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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH  
AT HYDERABAD

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D.A. 564/94.

Dt. of Decision : 7-9-94.

Mani Ramachandran

.. Applicant.

Vs

1. The Union of India  
Rep. by the Chairman,  
Railway Board, Rail Bhavan,  
New Delhi - 1.
2. Financial Advisor & Chief  
Accounts Officer,  
SC Rly, Rail Nilayam,  
Secunderabad.
3. The Manager,  
State Bank of India,  
Main Branch, Kothi,  
Bank Street, Hyderabad.
4. The Manager,  
State Bank of India,  
St. Johns Road Branch,  
East Maredpally,  
Secunderabad.

.. Respondents.

Counsel for the Applicant : Mr. G.V. Subba Rao

Counsel for the Respondents : Mr. J. Siddaiah, Addl. CGSC.

CORAM:

THE HON'BLE SHRI A.V. HARIDASAN : MEMBER (JUDG.)

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DA 564/94.

Dt. of Order:7-9-94.

(Order passed by Shri A.V.Haridasan, Member (J) ).

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A.T.Act, 1985, the applicant, a retired Railway employee is challenging the order dt.2-5-94 and 3-5-94 of the F.A. & C.A.O, the Respondent No.2, cancelling the memorandum dt.5-1-94 by which the pay of the applicant was stepped up from Rs.3,126/- to 3,200/- and directing him to repay a sum of Rs.15,089/- as a consequence thereof. The applicant retired from service on 31-1-91. After that he made a representation stating that his junior Shri D.Pattabhi Chetty, who had always been drawing less pay than him started getting higher pay on re-fixation of his pay in accordance with the Revised Pay Rules, and therefore, his pay may be stepped up. This representation was considered and by an order dt.5-1-94 the applicant was given the benefit of stepping up of pay in tune with his junior Sri D.Pattabhi Chetty and his pay as on 1-1-87 was fixed at Rs.3,200/-. The applicant's pension was revised and he was paid revised pensionary benefits. However the impugned orders dt.2-5-94 and 3-5-94 were issued cancelling the order dt.5-1-94 without any notice and directed recovery of alleged over-payments. The applicant's case is that since Shri D.Pattabhi-

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Chetty was drawing less pay than the applicant till the revision of pay, the anomaly of he getting higher pay than the applicant is a direct result of the re-fixation of pay under revised pay rules and hence the order dt.5-1-94 <sup>is was</sup> perfectly in order and was approved by the competent authority also and that there was no justification on the Respondents to cancel the pay fixation unilaterally without notice to him. The action according to the applicant is violative of principles of natural justice.

2. The Respondents seek <sup>to</sup> justify the impugned order on the ground that Shri D.Pattabhi Chetty was drawing more pay than the applicant even before the re-fixation on account of loyal increment and therefore the stepping up of pay granted to the applicant by order dt.5-1-94 was erroneous. The applicant has filed a rejoinder stating that Shri D.Pattabhi Chetty had been drawing less pay even after the sanction of loyal increment to him. To demonstrate that this statement of the applicant is true, the applicant has filed a tabulation statement along the rejoinder, in which the particulars of fixation of pay of Shri D.Pattabhi Chetty vis-a-vis the applicant have been given. The Respondents have not filed any reply denying the averments made in the rejoinder or disparting this correctness of the tabulation statements . I have heard

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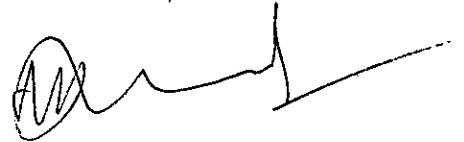
the arguments of Shri Subba Rao, learned counsel for the applicant and Shri Jalli Siddaiah, learned standing counsel for the Respondents. Shri Siddaiah states that the tabulation statements produced along with the rejoinder may not be factually correct and the impugned order was issued after verification of the records and finding that the stepping up of the pay was erroneous. However it is conceded that no notice was given to the applicant before the impugned order was issued. Impugned orders reducing pay and pension of the applicant and directing the applicant to refund a sum of Rs.15,089/- are undoubtedly orders which effect the applicant with adverse civil consequences. It is well settled that in such cases before passing such orders an opportunity should be given to the effected person to explain. This having not been done, the impugned orders are liable to be struck down. The stepping up of pay was done after careful examination of the case putforth by the applicant by the competent authority. While the impugned orders have to be struck down, as they were issued in violation of the principles of natural justice, the Respondents would be at liberty to consider the matter afresh and to take appropriate measures if necessary for rectification of any error after issuing notice to the applicant inaccordance with law.

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3. In the result the impugned orders dt.2-5-94 and 3-5-94 cancelling the order dt.5-1-94 and directing the applicant to refund Rs.15,089/- are quashed. It is made clear that the Respondents would be at liberty to reconsider the issue after careful consideration of the factual situation and if they decide to revise the order dt.5-1-94 it may be done only after giving the applicant a notice there of and reasonable opportunity to show cause against. If the applicant's pension has been reduced consequent to the impugned orders, the pension refixed in accordance with the order dt.5-1-94 should be restored and paid to him. No order as to costs.



(A.V.HARIDASAN)  
Member (J)

*Haridasan*  
15/9/94  
Dt. 7th September, 1994. Dy. Registrar (Judl.)  
Dictated in Open Court.

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Copy to:-

1. Chairman, Railway Board, Union of India, Rail Bhavan, New Delhi.
2. Financial Advisor & Chief Accounts Officer, S.C.Railway, Rail Nilayam, Secunderabad.
3. The Manager, State Bank of India, Main Branch, Kothi, Bank Street, Hyd.
4. The Manager, State Bank of India, St. Johns road Branch, East Maredpally, Secunderabad.
5. One copy to Sri. G.V.Subba Rao, advocate, CAT, Hyd.
6. One copy to Sri. J.Siddaiah, Addl. CGSC, CAT, Hyd.
7. One copy to Library, CAT, Hyd.
8. One spare copy.

Rsm/-

*sum*

OA 564/94

Typed by  
Checked by

Compared by  
Approved by

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
HYDERABAD BENCH HYDERABAD

THE HON'BLE MR.A.V.HARIDASAN : MEMBER(B)

AND

THE HON'BLE MR.A.B.GORTHI : MEMBER(A)

Dated: 7/9/94

~~ORDER/JUDGMENT.~~ ✓

~~M.A./R.P/C.P/No.~~

D.A.NO.

<sup>in</sup> 564/94

~~T.A.NO.~~

(~~W.P.NO.~~)

Admitted and Interim Directions  
Issued.

Allowed.

~~Disposed of with Directions.~~

Dismissed.

Dismissed as withdrawn.

Dismissed for Default.

~~No order as to costs.~~

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Central Administrative Tribunal  
DESPATCH  
22 SEP 1994  
HYDERABAD BENCH.

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