

(28)

IN CENTRAL ADMINISTRATIVE TRIBUNAL  
HYDERABAD BENCH : AT HYDERABAD.  
\* \* \*

O.A. 79/94

Dt. of Decision : 31.3.1994

Shaik Dawood

.. Applicant

Vs

1. Union of India rep.by its  
Secretary,  
Ministry of Railways,  
Rail Bhavan,  
New Delhi.  
  
South Central Railway,  
Rail Nilayam,  
Secunderabad.
3. Chief Operating Superintendent(COPS),  
Rail Nilayam,  
South Central Railway,  
Secunderabad.
4. Divisional Railway Manager (B),  
South Central Railway,  
M.G.Division,  
Rail Nilayam,  
Secunderabad.

.. Respondents

Counsel for the Applicant : Mr.S.Lakshma Reddy  
Counsel for the Respondents : Mr. D. Gopal Rao

CORAM:

THE HON'BLE SHRI JUSTICE V. NEELADRI RAO : VICE CHAIRMAN  
THE HON'BLE SHRI R. RANGARAJAN : MEMBER (ADMN.)

(99)

O.A.No.79/94.

Date: 31-3-94

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.Gopala Rao, learned counsel for the respondents

2. The applicant herein joined as Y.K.C. by direct recruitment on 21.11.1957. He was absent due to his <sup>from</sup> reported sickness/24.5.1982 to 15.12.1984. A charge sheet was issued for his unauthorised absence and an exparte enquiry was conducted. Thereafter, the applicant was removed from service by order dt. 4.6.1983. The applicant preferred an appeal against the above removal order to the appellate authority and the said authority dismissed the appeal by orders dt. 29.5.1985. The applicant submitted a Revision Petition to R-3, who had appointed him as a fresh entrant as senior clerk in terms of order dt. 25.9.1986. The applicant joined service on 30.9.1986. It is stated by the applicant that he had rendered 27 years of service before he was removed from service. As the applicant was taken as a fresh entrant, all his past services of 27 years was not counted for pensionary and other service benefits. Aggrieved by the same, the applicant has filed this O.A.

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 O.A. 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

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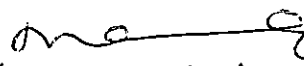
considering the names of other eligible candidates for the said post. Hence, the order of re-appointment of the applicant as a fresh entrant was held as in disregard of rules. The order of fresh appointment in that case was construed as a case of passing an order of major penalty in accordance with rule 6(v), by lowering the pay of the applicant in the category of Fitter Grade-III to the minimum of the scale and that the annual increments accrue thereafter. The period from the date of his removal till reinstatement was treated as dies-non.

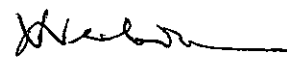
4. As the present case is also similar to the one cited above, we see no reason to differ from the Judgment of this Tribunal in the above referred O.A. Hence, the following direction is given.

"Passing of order of re-appointment of the applicant herein as Senior Clerk 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 <sup>from</sup> the category of Senior Clerk to the minimum of the scale i.e. Rs.330-560 and that the annual increments accrue thereafter. The period from 4.6.1983 the date of removal till 25.9.1986, the date of reinstatement should be treated as 'dies-non'. The period of unauthorised absence from 24.5.1982 should be treated as leave without pay. "

5. On the basis of the above, the qualifying service of the applicant has to be reckoned for future pensionary benefits.

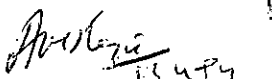
6. The O.A. is ordered accordingly at the admission stage itself. No costs.

  
(R. Rangarajan)  
Member (Admn.)

  
(V. Neeladri Rao)  
Vice Chairman

Dated 3 March, 1994.

Grh.

  
Deputy Registrar

TYPED BY

COMPILED BY

CHECKED BY

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. A. B. GORTHY : MEMBER (AD)

AND

THE HON'BLE MR. T. CHANDRASEKHAR REDDY  
MEMBER (JUDGE)

AND

THE HON'BLE MR. R. RANGARAJAN : M (ADMN)

Dated: 31-3-1994

ORDER/JUDGMENT

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

Central Administrative Tribunal  
DESPATCH  
BY 18 APR 1994  
HYDERABAD BENCH.

in

O.A. No.

79/94

T.A. No.

(w.p.)

Admitted and Interim Directions  
Issued.

Allowed

Disposed of with directions

Dismissed.

Dismissed as withdrawn.

Dismissed for Default.

Rejected/Ordered.

No order as to costs.

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C.O.  
Mentoring of the student  
of A has been made in the  
G.O. Sheet. M. S. S. S. S.

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