

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH
AT HYDERABAD

O.A.No.1140/95

Date of Order: 8.4.96

BETWEEN:

T.Pulleswara Rao

.. Applicant.

A N D

1. Senior Divisional Personnel Officer,
South Central Railway.
Vijayawada.

2. Divisional Railway Manager,
South Central Railway,
Vijayawada.

.. Respondents.

— — —

Counsel for the Applicant

.. Mr.G.V.Subba Rao

Counsel for the Respondents

.. Mr.C.V.Malla Reddy

— — —

CORAM:

HON'BLE SHRI R.RANGARAJAN : MEMBER (ADMN.)

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JUDGEMENT

(As per Hon'ble Shri R.Rangarajan, Member (Admn.))

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The applicant in this OA while working as CTXR, Vijayawada in the scale of pay of Rs.2000-3200 was transferred as Instructor BTS/Rajahmundry in terms of office order No. B/P.609/III/4/Vol.IV dated 16.8.89. He joined as Instructor BTS/Rajahmundry on 27.8.89. He was posted in the place of one Sri B.Narsinga Rao as Instructor at Rajahmundry and that it is stated that Sri B.Narsinga Rao was getting the Teaching Allowance as per the rules in vogue at that time. Railway Board by its letter dated 2.2.90 (A-V) revised the teaching allowance payable to non-gazetted railway employees drafted as Instructors in the railway training schools/centres/institutions w.e.f. 1.1.90. Instructors/BTS/Rajahmundry in the grade of Rs.2000-3200 are entitled to get Rs.200/- as Teaching allowance w.e.f. 1.1.90 as per the letter of the railway board. But before granting the teaching allowance certain other eligibility criteria had to be fulfilled. The applicant was repatriated back to his parent division from 1.8.90 and posted as CWS and retired from service in 1995. Thus the applicant claims that he is entitled for the teaching allowance from 27.8.89 to 31.7.90, the period when he worked as Instructor/BTS/Rajahmundry.

2. He filed number of representations after coming out from the school for granting him the teaching allowance for the period quoted above. He was informed by the impugned order No.B/P.535/III/C&W/CTXR/6/Vol.II dated 24.11.94 (A-1) that he is not entitled for the teaching allowance since he has not been selected for the post of Inspector by the selection thereby not fulfilling the conditions of CPO/SC's Serial

Circular No.56/87 for payment of teaching allowance.

3. This OA is filed setting aside the letter No. B/P.533/III/C&W/CTXR/6/Vol.II dated 24.11.94 of R1 _____ denying him the payment of teaching allowance and for a further direction to pay him the teaching allowance for the period from 27.8.89 to 31.7.90 during which period he worked as Instructor/BTS/Rajahmundry.

4. This OA was filed on 25.9.95 and was admitted on 30.10.95. Thereafter number of adjournments were taken for filing the reply. By order dated 25.3.96 this OA was posted for final hearing on 8.4.96. Inspite of number of chances given, the respondents failed to file the reply. In view of the default on the part of the respondents I thought it fit to dispose of this OA on merits and on the basis of the records available on the file.

5. The applicant worked only for a period of about 11 months i.e. from 27.8.89 to 31.7.90 as Instructor/BTS/Rajahmundry. He was posted in the above capacity while he was in the same scales of pay as CTXR, Vijayawada. His posting as Instructor BTS/Rajahmundry is not on promotion. Hence he is eligible to be considered for payment of teaching allowance. The office order dated 16.8.89 is silent about the payment of teaching allowance to the applicant when he was posted to BTS/Rajahmundry. If it is the intention of the respondents not to pay him the teaching allowance and his posting is only on adhoc basis he should have been informed of the same before his posting. It appears that he was under the impression that he will get the teaching allowance over and above his pay while working as Instructor/BTS/Rajahmundry and hence he moved out of Vijayawada to carryout his transfer. The applicant submits that had he known that he will not get the teaching allowance he would not have carried out his transfer as he had already

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in the same scale of pay as CTXR Vijayawada. The only reason given by the respondents in not giving him the teaching allowance is that he was not selected by a positive act of selection. It is not clear how the selection has to be done. In his Confidential Reports are found satisfactory for holding the post of Instructor there can be no reason to deny him the teaching allowance. Even presuming that he has to be selected by a positive act of selection the respondents could have arranged for such selection before his posting as Instructor/BTS/Rajahmundry especially in view of the fact that he was transferred in the same grade from BZA to Rajahmundry. In my opinion the respondents had not taken any initiative to examine him before posting or during the period he worked as Instructor/BTS/Rajahmundry to adjudge his fitness to hold that post. The failure on the part of the respondents should not ~~assure~~ ^{Come} in the way of his rightful claim to get the teaching allowance. The applicant also possess a right to claim this allowance in view of the fact that his predecessor Sri B.Narsinga Rao was getting the teaching allowance while he was working as Instructor/BTS/Rajahmundry.

6. Now that the applicant had retired from service it is difficult to assess his suitability for holding the post of Instructor/BTS/Rajahmundry. But that should not prevent him from getting the teaching allowance. The respondent should checkup the Confidential Report of the applicant for 3 years prior to his posting as Instructor/BTS/Rajahmundry and if there is no adverse entries for posting him against that post he should be deemed to have found fit for holding the post of Instructor/BTS/Rajahmundry and on that basis he should be paid the teaching allowance at the rate applicable at that time i.e. from 27.8.89 to 31.7.90.



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7. In the result, R2 is directed to scrutinise his CRs for 3 years prior to his date of posting as Instructor/BTS/Rajahmundry and if these CRs did not reveal any adverse remarks in regard to his eligibility for posting as Instructor/BTS/Rajahmundry the applicant has to be granted and paid the teaching allowance for the period from 27.8.89 to 31.7.90 at the rate applicable at that time. Time for compliance is 3 months from the date of receipt of a copy of this order.

8. The OA is ordered accordingly. No costs.

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(R.RANGARAJAN)
Member (Admn.)

Dated: 8th April, 1996

(Dictated in Open Court)

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Amritam
Dy. Registrar (I)

Contd...

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O.A. NO. 1140/95

Copy to:

1. The Senior Divisional Personnel Officer,
South Central Railway,
Vijayawada.
2. Divisional Railway Manager,
South Central Railway,
Vijayawada.
3. One copy to Mr. G. V. Subba Rao, Advocate, CAT, Hyderabad.
4. One copy to Mr. C. V. Malla Reddy, Addl. CGSC, CAT, Hyderabad.
5. One copy to ~~Max~~ Library, CAT, Hyderabad.
6. One duplicate copy.

YLKR

0 ALLOPS
16/5/96

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APPROVED BY

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH HYDERABAD

THE HON'BLE SHRI R.RANGARAJAN : MCA

DATED: 8-4-96

ORDER/JUDGEMENT

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

IN

R.A. NO. 1140/95

ADMITTED AND INTERIM DIRECTIONS ISSUED

ALLOWED

DISPOSED OF WITH DIRECTIONS

DISMISSED

DISMISSED AS WITHDRAWN

ORDERED/REJECTED

NO ORDERS AS TO COSTS

No Spare Copy

