

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL: HYDERABAD BENCH  
AT HYDERABAD

OA.679/94

dt.5-5-97

Between

T. Ayodhya Ramaiah

: Applicant

and

1. Director  
Central Research Instit. for  
Dryland Agriculture (CRIDA)  
ICAR, Santoshnagar  
Hyderabad 500659

2. Director General  
Indian Council of Agricultural  
Research, Krishin Bhavan  
New Delhi 110001

: Respondents

Counsel for the applicant

: P.B. Vijayakumar  
Advocate

Counsel for the respondents

: N.R. Devaraj  
Sr. CGSC

HON. MR. R. RANGARAJAN, MEMBER (ADMN.)

HON. MR. B.S. JAI PARAMESHWAR, Member(JUDL)

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## Judgement

Oral order (per Hon. Mr. R. Rangarajan, Member (Admn))

Heard Sri Y. Subramanyam for Sri P.B. Vijayakumar for the applicant and Sri N.R. Devaraj for the respondents.

1. The applicant while working as Junior Stenographer in the scale of Rs.330-560 was alleged to have been absented unauthorisedly from 4-4-1993 to 8-6-1993. He was issued <sup>with a</sup> charge-sheet and he was terminated from service on that basis.

2. He assailed the same in OA.278/94. That OA was allowed and the applicant was reinstated in service. The ~~competent authority regularised~~ that period from 4-4-93 to 8-6-1993 as dies-non for all purposes viz. increment, leave, and pension. Further, the disciplinary authority did not exercise the power vested in him as pension sanctioning authority under Article 421 of Civil Service Regulations (Rule 27 of CCS (Pension) Rules to treat the period of unauthorised absence from 4-4-93 to 8-6-93 as leave without allowances. Accordingly the entire past service ~~should~~ <sup>be</sup> foreited.

3. This OA is filed for setting aside the impugned order sequential direction to the respondents to extend all the benefits denied/forfeited by regularising the period of absence.

4. No reply has been filed by the respondents.

5. Twin contentions were raised by the learned counsel for the applicant in this OA. They are :

1) He <sup>has</sup> <sup>of absence</sup> right for regularising the period from 4-4-1993 to 8-6-1993 as leave conferred on the applicant by virtue of the direction given in OA.278/94 <sup>and hence</sup> ~~xxx~~ he is entitled <sup>reckoning</sup> for past services also.

ii) No show-cause-notice was issued to the applicant before <sup>u</sup> issuing the impugned office order No.1-3(43)/92-93/Estt.Vol.III dated 9-6-93. Hence, office order dated 9-6-93 is non-est in the eye of law and sought to be set aside.

6. We have gone through the judgement in OA.278/94 decided on 21-7-1994. The prayer in the OA.278/94 was the challenge to the impugned order dated 5-1-1994 vide No. 1-3(43)/92-93/Estt whereby the applicant was removed from service. The OA.278/94 was disposed of by setting aside the impugned order dated 5-1-1994 and also observing that the applicant is not entitled to salary from the date of removal to 7-3-1994 the date of filing of ~~this~~ OA and the same should be treated as leave without pay. Liberty was given to the respondents for initiating proceedings in accordance with law in regard to the misconduct alleged, which was referred to as basis for removal as per the impugned order.

7. The learned counsel for the applicant submitted that the direction in ~~this~~ OA <sup>also</sup> covers the period of his alleged unauthorised absence from 4-4-1993 to 8-6-1993 and he further submits that the directions in OA.278/94 directs the respondents to regularise that period from 4-4-1993 to 8-6-1993 and accordingly earlier period has to be considered. But we do not subscribe to the view of the applicant's counsel. The direction in OA.278/94 in no way concerns

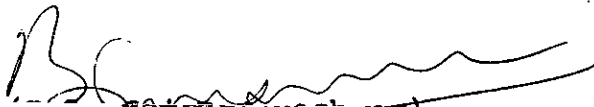
with the alleged unauthorised period of absence of the applicant from 4-4-93 to 8-6-93. Hence we reject this contention.

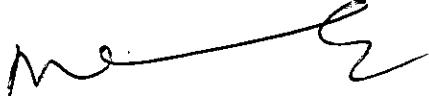
8. There is force in the second contention of the applicant. The order of break in service and not counting the period earlier to 4-4-1993 has to be decided after giving a chance to the applicant to explain his stand. This <sup>is</sup> ~~required as observation in the part of~~ <sup>an objection by</sup> principles of Natural Justice. As the respondents have not filed their counter it has to be concluded that no notice was issued to the applicant in this connection before issuing the impugned office order dated 9-6-1993. Hence, the impugned order dated 9-6-1993 is liable to be set aside.

9. As the impugned order dated 9-6-1993 is being set aside the respondents should be given liberty to issue further a show-cause-notice in accordance with law and decide the issue afresh on the basis of the reply to be submitted by the applicant to the show-cause-notice.

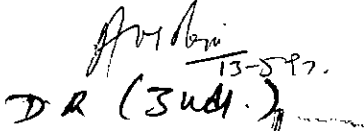
10. In the result, the following direction is given :  
The office order NO. 135(43)/92-93/ESTT. Vol. III dated 9-6-1993 is hereby set aside. But liberty is given to the respondents to issue a show cause notice and on receiving reply to the show cause decide the present issue in accordance with law.

11. The OA is ordered accordingly. No costs.

  
Member (Judicial)  
51587

  
Member (Administrative)

Dated : May 5, 97  
Dictated in Open Court

  
D.R. (Judicial)  
13-5-97

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TYPED BY  
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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
HYDERABAD BENCH HYDERABAD

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

AND

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

DATED: 5/5/97

ORDER/JUDGEMENT

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

in

O.A.No.

679/94

ADMITTED INTERIM DIRECTIONS ISSUED  
ALLOWED

DISPOSED OF WITH DIRECTIONS

DISMISSED AS WITHDRAWN

ORDERED/REJECTED

NO ORDER AS TO COSTS

YLKR

LI COURT

