

(24)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL:HYDERABAD BENCH
AT HYDERABAD

R.A.NO.16/95 in OA 524/93

Date of order: 4-4-1996

Between

Y.Kanakambaram

Applicant/Applicant

A n d

1. Union of India rep. by
the General Manager,
South Eastern Railway, Calcutta-43.
2. Chief Operating Manager/Supdt.,
S.E.Railway, Calcutta-43.
3. Chief Personnel Officer,
S.E.Rly., Calcutta-43.
4. Divl.Rly. Manager,
S.E.Rly., Visakhapatnam.
5. Divl. Personnel Officer,
S.E.Rly., Visakhapatnam.
6. Sr.Divl.Accounts Officer,

Respondents/Respondents

APPEARANCE:

For the applicant : Sri Y.Subrahmanyam, Advocate

For the Respondents : Sri C.Venkata Malla Reddy
SC for Rlys.

CORAM

The Hon'ble Shri Justice M.G.Chaudhari, Vice-Chairman

The Hon'ble Shri R.Rangarajan, Member (Admn.)

O R D E R

(As per Hon'ble Shri Justice M.G.Chaudhari, Vice-Chairman)

The review is sought on the ground that the order passed in the O.A. is not in tune with the view taken by the Ernakulam Bench of the Central Admn. Tribunal in as much as DCRG has not been allowed on the basis of

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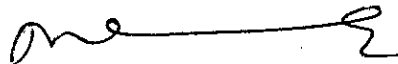
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average or last rate of pay drawn preceding the date of retirement whichever is favourable to the applicant. The original judgement has dealt with the question of the relevant date in paragraph 4 of the same. It has been noted that the DCRG was calculated by taking the pay of the applicant as Rs.270/-, the maximum of the payscale of Rs.210-270 and the contention for the applicant was that when he had not drawn pay as Leverman for 7-7-78 in view of the voluntary retirement, the pay drawn by him on 6-7-78 as Switchman had to be taken into consideration for calculation of the DCRG. The said contention, however, was not acceded to. That contention itself was different from what is contended now. The review clearly appears to have been prompted by coming across the copy of the decision of this Bench in V.V.Ramaiah Vs. UOI and Ors. reported in AISLJ II-1994(1) (CAT) P.210. In the first place the said decision ought to have been relied at the hearing of the OA which was decided on 20-1-94 whereas the date of that decision was 21-7-93. Secondly that decision was taken on the facts of that case and it is difficult to apply the same in the instant case. What was observed in that case was that the punishment by way of reduction in pay can be imposed for a period till 10 months prior to the date of retirement or it can also be stated that if it is upto the date of retirement the same should be subject to the condition that the pay prior to the date on which the reduced pay has come into effect should be taken as last drawn pay for calculating gratuity, etc. and that 10 months average pay upto the commencement of the reduced pay shall be

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treated as the 10 months average pay for computing pension. The order in the instant O.A. has taken the view which was taken on merits of the case and simply because different view was taken in the other case that cannot call for review. If the applicant feels that the view taken in the order in the OA is erroneous his remedy lies by way of appeal and that cannot be the subject matter of review. Hence the review application is rejected. No costs.

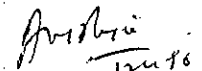


(R. Rangarajan)
Member(A)



(M.G. Chaudhari)
Vice-Chairman

Dated: 4th day of April, 1996
Dictated in open court


J. N. Singh

mhb/-

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RP 16/95 in OA.524/93.

To

1. The General Manager,
Union of India, S.E.Rly,
Calcutta-43.
2. The Chief Operating Manager/Superintendent,
S.E.Rly, Calcutta-43.
3. The Chief Personnel Officer,
SE Rly, Calcutta-43.
4. The Divisional Railway Manager,
S.E.Rly, Visakhapatnam.
5. The Divisional Personnel Officer, SE Rly
Visakhapatnam.
6. The Sr.Divisional Accounts Officer,
S.E.Rly, Visakhapatnam.
7. One copy to Mr.Y.Subrahmanyam, Advocate, CAT.Hyd.
8. One copy to Mr.C.Venkatamalla Reddy, SC for Rlys.
9. One copy to Library, CAT.Hyd.
10. One spare copy.

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19/4/96
I COURT

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APPROVED BY

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH AT HYDERABAD

THE HON'BLE MR. JUSTICE M.G. CHAUDHARI
VICE-CHAIRMAN

AND

R. Rangarajan
THE HON'BLE MR. H. RAJENDRA PRASAD :M(A)

Dated: 4-4-1996

ORDER/JUDGMENT

~~M.A./R.A./C.A.~~ No. 16/95

in

O.A.No. 524/93

T.A.No. (w.p.)

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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