

(49)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL HYDERABAD BENCH
HYDERABAD

O.A.NO.1146/95

Between:

Date of Order: 18.12.95.

1.S.K.Naidu
2.V.P.Palmandikar
3.M.Amirullah
4.M.K.Sharif
5.T.Venkateswar Rao

6.B.V.Ramana Rao
7.G.V.Rajalingam
8.G.S.Hanumantha Rao
9.P.V.Srikanthia
...Applicants.

And

1. The Chairman,
Railway Board,
New Delhi.
2. The General Manager,
South Central Railway,
Secunderabad.
3. The Senior Divisional Manager,
South Central Railway,
Broad Gauge,
Secunderabad.

...Respondents.

Counsel for the Applicant : Mr.K.K.Chakravarthi

Counsel for the Respondents : Mr.N.V.Ramana, SC for Rlys.

CORAM:

THE HON'BLE SHRI A.B.GORTHY : MEMBER (A)

contd...

X As per Hon'ble Shri A.B.Gorthi, Member (Admn.) X

The relief claimed by the applicants is for a direction to the respondents to pay them over-time wages in full for the work done by them. This case has a long litigious background which is summarised below:-

- a) The applicants filed C.M.P. in the Labour Court, Hyderabad, claiming O.T.wages but it was dismissed vide order dated 12.6.87.

Challenging the Labour Court's order

- b) O.A.Nos.109 & 232 of 1988 were filed before the Tribunal, Hyderabad, and those were disposed of on 27.11.90 with a direction to the respondents "to work out the benefits due to the applicants and settle their claims".
- c) C.P.82/91 was filed alleging that the orders of the Tribunal directing payment of O.T. wages were not complied with. The respondents stated in their reply that as against the claim for Rs.5,42,101 a sum of Rs.3,32,104 was worked out to be due to the applicants and that the amount would be disbursed to them. CP.82/91 was therefore dismissed on 24.8.92.

- d) Applicants filed M.A.1486/91 which was disposed of on 24.8.92 with the following order:-

"We have heard both the counsels. In a separate document filed as Annexure 'A' in C.P.No.82/91 in this OA, itself the respondents have indicated that the total amount payable according to them is Rs.3,32,104/- as against the total amount of Rs.5,42,101/- claimed by the applicants. We do not want to interfere with the figure already arrived at by the Railways as payable. Hence we direct the respondents to disburse only this amount among the applicants as per Annexure 'A' in C.P.No.82/91 PROVIDED the applicants give a declaration to the effect that they have not

received any amount from the Railways against their claim and if it is found subsequently that they have received any payment, the same is refundable and they are liable to be proceeded against by the Railways under relevant rules for double claim on the part of the applicants".

- e) Another M.A. (No.463/92) was filed in C.P.82/91 claiming interest @ 24% p.a., but it was dismissed in view of the orders in M.A.1486/91.
- f) O.A.S.R.No.3464/93 and M.A.S.R.3465/93 were filed for declaring the action of respondents ~~in~~ making O.T. allowance as illegal. The relief claimed was rejected by the Tribunal by order dated 12-11-93 by holding that the OASR was not maintainable.
- g) M.A.1017/93 in O.A.232/88 was filed praying for 1) a direction to the respondents to furnish the due and drawn statements for the overtime allowance and 2) a further direction to pay interest @ 24% p.a. on the amounts paid and due to be paid. The M.A. was disposed of directing the respondents to supply the calculation to each of the applicants. The claim for interest was once again rejected.
- h) Yet another M.A.1160/94 in M.A.No.1017/93 filed by the applicants was disposed of on 20.4.95 with a direction to supply the applicant-wage statement of O.T. allowance to the applicants, preferably by the end of June 1995.

2. Now the grievance of the applicants is that though they were entitled to be paid the full amount of O.T. allowance due to them, they were paid at 61% of the amount claimed. A careful examination of the course of litigation traversed by the applicant's will clearly show that the issue related to the quantum of O.T. allowance to be paid to the applicants

is no longer res integra. The Tribunal, while disposing of the M.A.No.1436/91 in C.P.82/91 arising from O.A.232/88 took note of the respondents' assertion that ^{only} a sum of Rs.3,32,104 was payable to the applicants and stated categorically thus: "We do not want to interfere with the figure already arrived at by the Railways as payable. Hence we direct the respondents to disburse only the amount among the applicants as per Annexure 'A' in C.P.82/91---". Admittedly the said amount has since been received by the applicants.

3. When the OA came up for admission on 29.9.95, a question was raised as to how the O.A. is maintainable.

4. Heard learned counsel for both the parties.


5. Shri K.K.Chakravarthy, learned counsel for the applicants stated that the O.A. is not barred by the principle of res judicata. His contention is that the Tribunal did not examine on merits, the question of the actual amount of O.T. allowance to be paid to the applicants. Hence he urged that the principle of res judicata is not attracted. In support, he has placed reliance on the judgement of the Tribunal in Shatansu Kumar Kar Vs. Union of India 1990 (3) SLR 443. In that case, it was held that when an application is dismissed for default, it cannot be said to have been decided on merits and as such it cannot operate as res judicata or as a bar to another application claiming the same relief. This judgement will be of no help to the case of the applicants. As already noted, it was after hearing both the parties, the Tribunal in deciding M.A.No.1486/91, came to the conclusion that it would not interfere with the decision of the Railway authorities to pay ^{only} a sum of Rs.3,32,104/- to the applicants towards the O.T. allowance payable to them.

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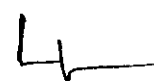
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6. It is settled law that a judgement is conclusive between the parties and the issue settled in the judgement cannot be raised again. A matter which is res judicata cannot be further gone into.

7. In the result, I find that the O.A. is not maintainable and hence it is rejected at the admission stage itself. No costs.


(A.B.GORTHI)
Member (Admn.)

Dated: 18 December, 1995



24/12/95

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DEPUTY REGISTRAR(J)

TO

1. The Chairman,
Railway Board,
New Delhi.
2. The General Manager,
South Central Railway,
Secunderabad.
3. The Senior Divisional Manager,
South Central Railway,
Broad Gauge,
Secunderabad.
4. One copy to Mr.K.K.Chakravarthy, Advocate,
CAT, Hyderabad.
5. One copy to Mr.N.V.Ramana, Addl.CGSC,
CAT, Hyderabad.
6. One copy to Library, CAT, Hyderabad.
7. One spare copy.

YLKR

OA 1146/95

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COMPARED BY

CHECKED BY
APPROVED BY

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH HYDERABAD.

HON'BLE SHRI A.B.GORTHY : MEMBER(A)

HON'BLE SHRI

DATED: 18.12.95

ORDER/JUDGMENT

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

IN

O.A.NO. 1146/95

~~ADMITTED AND INTERIM DIRECTIONS ISSUED~~
~~ALLOWED~~

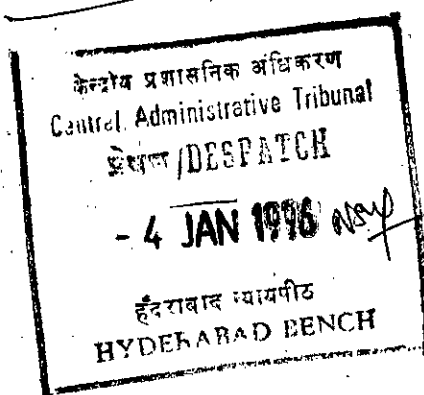
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~~DISMISSED~~

~~DISMISSED AS WITHDRAWN~~
~~ORDERED/REJECTED~~

~~NO ORDER AS TO COSTS~~

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