

(14)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL: HYDERABAD BENCH: AT
HYDERABAD.

C.A.NO. 1090 of 1995.

DATE OF JUDGMENT: 15.9.1995.

BETWEEN:

Balraj Butchaiah

...

Applicant

And

1. The General Manager, South Central Railway, Railnilayam, Secunderabad.
2. Divisional Railway Manager, (MG), Hyderabad Division, South Central Railway, Secunderabad.
3. Senior Divisional Mechanical Engineer, (MG), South Central Railway, Hyderabad Division, Secunderabad.

...

Respondents

COUNSEL FOR THE APPLICANT: SHRI S. Lexina Reddy

COUNSEL FOR THE RESPONDENTS: SHRI J. Siddaiah, SC for Rlys.
Sr/Addl.CGSC.

CORAM:

~~HON'BLE SHRI JUSTICE V. N. LAKSHMI RAO VICE CHAIRMAN~~
HON'BLE SHRI R. RANGARAJAN, MEMBER (ADMN.)

Contd: ...2/-

O.A. 1090/95.

Dt. of Decision : 15-09-95.

ORDER

I As per Hon^{ble} Shri R. Rangarajan, Member (Admn.) I

Heard Shri S. Lakshma Reddy, learned counsel
for the applicant and Shri J. Siddiah, ~~learned counsel~~
for the respondents.

2. The applicant was appointed on 18-04-1958 in
Lalaguda as Khalasi. He was charge-sheeted for un-authorised
absence from January 1981 to November 1981 i.e., 117 days.
An enquiry was conducted and on the basis of that enquiry
the applicant was removed from service vide order No.YP/
DAR/EL/123 dated 21-06-1983. He appealed against the same
to the appellate authority and the appellate authority
re-instated him ~~XXXX~~ taking a compassionate view ~~XXXX~~
~~XXXXXXX as a fresh entrant in~~
scale of Rs.196-230/-, his pay being fixed at the minimum
of Rs. 196/-". The applicant thereafter made representation
to the respondents to condone the break in service for
pensionary benefits. But the representations were rejected
vide orders dated 19-09-1985 and 9-11-89. His representation
to the General Manager on 21-8-91 was also rejected by
letter dated 31-10-91. He is still in service. It is stated
that he is going to retire at the end of this Month.

3. Hence he has filed this OA for a declaration that
the action of the respondents in construing the appellate
authority's order dated 14-9-83 for forfeiting the past
service and treating the applicant as a fresh entrant as
Khalasi is totally illegal, without jurisdiction and
ultravires of the powers of the respondents and also violative

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of Article 14 and 16 and 300-A of the Constitution of India and for a consequential direction to the respondents to treat the past service from the date of his appointment for the purpose of pension and retirement benefits.

4. The applicant's counsel brought to my notice the judgement of this Tribunal in OA.No.441/95, wherein a similar issue arose. It was held in that OA that "passing of order of re-appointment of the applicant therein S.K.R. as a fresh entrant has to be held as in disregard of rules. It is to be construed as an order of major penalty in accordance with Rule 6(v) by lowering the pay of the applicant in the category of Shed Khalasi at the stage of Rs. 217/- in the scale of Rs. 196-232/- and that the annual increments accrue thereafter. The period from 20-12-62 the date of his removal, till the date on which the applicant was reinstated should be treated as dies-non."

5. As the applicant in this case is similarly situated, I see no reason to differ from the judgement passed in OA. 441/95. Accordingly the following direction is given:-

Passing the order of re-appointment of the applicant herein as Khalasi as a fresh entrant has to be held as in disregard of rules. It has to be construed as an order of major penalty in accordance with Rule 6(v) by lowering the pay of the applicant in the category of Khalasi at the stage of Rs.196/- in the scale of Rs.196-232/-

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and that the annual increments accrue thereafter.

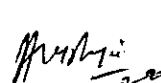
The period from the date of removal namely 30-06-83 till the date on which the applicant was reinstated should be treated as dies-non.

6. OA is ordered accordingly at the admission stage itself. No costs.



(R. Rangarajan)
Member (Admn.)

Dated : The 15th Sep. 1995.
(Dictated in Open Court)

 Deputy Registrar (Judl.)

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Copy to:-

1. The General Manager, South Central Railway, Railnilayam, Secunderabad.
2. Divisional Railway Manager, (MG), Hyderabad Division, South Central Railway, Secunderabad.
3. Senior Divisional Mechanical Engineer, (MG), S.C. Railway, Hyderabad Division, Secunderabad.
4. One copy to Sri. S. Laxma Reddy, advocate, CAT, Hyd.
5. One copy to Sri. J. Siddaiah, SC for Rlys, CAT, Hyd.
6. One copy to Library, CAT, Hyd.
7. One spare copy.

Rsm/-