

(15)

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

C.A.NO. 1173/95

DATE OF JUDGMENT: 29.9.1995

BETWEEN:

K. Narasimha Murthy .. Applicant

and

1. General Manager, SCRly, Secunderabad.
2. Senior Divisional Personnel Officer, SCRly, Vijayawada.
3. Divisional Railway Manager, SCRly, Vijayawada.
4. Senior Divisional Signal & Telecomm. Engineer
SCRly, Vijayawada.

.. Respondents

COUNSEL FOR THE APPLICANT: SHRI S. RAMAKRISHNA RAO

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

CORAM:

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

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ORDER

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

Heard learned counsel for both the Parties.

2. The applicant herein initially joined the Railways on 8.10.1962 as Electrical Signal Maintainer. While working as Electrical Signal Maintainer, the applicant was issued charge Memo dated 5.10.1981 by R4, and after conducting the inquiry, he was removed from service on 27.2.1982. He submitted an appeal to R3 on 19.6.1982, requesting him to re-instate him into service. After considering the appeal of the applicant, he (the applicant) was reinstated as a 'fresh entrant' purely on humanitarian grounds in terms of order No.B/P/563/V/2/Vol.3 dated 6.7.1982. At the time of reinstatement, the applicant's pay was fixed at Rs.260/- in the scale of Rs.260-400/- (RS) and the applicant was asked to work under SI/WC/Vijayawada ^{as} as Electrical Signal Maintainer which is skilled category Grade III. Thereafter, the applicant submitted a mercy petition on 4.3.1992 to R3, requesting him to consider the case for condonation of break in service during ^{the} period the applicant was out of service. In the meantime, R4 had communicated vide his Memo No.B/SG.Misc/P/V dated 12.8.1994 intimating ^{that} ^{is to retire} the applicant was retiring on 30.6.1995 in the same ~~category~~ cadre of Electrical Signal Maintainer/ without condonation of the break in service. Hence, this OA is filed praying for a direction to the respondents to treat the period between the date of removal from service i.e., 27.2.1982 till the date of reinstatement i.e. 9.7.1982 as continuity in service for all purposes including arrears of pay and the past service prior to the removal from service be taken into account for computing the retirement benefits with all consequential benefits.

3. In OA 281/93 the applicant therein was also taken as a fresh entrant, thereby his past services were not counted for pensionary and other service benefits. In that OA, it was held, that the authorities had no powers to issue an order of appointment without following the procedure prescribed as per recruitment rules, i.e., without considering the names of other eligible candidates for the said post. Hence, the order of re-appointment of the applicant as a fresh entrant was held as in disregard of rules. The order of fresh appointment in that case was construed as a case of passing an order of major penalty in accordance with Rule (v) of Railway Servants (D&A) Rules, by lowering the pay of the applicant in the category of Fitter Grade-III to the minimum of the scale, i.e., Rs.260 - 400/- and that, his annual increments accrue thereafter. The period from the date of his removal till reinstatement was treated as 'dies-non'.

4. As the present case is also similar to the one cited above, we see no reason to differ from the Judgement of this Tribunal in the above referred OA. Hence, the following direction is given:

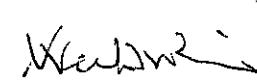
"Passing of order of re-appointment of the applicant herein as Electrical Signal Maintainer/C, as a ~~fresh~~ entrant' has to be held as in disregard of rules. It is to be construed as an order of major penalty in accordance with Rule 6(v) by lowering the pay of the applicant in the category of Electrical Signal Maintainer to the minimum of the scale i.e. 260-400 and the annual increments accrue thereafter. The period from 27.2.1982 the date of removal till 9.7.1982 the date of reinstatement should be treated as "dies-non."

4. On the basis of the above, the qualifying service of the applicant has to be reckoned for the purpose of fixing his pension and other retiral benefits on his superannuation."

5. The OA is ordered accordingly at the admission stage itself. No costs. //

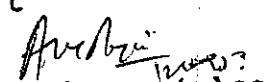

(R. RANGARAJAN)

Member (Admn)


(V. NEELADRI RAO)
Vice-Chairman

Dated: The 29th September, 1995

Dictated in the Open Court


Deputy Registrar (J) CC

mvl

To

1. The General Manager, S.C.Rly, Secunderabad.
2. The Senior Divisional Personnel Officer, S.C.Rly, Vijayawada.
3. The Divisional Railway Manager, S.C.Rly, Vijayawada.
4. The Senior Divisional Signal and Telecom. Engineer, S.C.Rly, Vijayawada.
5. One copy to Mr. S. Ramakrishna Rao, Advocate, CAT.Hyd.
6. One copy to Mr. J. Siddaiah, SC for Rlys, CAT.Hyd.
7. One copy to Library, CAT.Hyd.
8. One spare copy.

pvm.

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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH AT HYDERABAD

THE HON'BLE MR.JUSTICE V.NEELADRI RAO
VICE CHAIRMAN

AND

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

DATED: 29-9-1995

ORDER/JUDGMENT

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

in

O.A.No. 1173/95

T.A.No.

(W.P.No.)

Admitted and Interim directions
Issued.

Allowed.

Disposed of with directions.

Dismissed.

Dismissed as withdrawn.

Dismissed for default.

Ordered/Rejected.

No order as to costs.

p.v.m.

No Spare Copy

