

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH
AT HYDERABAD

ORIGINAL APPLICATION NO.1024/94

DATE OF ORDER : 04-06-1997.

Between :-

Mohd Yousuf Ali

.. Applicant

And

1. Union of India. rep. by its Secretary,
M/o Defence, South Block, New Delhi.
2. The Scientific Adviser to the Minister
of Defence & Director General Research & Develop-
ment, Directorate of Personnel,
Ministry of Defence, DHQ PO NEW DELHI - 110011.
- .. The -----
Defence Electronics Research Laboratory,
Chandrayangutta Lines, Hyderabad-500005.

... Respondents

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Counsel for the Applicant : Shri K.Sudhakar Reddy

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

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CORAM:

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

THE HON'BLE SHRI B.S.DAI PARAMESHWAR : MEMBER (J)

(Order per Hon'ble Shri R.Rangarajan, Member (A)).

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(Order per Hon'ble Shri R.Rangarajan, Member (A)).

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Heard Shri K.Sudhakar Reddy, learned counsel for the applicant and Shri N.R.Devaraj, learned standing counsel for the respondents.

2. The applicant while working as a Poster Artist in 1971 was taken up for alleged fraud claim of Medical re-imbusement. He was removed from service. However on the ground that the Director was not the competent authority to remove him from service, the ~~Apex Court had held that the Director~~ applicant agitated the matter.

However, the Apex Court had held that the Director is the Competent Authority and hence remitted the case back to the Tribunal to dispose of this case in TA 21-91 on merits. That T.A. was disposed of by order dt.8-10-93. In the ~~year~~ order dt.8-10-93 it was stated that the maximum minor penalty can be ordered and the period from removal till re-instatement does not count for seniority or increments and it counts for pension and terminal benefits.

3. In pursuance of the direction in TA 21/91 dt.8-10-93, Respondent No.3 issued the order dt.29-3-94 (page-7 of the OA). In this order para^s 6 and 7 of that order reads as follows :-

(6) Further, the disciplinary authority has declared the period from the date of placing the individual under suspension to the date of removal from service i.e., from 4-8-76 to 6-5-91 does not count for seniority or increments and it counts only for pension and terminal benefits.

....3.

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(8) The individual has been awarded the penalty of stoppage of two increments with cumulative effect accruing subsequent to the date of issue of this order."

4. The applicant now challenges the treatment of the period from the date of suspension till the date of removal, which will not count for seniority and increments and will count for pension and terminal benefits. The applicant further submits that the judgement in TA 21/91 does not give any direction in regard to the treatment of the period from suspension to the date of removal. Hence it is to be treated as duty as the Tribunal has only remanded the case back to respondent No.3 for awarding minor penalty with observations for treatment of the period from removal till the reinstatement.

5. As per para-8 of the order dt.29-3-94, the applicant was imposed penalty of stoppage of two increments with cumulative effect accruing subsequent to the date of issue of this order. The applicant submits that this is a major penalty and hence a major penalty cannot be imposed on him on the basis of the judgement in TA 21/91.

6. This O.A. is filed challenging the orders passed by Respondent No.3 in para-6 and 8 of that order and for a consequential direction to amend the paragraph as prayed for by him as indicated above.

7. The applicant was asked whether he has filed any appeal against the order dt.29-3-94. The learned counsel for the applicant submits that he has filed an appeal which was disposed of by the letter No.DLRL/PERS/MYS/448 dt.23-6-94 (page-9 of the OA).

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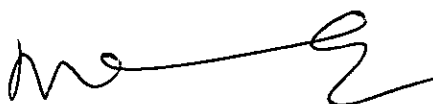
The letter dt. 23-5-94 is signed by the Senior Administrative Officer Grade-I for Director. The very fact that the letter is signed for Director, it clearly indicates that the Senior Administrative Officer cannot be an Appellate Authority. The appellate authority should be a superior authority for Respondent No.3. In view of the above, it has to be held that the applicant has not filed a proper appeal to the appropriate appellate authority, ~~in view of the above~~ the relief asked for in this O.A. If such a representation is received by the competent authority then the authority should dispose of the same in accordance with ^{on merits} the law ^{going into the} without ~~insisting in~~ ~~regard to the~~ period of limitation.

6. Time for compliance of the order is 3 months from the date of receipt of representation from the applicant.

7. The O.A. is ordered accordingly. No costs.

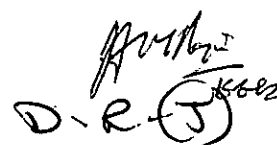

(B.S. JAI PARAMESHWAR)
Member (J)

4.6.97


(R. RANGARAJAN)
Member (A)

Dated: 4th June, 1997.
Dictated in Open Court.

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D.R. (J)

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TYPED BY
COMPARED BY

CHECKED BY
APPROVED BY

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD

THE HON'BLE SHRI R. RANGARAJAN: M(A)

AND

THE HON'BLE SHRI B.S. JAI PARAMESHWAR: M
(J)

DATED: 4/6/97

ORDER/JUDGEMENT

M.A./R.A/C.A.NO.

in

B.A.NO. 1024/94

Admitted and Interim directions
Issued.

Allowed

Disposed of with directions,

Dismissed

Dismissed as withdrawn

Dismissed for default

Ordered/Rejected.

No order as to costs.

YLKR

II Court.

Central Administrative Tribunal
HYDERABAD BENCH
- 4 JUL 1997
HYDERABAD BENCH