

(15)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH
AT HYDERABAD

O.A.No.1464/95

Date of Order: 19.6.96

BETWEEN:

M.A.Khader

.. Applicant.

A N D

1. Divisional Railway Manager (Personnel),
Hyderabad Division, S.C.Rly.,
Rail Nilayam, Secunderabad.
2. General Manager,
South Central Railway,
Rail Nilayam, Secunderabad.

.. Respondents.

Counsel for the Applicant

.. Mr.Y.Jagan Mohan

Counsel for the Respondents

.. Mr.V.Bhimanna

CORAM:

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

{ Oral Order as per Hon'ble Shri R.Rangarajan, Member (Admn.) }

J U D G E M E N T

The applicant in this OA joined as a Trade Apprentice in railways on 24.1.57 and after 5 years of Apprenticeship he was absorbed as a Skilled Machinist in the Machine Shop of Locoshed Lallaguda under R1. In the year 1978 he asked for 3 years extraordinary leave which was reported to be granted. Subsequently he applied for 2 years further extraordinary leave upto 1983. But it is not known whether that leave was granted or not. The applicant for the first time approached R1 for settlement of his pensionary benefits by his representation dated 30.3.95 (P-7). He was informed by letter No. YP/500/Mech/ONR dated 2.11.95 that he was removed from service w.e.f. 30.7.83 by letter No.YP/DAR/EL/26 dated 28.7.93. Further he was advised by that letter to submit GP-47 to enable the office to examine

his case and make arrangements for the payment of settlement dues.

2. This OA is filed praying for a declaration that the action of the respondents in not granting him retirement ^{benefits} is illegal, unjust, unsustainable and consequently direct the 1st respondent to pay the lawful pensionary benefits as well as retirement benefits to the applicant.

3. Notice before admission was issued on 4.12.95 and it was also directed to post it on 4.1.96 by which time the reply is to be filed. As no reply was filed, this was admitted on 18.3.96. Thereafter the reply has to ~~be~~ ^{be} filed on or before 29.3.96. Though more ^{are} than six months ^{over}, no reply has been filed even today.

4. The learned counsel for the respondents requests some more time to file a reply. But this is a case of removal. Hence I ~~do~~ ^{do} not consider it fit to grant any further time to the respondents as they failed to file a reply inspite of the lapse of six months after the issue of notice and repeated adjournment.

5. In view of the above the case was heard today. It is not known whether a charge sheet was issued and in case the applicant was not available whether an ex-parte enquiry was conducted or not. But the applicant submits that he has not received the removal order dt. 28.7.83. It is possible that the removal order would not have been sent to the correct address or he is not available in the address given to the railways.

In view of the fact that the applicant had put in 16 years of service and also considering the fact that he was reported to be

in a bad state of mind after 1983, an opportunity may be given to the competent authority may decide his appeal on merits in accordance

with law. However as the applicant has approached this Tribunal

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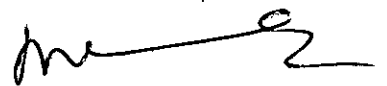
.. 3 .. only

only on 28.11.95, he cannot get the backwages if the appeal is decided in his favour. He is entitled for wages only ^{from} for the date of reinstatement if ^{his} appeal is favourably considered and he is reinstated. If any other order, otherthan removal or dismissal, is to be awarded to the applicant by the appellate authority, that authority may decide the issue ^r to grant other consequential benefits in accordance with the law while deciding the appeal.

3. In the result, the following direction is given:-

The applicant should be given a copy of the removal order No.YP/DAR/EL/26 dated 28.7.93 if he is not passing the same now and he should also be permitted to see the enquiry proceedings which resulted in his removal by the order dated 28.7.93. After perusal of the proceedings the applicant may submit a representation to the competent authority who will decide the case on merits in accordance with law. If it is decided to reinstate the applicant in service he is entitled for wages only from the date of his reinstatement. If any other orders, otherthan removal or dismissal, is awarded to the applicant by the appellate authority he shall also decide the other consequential benefits, if any, except backwages in accordance with law.


4. The OA is ordered accordingly. No costs.


(R. RANGARAJAN)
Member (Admn.)

Dated: 19th June, 1996

(Dictated in Open Court)

sd


Dy. Registrar (T)

cont - 4/-

Copy to:-

1. Divisional Railway Manager(Personnel), Hyderabad Division, South Central Railway, Railnilayam, Secunderabad.
2. General Manager, South Central Railway, Railnilayam, Secunderabad.
3. One copy to Sri. Y.Jagan Mohan, advocate, CAT, Hyd.
4. One copy to Sri. V.Bhimanna, SC for Rlys, CAT, Hyd.
5. One copy to Library, CAT, Hyd.
6. One spare copy.

Rsm/-

8/11/96

1464/95

TYPED BY
COMPARED BY

CHECKED BY
APPROVED BY

THE CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH HYDERABAD

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

DATED:

19/6/96

ORDER/JUDGEMENT

O.A. NO. / R.A. / C.P. NO.

O.A. NO.

in
1464/95

ADMITTED AND INTERIM DIRECTIONS ISSUED
ALLOWED

DISPOSED OF WITH DIRECTIONS

DISMISSED

DISMISSED AS WITHDRAWN

ORDERED/REJECTED

NO ORDER AS TO COSTS.

YLKR

II COURT

