

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL: HYDERABAD BENCH
AT HYDERABAD.

(Under Rule 3(3) of CAT(P) Rule, 1987)

M.A.NO. 899 OF 1994

in

O.A.NO. 48 OF 1995.

Between:-

K.Akkiraju S/oSreeramulu,
Ex-Driver, 'C', S.No.2812,
Diesel Loco Shed, Gooty,
Anantapur.

..Applicant/Applicant

And

1. The Railway Board, Represented by its Chairman, Rail Bhavan, New Delhi.
2. The General Manager, South Central Railway, Secunderabad.
3. The Divisional Railway Manager, South Central Railway, Guntakal Anantapur District.
4. The Senior Divisional Mechanical Engineer (Loco), S.C.Railway, Guntakal, Anantapur District. .. Respondents/Respondents.

Brief Facts:-

1. The applicant has filed the above O.A. praying the Hon'ble Tribunal to declare the order of Removal from service dated 18-2-1981 passed by the Senior Divisional Mechanical Engineer (Loco) South Central Railway, Guntakal and the appellate order of the Divisional Railway Manager, Guntakal dated 15-9-1981 and also subsequent orders passed by the Railway Board dated 18-9-1992. The Applicant was one of the Loco Running Staff Members who was removed from service for alleged participation in the ~~num~~ Loco Strike that took place in the month of January, 1981. The applicant who is an office bearer of AILRSA and all the other office bearers who were

working as Loco Running Staff in South Central Railway and who were removed from service filed a batch of Writ Petitions before the Hon'ble High Court of Andhra Pradesh. The entire batch has came up for hearing on 17-9-1985 before the Hon'ble High Court and except the employees of South Central Division all the Writ Petitions filed by the employees including the ~~applicants~~ applicant's petition were dismissed while other employees filed Review Petition before the Hon'ble High Court, the applicant and some other Loco Running Staff belonging to Guntakal Division have not chosen to file Review Petitions as they were wrongly advised that the result of Review petitions will be to the benefit of all the petitioners who were parties to the order dt. 17-9-1985.

2. The Applicant has believed that in view of the fact that if the Judgment is reviewed, the Reviewed Judgment will be given effect to but ~~making~~ not the Original Judgment.

3. The applicant has, subsequently, learnt that the Review Petition filed by the petitioners were allowed and their appeals were directed to be disposed off. As the Appellate ~~order~~ orders went against the petitioners, they filed O.As before the Hon'ble Central Administrative Tribunal, Hyderabad. The Hon'ble Tribunal was pleased to allow the Application partly by their order dated 5-9-1990 and on Review Application filed by the Applicants, the O.As were allowed fully with a direction to the Railway Administration to reinstate the applicants there with all consequently benefits. Aggrieved by the same, the Union of India and others had filed a batch of C.As Nos. 4681-82/92 and other before the Hon'ble Supreme Court

of India.

4. While the matters were pending before the Hon'ble Supreme Court , at the instance of Loco Running Staff who have participated in the strike and who were removed under Rule 14 (2) of the Railway Service (D & A) Rules 1968 some members of Parliament moved the matter in the Parliament and also approached the Hon'ble Minister for Railways. Some order were passed in that regard in respect of the Loco Running Staff whose cases were pending before the Supreme Court and other Courts and also in case to others who have not approached any court of law.

5. Under those circumstances and in that background the Hon'ble Supreme Court was pleased to dispose off the cases pending before the Hon'ble Supreme Court on 5-8-1993. The Learned Judges ~~having~~ having regard to the circumstances were pleased to render a Judgment in REM applicable to all the LOCO RUNNING STAFF WHO who were ~~involved~~ either Removed or Dismissed from service by ~~removing~~ invoking Rules & 14 (2) of R.S. (D & A) R.1968.

