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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH
AT HYDERABAD

O.A. 342/93.

Dt. of Decision : 19.10.94.

B. Krishna Murthy

.. Applicant.

Vs

1. The Sr. Divisional Personnel
Officer, SC Rly,
Vijayawada.

2. The Sr. Divisional Accounts Officer,
SC Rly, Vijayawada.

.. Respondents.

Counsel for the Applicant : Mr. G.V. Subba Rao

Counsel for the Respondents : Mr. J.R.Gopala Rao, SC for Rlys.

CORAM:

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

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O.A.No.342/93

O R D E R

(As per Hon'ble Sri A.V.Haridasan, Member(J))

In this application filed U/s 19 of the A.T. Act the applicant, a retired railway employee has prayed for the following relief:

"To call for the records pertaining to the impugned order and direct the respondents to refix the pay of the applicant on par with his juniors and pay the arrears and also revise pensionary benefits treating the impugned order as illegal, arbitrary and unconstitutional violative of Article 14 and 16 of the Constitution and pass any other order or orders in the interest of justice."

2. The facts in brief can be stated as follows:

While the applicant was working as Driver Grade-C, as a result of a disciplinary proceedings a punishment of withholding of increments for 33 months was imposed on him. After that period was over the applicant was promoted as Driver-B and later as Driver-A

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and he
/retired on superannuation on 31-10-1990. The applicant was promoted as Driver-B in the scale of Rs.425-640 vide order dt.25-4-85. On the implementation of the 4th Central Pay Commission the applicant's pay was fixed at Rs.1750/- w.e.f. January, 1987, but in September, 1987 his pay was reduced to Rs.1650/-. The applicant went on making representations for restoration of his basic pay to Rs.1750/- but no action was taken. Ultimately after retirement the applicant made a representation on 5-10-91 requesting the DRM, SCR, Vijayawada to restore his basic pay to Rs.1750/- w.e.f. 1-1-1987 on par with his juniors and to release arrears of pay and revise pensionary benefits. In reply to his representation the applicant received the impugned communication dt.14-11-91 in which it was stated that the reduction of the applicant's pay from Rs.1750/- to Rs.1650/- became necessary because the fixation of pay at Rs.1750/- as against Rs.1650/- was erroneous. Therefore, the applicant was informed by the impugned order that the reduction was properly made and his pay and pensionary benefits have been correctly fixed. It is aggrieved by this that the applicant has filed this application.

3. The respondents in their reply have contended that as the applicant suffered penalty of withholding of increments for 33 months, on the expiry of the period of penalty his pay was fixed at Rs.440/- w.e.f. 1-5-85 by allowing notional increments for the period of penalty, that his next increment fell due on 1-8-85 as Driver-C, that while he was drawing pay in the scale

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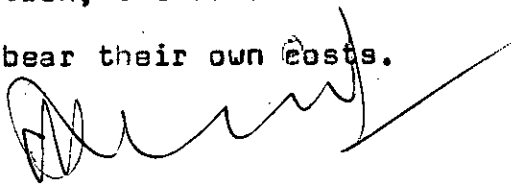
of Rs.425-640 i.e. Driver-B at Rs.455, his pay was fixed at Rs.1750/- erroneously w.e.f. 10-1-87 and that this mistake was rectified in September, 1987 and his pay was fixed at Rs.1650/- corresponding to the pre-revised pay of Rs.455/-. The respondents have further contended that the juniors of the applicant happened to get more pay because during the period when the applicant was undergoing penalty of withholding increments in the year 1984, they were promoted to Driver-B and that therefore there ~~is~~ no legitimate basis for the claim of the applicant that his pay shall be equal to that of his juniors.

4. I have gone through the pleadings and have heard the arguments of the learned counsel for both the parties. It is evident from the impugned order that what was done thereby was only rectification of a mistake committed while fixing the pay of the applicant on the implementation of the 4th Central Pay Commission recommendations. The pay was earlier fixed at Rs.1750/- while it should have been fixed at Rs.1650/- which is the corresponding stage for Rs.455/- in the scale of Rs.425-640. Learned counsel for the applicant submits that several juniors to the applicant have been getting more pay, that their pay have been fixed as on 1-1-87 at a higher stage than that of the applicant, and that this being an anomaly the respondents are bound to rectify this. He therefore argued that the earlier fixation of pay at Rs.1750/- as on January, 1987 was correct. I am not able to agree

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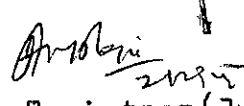
with this argument. The juniors of the applicant happened to be promoted as Driver-B in the year 1984 while the applicant was not considered for such promotion as he was undergoing penalty of withholding of increments for 33 months. All those juniors who were promoted as Driver-B in the year 1984 would have acquired at least one increment before 31-12-85 in the scale of pay of Driver-B when the applicant considered and promoted as Driver-B with the pay of Rs.455/-. This explains the difference in the pay of the applicant vis-a-vis his juniors.

5. In the light of what is stated above, finding no merit in the application, the same is dismissed leaving the parties to bear their own costs.



(A.V. Haridasan)
Member (J)

Open Court Dictation
Dt. 19-10-1994



Deputy Registrar (Judl.)

kmv

Copy to:-

1. The Sr. Divisional Personnel Officer, S.C.Railway, Vijayawada.
2. The Sr. Divisional Accounts Officer, S.C.Rly, Vijayawada.
3. One copy to Sri. G.V.Subba Rao, advocate, CAT, Hyd.
4. One copy to Sri. J.R.Gopala Rao, SC for Rlys, CAT, Hyd.
5. One copy to Library, CAT, Hyd.
6. One spare copy.

Rsm/-



of 342/93

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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH HYDERABAD

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

AND

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

DATED: 19/10/94

ORDER/JUDGMENT.

~~M.A/R./C.S.NO.~~

O.A.NO.

~~T.A.NO.~~

in 342/93

Admitted and Interim Directions
issued.

Allowed.

Disposed of with Direction.

~~Dismissed.~~

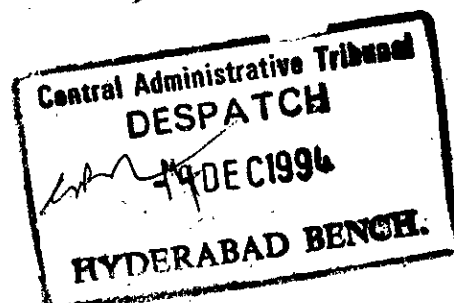
Dismissed as withdrawn

Dismissed for default

Rejected/Ordered

~~No order as to costs.~~

no spare copy



YLR

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