Neeladri Rao, Vice Chairman

Hon'ble Shri P.T.Thiruvengadam, Member (Admn.)

JUDGMENT OF THE DIVISION BENCH DELIVERED BY THE HON'BLE
SHRI JUSTICE V.NEELADRI RAO, VICE CHAIRMAN

The applicant submitted an application dated 20.10.76
praying for resignation. The same was withdrawn on 16.11.76.
But, inspite of it, the resignation was accepted on 19.11.76.
Later the applicant challenged it in W.P.No.5732/78. Dismissal
of the Writ Petition was challenged in W.A.No.282/80. It was
partly allowed on 13.2.1986. The High Court directed reinsta-
tement of the applicant with effect from 1.3.1986 and it was
also observed by the Bench in W.A.No.282/80 that the applicant

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had not seriously pressed for the salary for the period from 19.11.1976 upto the date of reinstatement. The applicant was reinstated on 1.3.1986 into service. He filed OA 48/87 praying for a declaration that the order dated 24.3.1988 of the Assistant Personnel Officer, Nuclear Fuel Complex, which was ~~confirmed~~ controlled by the Manager, Personnel & Administration, by letter dated 4.8.1988, to the effect that the applicant is not entitled to any of the benefits, is illegal and void. The OA was disposed of by an order dated 7.9.1989 whereby it was held that the applicant is entitled to count the period from 19.11.1976 to 1.3.1986 for all purposes ~~and~~ viz., increments, promotions, pension and all other service benefits though he is ^{entitled} ~~not~~ entitled to the salary for the above period as it was not pressed at the time of hearing of the Writ Appeal. The applicant filed CP 9/90. It was disposed of by the order dated 28.2.1990. It was made clear therein that the respondents should consider the applicant for promotions when his juniors were considered during the period from 20.11.1976 to 1.3.1986 and if he is found fit according to the rules, he should be given promotions notionaly from those dates.

2. The plea of the applicant is that his junior was promoted to SO/SD grade even in 1985 and hence he should have been fitted in the said grade at the time of his reinstatement viz., 1.3.1986, but instead he was promoted to the grade of SO/SD with effect from 1.2.1992. Hence, this OA is filed praying for a direction to the respondents to give promotion and place the applicant as SO/SD with effect from 1985 and

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for payment of the arrears of pay and allowances from 1985 and to permit the applicant to encash the leave ~~credit~~ accrued ~~accrued~~ during the intervening period from 20.11.1976 to 1.3.1986.

3. It is clear from the facts narrated that the relief which is now claimed in regard to the date of promotion to the category of SO/SD is by way of implementation of the order in OA 48/87. As such this OA in regard to the above relief is not maintainable and the remedy of the applicant is to file an application under Rule 24 of the Central Administrative Tribunals (Procedure) Rules praying for implementation of the order in OA 48/87.

4. As the salary was not allowed for the period from 20.11.1976 to 1.3.1986, the applicant is not entitled to any leave for that period. Hence, the prayer of the applicant in this OA for ~~exemant~~ permission to encash the leave said to have been accrued from 20.11.1976 to 1.3.1986 has to be rejected.

5. In the result, this OA in regard to the encashment of leave for the alleged accrual of leave from 20.11.1976 to 1.3.1986 is dismissed. The OA in regard to the date of promotion to the category of SO/SD is not maintainable as the remedy is only by way of MA under Rule 24 of the CAT (Procedure) Rules, 1987.

6. The OA is disposed of accordingly at the admission stage. No costs.

(Dictated in the open Court).

P. T. Thiruvenkadam

(P.T. THIRUVENGADAM)
Member (Admn.)

V. Neeladri Rao
Vice Chairman

Dated: 16th August, 1993.

8/3/93
Dy. Registrar (Adm.)

O.A.957/93

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.GORTHY : MEMBER(A)

AND

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

AND

THE HON'BLE MR.P.T.RIRUVENGADAM:M(A)

Dated: 16/8/1993

ORDER/JUDGMENT:

M.A/R.A/C.A.N.

O.A.No.

in
957/93

T.A.No.

(W.P.)

Admitted and Interim directions
issued.

Allowed.

Disposed of with directions

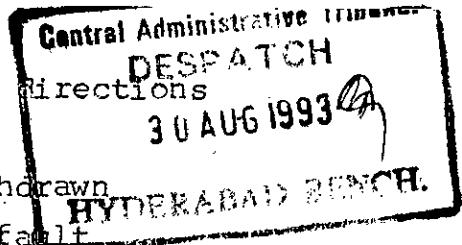
Dismissed

Dismissed as withdrawn

Dismissed for default

Rejected/Ordered

No order as to costs.



pvm

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