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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH
AT HYDERABAD

O.A. NO. 1271/93.

Dt. of Decision : 18-8-1994.

Mr. V. Deasrath Reddy

.. Applicant.

Vs

1. Divisional Railway Manager,
SC Rly, Secunderabad.
2. Sr. Divisional Mechanical Engineer,
SC Rly, MG Division,
Rail Nilayam, Secunderabad.
3. Asst. Mechanical Engineer,
SCRly, MG Division,
Railway Nilayam,
Secunderabad.

.. Respondents.

Counsel for the Applicant : Mr. S. Lakshma Reddy

Counsel for the Respondents : Mr. D. Francis Paul, SC for Rlys.

CORAM:

THE HON'BLE SHRI JUSTICE V. NEELADRI RAO : VICE CHAIRMAN

THE HON'BLE SHRI R. RANGARAJAN : MEMBER (ADMN.)

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: 2 :

O.A.No.1271/93.

Date: 18.8.1994.

J U D G M E N T

{ as per Hon'ble Sri R.Rangarajan, Member(Administrative) }

Heard Sri S.Lakshma Reddy, learned Counsel for the applicant and Sri D.Francis Paul, learned Counsel for the respondents.

2. The applicant herein was appointed as Skilled Fitter in the year 1970 after his Apprenticeship period was over. He was issued with a Charge Sheet for unauthorised absence under the Railway ^(D-1A) ~~Service Conduct~~ Rules, 1966 on 8-8-1990. An exparte enquiry was conducted and R-3 removed him from service with effect from 10.1.1991. Thereupon he appealed against the orders of R-3 to R-1 who passed the orders reinstating the applicant as fresh entrant in service as a Fitter in the scale of Rs.950-1500 fixing his pay in the minimum of the scale and forfeiting his previous service. The applicant submitted a representation for condonation of break in service and it was rejected. The applicant is presently working as Grade-III Diesel Mechanic from the date he was appointed afresh as Skilled Fitter. As the above representation of the applicant for condonation of break in service was not considered, his past services are not counted. Aggrieved by the order of the respondents forfeiting the whole service prior to his reinstatement by treating him as a fresh entrant, ~~he~~ has filed this O.A. for a direction to the respondents to treat his past service as qualifying service for fixation of his pension and other service benefits.

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3. In O.A. No.281/93 the applicant therein was also taken as a fresh entrant, thereby his past services were not counted for pensionary and other service benefits. In that OA it was held that the authorities have no powers to issue an order of appointment without following the procedure prescribed as per recruitment rules i.e.without considering the names of other eligible candidates for the said post. Hence, the order of re-appointment of the applicant as a fresh entrant was held as in disregard of rules. The order of fresh appointment in that case was construed as a case of passing an order of major penalty in accordance with Rule 6(v) of Railway Servants (D&A) Rules, by lowering the pay of the applicant in the category of Fitter Gr.III to the minimum of the scale i.e. Rs.260-400 and that his annual increments accrue thereafter. The period from the date of his removal till reinstatement was treated as dies non.

4. As the present case is similar to the one cited above, ^{see} we/no reason to differ from the judgement of the Tribunal in the above referred O.A. Hence the following

"Passing of order of re-appointment of the applicant herein as a Skilled Fitter as a fresh entrant has to be held as in disregard of rules. It is to be construed as an order of major penalty in accordance with Rule 6(v), by lowering the pay of the applicant in the category of Skilled Fitter to the minimum of the scale i.e. Rs.950-1500 and that the annual increments accrue thereafter. The period from 10-1-91 the date of removal till 2-5-91 the date of reinstatement should be treated as 'dies-non'.

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5. On the basis of the above, the total qualifying service of the applicant for calculating pension and other benefits has to be reckoned.

6. The O.A. is ordered accordingly. No costs.

one
(R. Rangarajan)
Member(A)

V. Neeladri Rao
(V. Neeladri Rao)

Dt. August 18th, 1994.

19-8-94.
Deputy Registrar(J)CC

To

1. The Divisional Railway Manager, MG Division, Railnilayam, S.C.Rly, Secunderabad.
2. ^{kmv} The ~~MG~~ Division, Rail Nilayam, Secunderabad.
3. The Asst. Mechanical Engineer, S.C.Rly, MG Division, Railnilayam, Secunderabad.
4. One copy to Mr. S. Lakshma Reddy, Advocate, CAT. Hyd.
5. One copy to Mr. D. Francis Paul, SC for Rlys, CAT. Hyd.
6. One copy to Library, CAT. Hyd.
7. One spare copy.

pvm

7 Aug 1994
19/8/94

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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. R. RANGARAJAN : M(A.D.N)

DATE: 18-8-1994

ORDER/JUDGMENT

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

in

O.A.No. 1271/93.

(T.A.No.

(W.P.NO

)

Admitted and Interim directions
Issued.

Allowed.

Disposed of with directions.

Dismissed

Dismissed as withdrawn

Dismissed for Default.

Ordered/Rejected

No order as to costs.

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