6. The Applicant submits that the same is clear from the following observation of the Hon'ble Supreme Court:

"However, what is apparent is that the order sustained by the Courts. Although Jodhpur Bench has not examined in the matter on merits and the CAT Chandigarh has dismissed the claim petitions on bare technicality, yet there can be no doubt that the Government whether in 1990 or in 1991 or in 1992 has been considering the matter, and efforts had been to grant relief to these employees. What

should be done then which may do justice to both the parties. Overall picture is that there there are five types of employees, one, whose claim petition before tribunal has been allowed and they have been directed to be reinstated; second , whose claims petitions had been allowed to a limited extent, namely, the appellate and revising authority had been directed to re-examine their cases; third, those who have retired during pendency of the claim petitions, fourth, where the claim petitions have been dismissed because the appeals filed had already been dismissed; and fifth; those who did not approach the Court and the Government have taken a decision to re-employ them. We are not concerned with last category. But the rationale behind this decision of the Government is to atoms the injustice done to these employees. It has not been found by any Tribunal that the orders passed against the Respondents was in any ~~manner~~ manner ~~is~~ justified. In other words, the exercise of power was arbitrary. If this be so as is apparent then there can be no justification for denying the benefit to employees. Technical arguments apart once this Court is satisfied that the participants in the strike were unjustly treated the court is not only ~~for~~ competent but has an obligation to act in a manner which may be just and fair. Keeping this in light we issue following directions:

- (1) Employees who were dismissed under Rule 14(2) for having participated in the Loco Staff Strike of 1991 shall be restored to their

respective post within a period of three months from to-day.

- (ii) (a) Since morethan three years have elapsed from the date the orders were found to be bad on merits b one of the Tribunal it is just and fair to direct the appellant to pay the employees compensation equivalent to three years salary inclusive of dearness allowance calculated on the scale of pay prevalent in the year the Judgment was delivered that is, in1990.
- (b) This benefit shall be available even to those employees who have retired from service. In those cases where the employees are dead the compensation shall be paid to their dependents. The compensation shall be calculated on the scale prevalent three years immediately before the date of retirement or death.
- (iii) Although the employees shall not be entitled to any promotional benefit but they shall be given notional continuity from the date of termination till the date of restoration for purposes of calculation pensionary benefits. This benefit shall be available to retired employees as well as to those who are dead by calculating the period till date of retirement or death.

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7. The present O.A. was filed in the year 1992 before the Judgment of the Hon'ble Supreme Court and hence the applicant could not take advantage of the Judgment of the Hon'ble Supreme Court. As stated above as the Judgment of the Hon'ble Supreme Court is a Judgment in REM, this applicant as well as the other applicants in O.A. Nos. 49/93, 50/93, 51/93, 53/93 and 123/93 are entitled for the benefits flow out of the said Supreme Court Judgment.

8. Under the above circumstances, this Hon'ble Tribunal may be pleased to permit the applicant to amend the grounds in O.A. by adding the following ground and also to amend the prayer in the O.A.

Relief sought:-

It is therefore prayed that this Hon'ble Court may be pleased to permit the applicant to amend the grounds in O.A. by adding the following ground and also to amend the prayer in the O.A:-

~~"The Respondents~~

~~the respondents ought to have given that in the~~
~~the Judgment of the Hon'ble Supreme Court~~
~~dated 5-8-1993 which is a Judgment in REM in~~
~~C.A. Nos. 4681-82 and that the impugned~~
~~orders are liable to be set-aside and the applicant~~
~~should be reinstated in his service subject to~~
~~the conditions laid down in the orders of the~~
~~Hon'ble Supreme Court.~~

Main Relief Para 7:

" Following the Judgment of the Hon'ble Supreme Court made in C.A.Nos.4681-82/92 and batch dated 5-8-1993, which is a Judgment in REM, this Hon'ble Tribunal may be pleased to

Returned M.A.S.R 2812/94

1. Provision of rule should be furnished.
2. 4 more copies of M.A. should be filed.
3. A separate petition may be filed for addihonate grounds.

in due time

Ar.

25/10/94
for DRGJ

Regd. Petition for amendment
of prayer

In the Central Administrative
Tribunal, Hyderabad Bench at
Hyderabad.

M.A.No.

of 1994

in

O.A.No.

48

of 1994

Representation

objection 1 and 3 complied.

Note: Standing counsel to
the Railways already taken
by time of filing counter.
M.A. copies are not necessary.
~~if~~ Counsel ~~is~~ ~~not~~ ~~available~~ ~~to~~ ~~file~~ ~~the~~
~~if~~ ~~undertake~~ to file the
M.A. copies after notice is issued
by the court.

P. Sarada
Counsel to the applicant



AMENDMENT PETITION

Received
24-10-94
for N.R. Devulur
Gottumukkam

M/s. P. Krishna Reddy

P. Sarada
Counsel for Applicant.

may be filed
Ar
14/11/94