

93

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH
AT HYDERABAD

O.A. No. 1203/94.

Dt. of Decision : 31.10.94.

A. Ramanuja Rao

.. Applicant.

Vs

1. The Controller General of
Defence Accounts,
West Block-V, R.K. Puram,
New Delhi - 110 066.
2. The Controller of Defence
Accounts, (ORs), Bangalore,
Ramraj Street, South Bangalore,
PIN 560 001.

.. Respondents.

Counsel for the Applicant : Mr. C.P. Sarathy

Counsel for the Respondents : Mr. N.V. Ramana, Addl. CGSC.

CORAM:

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

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

26

O.A.No.1203/94

Dt. of decision:31-10-1994

O R D E R

{ As per Hon. Sri Justice V. Neeladri Rao, Vice Chairman }

This O.A. was filed praying for a direction to the respondents to disburse the salary from the month of August, 1994 and also the salaries in future without any delay.

2. The applicant was working as Senior Accounts Officer in the office of PAO (ORS), EME, Secunderabad. He sustained injuries when he had fallen from scooter. Then he was going to the office on crutches. The Additional CGDA referred the applicant for medical examination as per letter dt.10-9-93. By the same letter the applicant was also asked to go on leave. The original medical board of Gandhi Hospital, Secunderabad to which the applicant was referred to had given a report to the effect that the applicant is permanently incapacitated for further service in the department. Thereupon, memo. dt.2-12-93 was issued ^{by} ~~to~~ R-1 informing the applicant that it was proposed by the competent authority to retire him from service on account of the total and permanent invalidation for further service in the department. It was also stated therein that the retirement of the applicant would come into effect on expiry of a period of one month from the date of communication of the said letter, unless he desires to retire from an earlier date. He was also informed by the said letter that ~~he~~ ^{if} he so desires he can make a request within a period of one month ^{by} ~~from~~ being examined by medical review board duly supported by a prime facie evidence that good ground exists for doing so.

The same was assailed in O.A.1587/93. We disposed this O.A. by order dt.23-12-93 and the material portion therein is as under:

"R-1 is directed to furnish copy of the report of the Regional Medical Board of Gandhi Hospital referred to in the impugned letter dt.AN/11/2605/93 dt.2-12-93. The applicant had to make a request as referred to in para-4 of the impugned letter dt.2-12-93 within one week from the date of receipt of that Medical Board report or within one month after the date of receipt of the impugned letter dt.2-12-93 whichever is later. If such a request is made and if the case of the applicant is going to be referred to the Medical Review Board, the applicant shall not be discharged from service till the Medical Review Board gives its report. If the said report is going to be adverse to the applicant, he should not be discharged till expiry of one week from the date of receipt of the order to be issued by R-1 on such report. It is needless to say that if the applicant is going to be aggrieved by the report of the Medical Review Board, he is free to approach this Tribunal."

3. It is stated for the applicant that he was paid salary upto end of July, 1994 and when he was not paid salary from August, 1994 he was constrained to file this O.A. for the reliefs as referred to. It is stated for the respondents that the leave which was to the credit of applicant by 14-9-93 was sufficient upto the end of July, 1994 only, and hence he was paid leave salary upto that period.

4. It is stated that on receipt of letter No. MRD/MB/94/308/1986 dt.17-6-94, the Superintendent, Osmania General Hospital, Hyderabad was informed by R-1 by letter dt.2-9-94 that in view of Para-6 of the Govt. of India decision No.1 below Rule 4 of CCS (MA) Rules, 1957 that "if the Review Medical Board confirms the opinion of the examining authority, the retirement of the Govt. servant shall, subject to the provisions of S.R. 233(1)(b) and (2), (cf. Rule 20 of CCS (Leave) Rules, 1972) be effective from the date on which the decision is communicated to the Govt. servant. If, on the other hand, the Review Board recommends grant of leave to the Govt. servant, he should be granted leave --- the Special Review Medical Board only to confirm the findings of the examining authority or to recommend grant of leave. However, the Special Review Board has come to the conclusion that Shri A. Ramanuja Rao is fit for the sedentary ^{for} ~~only to the~~ desk work. In other words, it seems to be the opinion of the Special Review Board that the officer is only partially fit but not totally fit"(Shri A. Ramanuja Rao referred to therein is the applicant herein.).

5. It is urged for the applicant as under:

(i) The Special Review Medical Board already held that the applicant is fit for sedendary job only for the desk work. The work of Senior Accounts Officer is one of Desk work only and hence this is a case of sedentary job. Thereby it cannot be stated that Special Review Medical Board held that the applicant is only partially fit.

(ii) It cannot be read from Para-6 referred to in letter dt.29-9-94 that ^{it} is not open to Special Review Medical Board to differ from the original medical authority to come to the conclusion that the concerned employee is physically and/or medically fit for the duties to be discharged for the job.

6. We feel that it is not just and proper to express our views at this stage for it is stated that the Special Review Medical Board requested ^{for} the information in regard to the duties of the Senior Accounts Officer in this office. It is further stated for the respondents that the applicant is now directed to appear again before the Special Review Medical Board on 7-11-94. So, it cannot be stated as to what final order is going to be passed in the matter.

7. This O.A. was filed, as already referred to for salary from August, 1994 only. In the circumstances it is just and proper to pass the following order in this O.A.

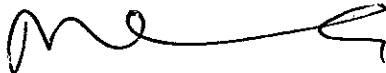
The respondents are directed to pay salary and allowances ~~of August 1994~~ on the basis of the substantial pay of the applicant in August, 1994 provisionally till final order is going to be issued by the competent authority. In case the applicant is found fit to discharge his duties then the period in between will be regularised and then the salary which has to be paid on provisional basis, as per this order for the period from August, 94 has to be adjusted towards the amount payable to the applicant on regularisation. But, if the applicant is

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28

going to be retired, then the ~~amount~~ of salary and other emoluments payable on provisional basis as per this order from August, 1994 ^{has} to be adjusted ~~from out~~ ^{towards} of the amount payable to the applicant as final settlement of dues. It is needless to say that ^{if} applicant is going to be aggrieved by the order of the competent authority which has to be passed on receipt of the report of the Special Review Medical Board, ^{he} is free to challenge the same under Sec.19 of the A.T.Act.

8. The O.A. is ordered accordingly at the admission stage itself with no costs./


(R. Rangarajan)
Member(A)



(V. Neeladri Rao)
Vice Chairman

Dictated in Open Court
31st Oct. 1994


Deputy Registrar(J)CC

To

1. The Controller General of Defence Accounts,
kmv West Block-V.R.K.Puram,
New Delhi-66.
2. The Controller of Defence Accounts(ORs) Bangalore,
Kamaraj Street, South Bangalore, -1.
3. One copy to Mr.C.Parthasarathy, Advocate, CAT.Hyd.
4. One copy to Mr.N.V.Ramana, Addl.CGSC.CAT.Hyd.
5. One copy to Library, CAT.Hyd.
6. One spare copy.
7. The pay and Accounts officer. (ORs) EME centre,
pvm ^{sew underbed.}



urgent
TYPED BY

CHECKED BY

COMPARED 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. R. RANGARAJAN : M (ADMIN)

DATED: 31-10-1994

~~ORDER~~ JUDGEMENT:

in

O.A.No.

1203 / 94

T.A.No.

(w.p.)

Admitted and Interim directions
issued.

Allowed.

Disposed of with directions.

Dismissed.

Dismissed as withdrawn

Ordered/Rejected

No order as to costs.

pvm

