

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH
AT HYDERABAD

O.A.No.51/93.

Dt. of Decision : 28-09-95.

B. John Prasad

.. Applicant.

Vs.

1. The Railway Board
Rep. by its Chairman,
Rail Bhavan, New Delhi.
2. The General Manager,
SC Rly, Secunderabad.
3. The Divl. Railway Manager,
SC Rly, Guntakal,
Anantapur District.
4. The Sr. Divl. Mech. Engineer(Loco),
SC Rly, Guntakal, Anantapur(Dist.). .. Respondents.

Counsel for the Applicant : Mr. P.Krishna Reddy

Counsel for the Respondents : Mr. N.R. Devaraj, Sr.CGSC.

CORAM:

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

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

Lpt

7. The learned Standing Counsel contended as follows:-

(i) The order of removal dated 21-2-1981 passed by R-4. has been confirmed by A.P.High Court in W.P.No.2911/82. It is not open to this Tribunal to pass any order which will have the effect of modifying the order of A.P.High Court in W.P.No. 2911/82.

(ii) The learned Standing Counsel further submitted that the Full Bench [page- No.169 of Full Bench Judgments of CAT 1991-94, Vol.3 - C.S.Elias Ahmed and Ors. Vs. Union of India and Ors.] of Bangalore CAT held that an application under Section 19 of A.T.Act, 1985 is not maintainable in order to claim benefit of judgment which is *jus in REM* when it was denied to the similarly situated persons, the remedy is by way of a petition under the Contempt of Courts Act in the appropriate judicial forum and hence even if the judgment in Reddappa's case is held as *jus in REM*, this OA is not maintainable.

8. When similar contentions were raised in an identical case bearing No.48/93 on the file of this Tribunal, it was held by us by order dt. 28.9.1995 that there is force in the contention of the respondent's counsel and further held that it is not necessary for disposal of that OA as to whether judgment in Reddappa's case is *jus in REM* or not. It was also held by us in that OA that the order of the A.P.High Court in W.P.No.2911/82 having become final, cannot be re-opened in this OA. It was also held that the order of the Railway Board (R-1) dated 13.9.1992 wherein some ex-gratia payment was granted was not violative of the Supreme Court's order in Reddappa's case. For reasons stated therein, OA No.48/93 was dismissed.

...5/-



the applicant in service with all benefits including continuous service, payment of arrears of salary, increments, promotion and other benefits.

4. But the said prayer for relief was amended by the order of this Tribunal dated 17.1.1995 when an M.A. 905/94 was moved for the same. The amended relief reads as under:-

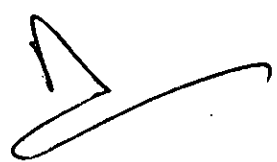
"Following the judgment of the Hon'ble Supreme Court made in C.A.Nos.4681-82/92 and batch dated 5.8.93, which is a Judgment in REM, this Hon'ble Tribunal may be pleased to declare the order of the Railway Board No.E(D&A) 92 RG6-39 dated 18.9.1991 (page No.1) of the 1st respondent, the order No. G/P.644/81/D&A/B.M.7649 dated 22.3.1992 (p5) of the 2nd respondent and the Appellate order No.G/P.644/81/D&A/B.M.7649 dated 14.9.1991 (p-6) of the 3rd respondent and the order of the Disciplinary authority No.G/P.644/91/D&A/B.M.7649 dated 21-2-1991 (p-10) of the 4th respondent as illegal and without jurisdiction and set aside the same and consequently direct the respondents to reinstate the applicant into service with all the benefits including continuous service with all the benefits including continuous service, payment arrears of salary, increments, promotions and other benefits."

5. The Apex court order quoted above dated 5.3.1993 gave benefits of reinstatement and compensation for those who participated in strike and removed from service. The Railway Board D.O.No.E(D&A)93 RG6-66 dated 14.9.1993 indicates that the concerned authorities are required to implement the judgment in Reddappa's case in respect of employees covered by Civil Appeals mentioned in that judgment.

6. The contention of the applicant in this OA is as follows:-

The judgment in Reddappa's case makes it clear that the judgment is jus in REM and hence the applicant is entitled to the benefits referred to there in that order and order has to be passed in this OA also to that effect.

...4/-



9. As the prayer in this OA is same as the prayer in OA No.48/93 and the contentions are also same, this OA is also dismissed for the same reasons. No costs.//

CERTIFIED TO BE TRUE COPY

Date.....

Court Officer
Central Administrative Tribunal
Hyderabad Bench
Hyderabad.

To

1. The Chairman, Railway Board,
Rail Bhavan, New Delhi.
2. The General Manager, S.C.Rly, Secunderabad.
3. The Divisional Railway Manager, S.C.Rly,
Guntakal, Anantapur Dist.
4. The Sr.Divisional Mechanical Engineer(Loco)
S.C.Rly, Guntakal, Anantapur Dist.
5. One copy to Mr.P.Krishna Reddy, Advocate, CAT.Hyd.
6. One copy to Mr.N.R.Devraj, SC for Rlys, CAT.Hyd.
7. One copy to Library, CAT.Hyd.
8. One sparecopy.

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