

CENTRAL ADMINISTRATIVE TRIBUNAL: HYDERABAD BENCH:AT HYDERABAD.

O.A.No. 832 of 1995

Date of Order:- 10th July, 1998.

Between :

P. Sesha Rao, S/o P. Dosalu,
 aged about 57 years,
 Ex-Welfare Inspector, Gr.II,
 Wagon Workshop, Guntupalli,
 Krishna District.

... Applicant

And

1. The Chief Personnel Officer,
 South Central Railway,
 Rail Nilayam,
 Secunderabad.
2. The Deputy Chief Mechanical Engineer,
 Wagon Workshop, South Central Railway,
 Guntupalli, Krishna District.

... Respondents

Counsel for Applicant : Mr. Bhim Singh for
 Mr. P. Krishna Reddy.

Counsel for Respondents : Mr. V. Rajeswara Rao, Addl. CGSC

CORAM :

Honourable Mr. R. Rangarajan, Member (Admn.)

Honourable Mr. B. S. Jai Parameshwar, Member (Judl.)

ORDER (ORAL)

(Per Hon. Mr. R. Rangarajan, Member (A))

Heard Mr. Bhim Singh for Mr. P. Krishna Reddy, learned counsel for the applicant and Mr. V. Rajeswara Rao, learned Addl. Standing Counsel for the respondents.

2. The applicant in this O.A. while working as Welfare Inspector, Grade II was issued with a Charge Memo under Section 9 of the Railway Servants (D&A) Rules, 1965 on 16.3.1989. It is stated that once again another Charge Memo for minor penalty was issued to the applicant on 19.4.1990. The applicant submits that he had sent his reply on 30.4.1990 to the charges mentioned in the charge memo. The applicant further submits that he has not received any order after he submitted his

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explanation to the Charge Memo, on 30.4.1990. He received a Memo on 19.2.1993. By the said impugned order his pay has been refixed with effect from 1.8.1990. The applicant submits that only from that Memo, he came to know that an order had already been passed on 11.6.1990, withhold his next annual increment raising from Rs.1800 to Rs.1850 in the scale of pay of Rs.1600-2660 (RSRP) due on 1.9.1990 for a period of 30 months without postponing his future increment of pay. The applicant submits that he is not aware of the order dated 11.6.1990 as it was not served on him. He came to know of the order of punishment only on the basis of refixation of his pay by the impugned order dated 19.2.1993.

3. This O.A. is filed for setting aside Memorandum No.GR/P.228/PB/PSR/90/18 dated 11.6.1990 and the revised order No. GR/P.481/NA/3/Vol.I dated 19.2.1993 by holding them as illegal and without jurisdiction and to fix his salary and pay the retirement benefits ignoring the impugned order. Alternatively, he prays for a direction to the respondents to treat the punishment of withholding of his annual increment for a period of 30 months as non-recurring and fix his pensionary benefits accordingly by ignoring the impugned order from the date of retirement.

4. Learned counsel for the respondents submits that as the applicant was not available during the period when the impugned Memo dated 11.6.1990 was issued, the same was sent by post, but it returned back unserved. Thereafter the applicant did not take any action either to appeal or to take other measures to annul the punishment order dated 11.6.1990. In view of the above, his pay was refixed by the impugned order dated 19.2.1993. Though the applicant submits that he has submitted his appeal dated 1.3.1994, the respondents in their reply at page 3 para-C submitted that the applicant had not submitted any appeal to the first respondent herein against the penalty order. In view of the above, the refixation of pay was done and he was given the final settlement dues accordingly

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as per the refixation of pay by the impugned order dated 19.2.1993 when he retired on 7.11.1992.

5. There are two prayers in this O.A. The first prayer is to set aside the punishment order dated 11.6.1990 and the second prayer is to set aside the refixation order dated 19.2.1993. Alternatively, the applicant has also given certain modification to his prayer in respect of the punishment order.

6. The applicant can hope to get his refixation of pay annulled only if the punishment order dated 11.6.1990 is set aside by the competent authority. Without the punishment order having been set aside, the later order of refixation of pay cannot be interfered with. In view of the above, the only course left to the applicant is to prefer an appeal against the impugned order of punishment dated 11.6.1990 to the appropriate authority and get final orders in that connection. On that basis only he can ask for suitable refixation of his pay with effect from 1.8.1990.

7. Though the applicant submits that he had submitted a representation dated 1.3.1994, the respondents deny the receipt of that representation. Hence, we are of the opinion that even though the respondents had not received the appeal/representation dated 1.3.1994, the appeal/representation enclosed to the O.A. at page 14, should be taken as the appeal and should be disposed of by the respondent No.1 without going into the question of limitation.

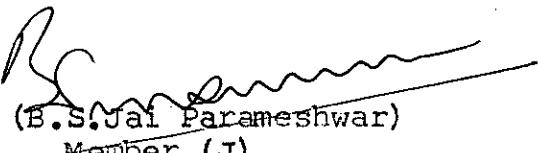
8. In the result, the following direction is given :

The respondent No.1 shall dispose of the representation dated 1.3.1994 of the applicant without going into the question of limitation, expeditiously.

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


(B.S. Jai Parameshwar)
Member (J)


(R. Rangarajan)
Member (A)

10.7.98

Dated the 10th day of July, 1998.

Dictated in the Open Court.


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13-7-98

 DJ/

DA.832/95

Copy to :-

1. The Chief Personnel Officer, South Central Railway, Rail Nilayam, Secunderabad.
2. The Deputy Chief Mechanical Engineer, Wagon Workshop, South Central Railway, Guntupalli, Krishna District.
3. One copy to Mr. Bhim Singh for Mr. P. Krishna Reddy, Advocate, CAT., Hyd.
4. ~~One copy to Mr. V. Rajeswara Rao, Addl. CGSC., CAT., Hyd.~~
5. One copy to D.R.(A), CAT., Hyd.
6. One duplicate copy.

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II COURT

TYPED BY
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APPROVED BY

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH HYDERABAD

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

AND

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

DATED: 10/7/98

ORDER/JUDGMENT

M.C.R. 1/1/C.P. NO.

in
C.A. NO. 832/95

ADMITTED AND INTERIM DIRECTIONS
ISSUED

ALLOWED

DISPOSED OF WITH DIRECTIONS

DISMISSED

DISMISSED AS WITHDRAWN

DISMISSED FOR DEFAULT

ORDERED/REJECTED

NO ORDER AS TO COSTS

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केन्द्रीय प्रशासनिक अधिकरण
Central Administrative Tribunal
प्रेषण / DESPATCH

16 JUL 1998

हैदराबाद आवादी
HYDERABAD BENCH