

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH
AT HYDERABAD

R.A.No.87/96 in
O.A.No.31/95.

DT. Of Decision : 22-10-99.

E.Krishna Swamy

.. Applicant

Vs

1. The Comptroller & Auditor-General of India,
New Delhi,
2. The Principal Accountant General,
Audit-I, AP., Hyderabad.
3. (Sri P.V.Gopalakrishna) by
Designation as the then,
Accounts Officer, O/o the
Accountant General, A&E,
Hyderabad.
4. Sri P.V.Gopalakrishna,
Sr. Accounts Officer,
O/o the Accountant General,
A&E, Hyderabad.

.. Respondents.

Counsel for the applicant : Mr.E.Krishna Swamy, Party-in-person

Counsel for the respondents : Mr.B.N.Sharma, Sr.CGSC.

CORAM:-

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

ORDER

Heard Mr.E.Krishna Swamy, party-in-person and Mr.M.C. Jacob for
Mr.B.N.Sharma, learned counsel for the respondents.

2. The applicant in OA.31/95 has filed this RA for reviewing the orders in
OA dated 20-08-96.

3. The OA was filed praying for a direction to the respondents for
payment of Honorarium of Rs.500/- to the applicant for discharging the duties of

Inquiry officer as that prayer was rejected by the Deputy Accountant General (Admn.).

4. From the prayer it is evident that the OA is strictly limited to the payment of Honorarium. If the applicant gets the Honorarium it should be held that his prayer has been fulfilled. All the other contentions in the OA are only back up material to substantiate his case for getting Honorarium of Rs.500/-. The OA has to be viewed only from that angle. From that angle only the OA was disposed of. In spite of the respondent's prayer not to grant that amount the OA was disposed of directing R-2 to pay an amount of Rs.250/- as Honorarium to the applicant for conducting the inquiry. Though it may be half of what he has prayed for it should be held that the prayer in the OA had been substantially granted to the applicant.

5. The applicant submits that para-6 of the judgement is not correct and the dispute that he never worked in the inquiry cell during that period beyond December, 1989, earlier he was in the Co-ordination Cell as Assistant Audit Officer. Beyond December, 1989 he was in the RACE Section of the department, which has not relevance to the inquiry cell. In spite of that he had done enquiry and because of that only he requested for Honorarium.

6. As stated earlier even though the respondents stated so as mentioned in para-6 of the judgement the Bench did not take much cognizance of the fact and because of that only the Honorarium of Rs.250/- was granted.

7. Hence even if the submission of the respondents in para-6 is erroneous the applicant's case was not ~~been~~ rejected for granting of Honorarium though grant of Honorarium is half of what he requested for.

8. The learned counsel for the respondents when questioned as to the submission made in para-6 of the judgement, he said that this has been amplified in page-3 of the reply. The relevant paragraph of the reply is reproduced below:-

"It may be stated that there is a Co-ordination cell in the office of the Accountants General which deals with all legal cases pertaining to all the 3 independent offices viz., The Principal Accountant General



(Audit-I), the Accountant General (Audit-II) and the Accountant General (A&E). The applicant has worked in the said section Viz., Co-ordination Cell, as Assistant Audit Officer/Audit Officer from January, 1987 till September, 1990 except for the short spell or 3 months when he was on leave from May to August, 1989 and of a similar period when he was in RACE Section. Since the applicant had been briefing the Standing Counsel in the Tribunal in each and every case that came up for hearing right from 1987 onwards, presumably the Standing Counsel took it that the Applicant was still associated with the Co-ordination Cell. It, however, mattered little, as it did not have any bearing on the issue. The fact remains that in the background of Govt. Instructions on the payment of honorarium, the claim of the applicant was considered and rejected by the Respondents."

When I questioned the correctness of the reply as referred to above, the learned counsel for the respondents submitted that the respondents relied on the submission of the Advocate and hence that observation was made.

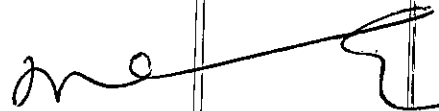
9. The learned counsel for the pleader of the department is only to assess the legal points. Any factual position made in the reply is the responsibility of the respondents and that who signs the affidavit. In this case the Sr. Dy. Accountant General (Admn.) has signed the affidavit which means that he has not scrutinized the version of the departmental counsel. Hence such ~~contention~~ ^{conduct} has to be deprecated. I caution the Sr. Dy. Accountant General (Admn.) to be more careful in future while filing the reply in this connection. If no caution is exercised in future that will be viewed seriously.

10. Even though the Sr. Dy. Accountant General (Admn.) is cautioned so it does not mean that the OA has to be reheard for grant of the relief. As stated earlier the substantial relief has already been granted. Hence, no further action is necessary in this connection.

11. The applicant appears to attribute some motive for not granting him the Honorarium by the Respondents No.3 and 4. The Respondent No.3 is impleaded an official capacity whereas the Respondent No.4 is private respondent of the department. To prove malafide is very difficult. The prayer of the respondents is only to get monetary benefits. Hence even if the malafides are proved it is not going

to assist the applicant to get any better relief. Hence, we feel that this point need not have gone into once again it is reiterated that the applicant has been given substantial relief by the order dated 20-08-96.

12. In view of what is stated above we find no merits in this RA and hence the RA is dismissed. No costs.



(R. RANGARAJAN)
MEMBER (ADMN.)

Dated : The 22nd October, 1999.
(Dictated in the Open Court)

SPR

