

(13)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL HYDERABAD BENCH
HYDERABAD

R.A.NO.45/95 in O.A.NO.199/93

Between:

Date of Order: 2.5.95.

P.Subba Reddy

...Applicant.

And

1. Director General, Posts,
Dept. of Posts, Ministry of
Communications, New Delhi - 110 001.
2. The Chief Post Master General,
A.P.Circle, Hyderabad - 500 001.
3. The Superintendent, Railway Mail Service,
(RMS), Hyderabad Sorting Division,
Hyderabad - 500 027.

...Respondents.

Counsel for the Applicant : Mr.B.S.A.Satyanarayana

Counsel for the Respondents : Mr.V.Bhimanna, Addl. GSC.

CORAM:

THE HON'BLE SHRI A.B.GORTHI : MEMBER (A)

CONTD..

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R.A.No.45/95

in
O.A.No.199/93

Date of Order: 2.5.95

As per Hon'ble Shri A.B.Gorthi, Member (Admn.)

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This is a Review Application seeking a reconsideration of the judgement in OA.199/93 dated 29.4.94 and direct the Chief Post Master General, AP Circle (Respondent No.2) to allow the increments that were earlier denied to the applicant.

2. O.A.199/93 was filed praying for a direction to the respondents to permit the applicant to cross EB from 1.6.84 and to pass such other order or orders as deemed fit. The said relief was however amended, and amended relief read as follows:-

"In view of the facts mentioned in para 4 and grounds mentioned in para 5 in the OA the applicant prays that this Hon'ble Tribunal may be pleased to (i) call for the records, proceedings and impugned letters issued by the Respondents No.3 and 1 dated 26-7-91, and 18-11-92 after going through the records to quash and set aside the impugned letters dated 26-7-91 and 18-11-92. (ii) Declare the recovery action taken by the 3rd respondent by the letter dated 26-7-91 in respect of pay fixation of the applicant is bad in law and have no legal consequences.

(iii) Direct consequently the respondents to pay the applicant's terminal benefits amount to Rs.8,225/- as stated in letter No.J/PRO/Ras/217/91, dated 26.7.91, forthwith together with interest there is @ 24% P.A. with effect from 26.7.91 till the date of payment, as also the increment of pay denied to him.

(iv) To award the costs of this application.

(v) The applicant also prays that this Hon'ble Tribunal may be pleased to pass such other order or orders as deemed fit and proper in the circumstances of the case."

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3. From the above it would be apparent that the amended relief claimed by the applicant was essentially to declare the direction of the respondents to recover Rs.8,225/- as illegal and to direct the respondents to ~~refix~~ ^{refund} the said amount to the applicant.

4. We Heard learned counsel for both the parties and dictated the judgement in OA.199/93 in open court and in the presence of the learned counsel for both the parties. We allow the OA and held that the impugned order of recovery was illegal. The order of recovery was set aside and the respondents were directed to refund the recovered amount to the applicant.

5. It may be stated here that the question of recovery arose because the respondents came to the conclusion that the increment granted to the applicant w.e.f. 1.6.84 was erroneous. In view of our ~~set aside~~ ^{setting} the order of recovery, the result would be that the increments stand granted to the applicant w.e.f. the due date/dates. The said increments will therefore have to be taken into reckoning for the purpose of calculating the pensionary entitlements of the applicant because the said entitlements will have to be worked out as per extant rules, on the basis of the actual emoluments drawn by the employee during the 10 months preceding the date of retirement. Learned counsel for the applicant expresses apprehension that the respondents may not calculate the pensionary entitlements of the applicant correctly taking into consideration the judgement in OA.199/93. I find no ^{basis} reason or justification for such an apprehension. In any case, such an apprehension on the part of the applicant or his counsel will not be a sufficient ground for a review of the judgement in the OA. If the applicant feels aggrieved in the matter of his refixation of his pensionary entitlements

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it is open to him would take recourse to law.

6. The Review Application is thus disposed of with no order as to costs.

Amulya S
(A.B.GORTHI)

Member (Admn.)

Dated: 2nd May, 1995

(Dictated in Open Court)

sd

Amulya S
DEPUTY REGISTRAR(J)

To

1. The Director General, Posts, Dept. of Posts, Ministry of Communications, New Delhi - 110 001.
2. The Chief Post Master General, A.P.Circle, Hyderabad - 500 001.
3. The Superintendent, Railway Mail Service, (RMS), Hyderabad Sorting Division, Hyderabad - 500 027.
4. One copy to Mr.B.S.A.Satyanarayana, Advocate, CAT, Hyderabad.
5. One copy to Mr.V.Bhimanna, Addl.CGSC, CAT, Hyderabad.
6. One copy to Library, CAT, Hyderabad.
7. One spare copy.

YLKR

TYPED BY
CHECKED BY

COMPARED BY
APPROVED BY

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH

THE HON'BLE SHRI A. V. HARIDASAN: MEMBER (..)

AND

THE HON'BLE SHRI A. B. GORTHI: MEMBER (..)

DATED 2-5-95

ORDER/JUDGMENT

~~M.A. NO/R.P. NO./C.P. NO.~~ 45/95

in

D.A. NO. 199/93

Admitted and Interim directions issued.

Allowed.

RP
Disposed of with directions

Dismissed.

Dismissed as withdrawn.

Dismissed for default.

Rejected/Ordered.

No order as to costs.

YLKR

No Seal (OP)

Central Administrative DESPATCH