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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL: HYDERABAD BENCH
AT HYDERABAD

OA No. 1085/96.
MASM/96 OA.SR.3900/96

dt.28-8-96

Between

M. Venkata Ramana

: Applicant

and

1. General Manager
South Central Railway
Rail Nilayam
Secunderabad-3

2. Divisional Rly. Manager
SC Rly., Vijayawada

: Respondents

Counsel for the applicant

: Party-in-person

Counsel for the respondents

: K. Siva Reddy
SC for Railways

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HON. MR. JUSTICE M.G. CHAUDHARI, VICE CHAIRMAN

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dt.28-8-96

Order

Applicant not present. Mr. K. Siva Reddy for the respondents.

1. The applicant is a retired Goods Shed Hamal and resides at Kakinada. He has filed the OA in person. As objection of delay has been raised, he prays for condonation of delay in this MA.

2. The applicant contends that in as much as he had been pursuing the matter with the respondents and as the Department kept the matter without closing the case, one way or the other he had eventually approached the Tribunal and under the circumstances, the delay may be condoned. He was under the bonafide belief that there was no delay to have occurred. It appears from the annexures, the applicant had raised the grievances by representation dated 6-11-1990 and 3-2-1994.

3. Lastly, the applicant submitted a representation on 21-8-1995 Annexure-A, to the General Manager and Respondent-2 enclosing a copy of the previous representation and requesting for an early decision as ^{stating that} justice was being denied to him. The applicant seems to have not received any reply on his representations as what appears from the OA. Considering the circumstances inter alia, that the applicant claims remuneration for actual services extracted from him and ^{since} that has bearing ^a on the question of ^{on} retiral benefits and further that the applicant is a retired person and belongs to backward class and having regard to the explanation purported to be given by him for not approaching the Tribunal earlier, I am satisfied that in the interests of justice, the delay in filing the OA may be condoned.

4. Mr. K. Siva Reddy, learned counsel for the respondents submitted that he is not in a position to state whether the representations of the applicant had been replied at any time and ~~even otherwise~~ ^{as} there is ~~no~~ enormous delay on the part of the applicant in approaching the Tribunal and ~~therefore~~ this is not a fit case in which delay ~~has~~ ^{ought} to be condoned. Although the learned counsel is not unjustified in urging the submission ^{yet} for the reasons already recorded above, I am inclined to ~~condone~~ the delay.

5. Hence, the delay in filing the OA is condoned. The application stands allowed. No order as to costs. Office to register the OA.

M.G. Chaudhari
(M.G. Chaudhari)
Vice Chairman

Dated : August 28, 96
Dictated in Open Court

Deputy Registrar (D.R.)

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OA. 1085/96.

OA.SR.3900/96

dt.28-8-96

Judgement

Oral order per (Hon. Mr. Justice M.G.Chaudhari, VC.)

Although the applicant is not present, having regard to the circumstances that he is a retired person and resides at Kakinada and is not represented by a lawyer, I have perused the record and heard Mr. K. Siva Reddy, learned counsel for the respondents.

1. The OA is admitted. Notice waived by Mr. K. Siva Reddy. OA is taken up for final disposal under Rule 15(1) of the CAT Procedure Rules, 1987.

2. The applicant has presented the OA in person. He is a retired Goods Shed Hamal and had been working in Kakinada Port Railway Station. He retired on 31-8-1990. His case is that although he was appointed in the post of Goods Shed Hamal, he was asked by the then Chief Goods Supervisor, SC Railway, Kakinada, by letter dated 25-10-1991 to perform duties at Kakinada, as Hamal Maistry and he discharged those duties continuously since then till the date of his retirement on 31-8-1990.

3. Reliance is placed on Annexure-D i.e. copy of the letter written by the Chief Goods Superintendent, Kakinada Port (Goods) to SS/COA on 25-10-1981 stating that the services of the applicant were being utilised as Hamal Maistry since 20-10-1981 and that he was being utilised as Senior most Hamal on rolls. It is further contended by the applicant that after he started performing duties of Hamal Maistry, the working hours of Goods Shed were extended requiring him to work from 6 a.m. to 9 p.m. every day on account of Traffic and movement of Jumbo Rakes. His services were utilised almost throughout the day as no additional staff was provided

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and that can be seen from the statistical figures of the station. He made several appeals to the Senior DPO/BZA pointing out the state of affairs and requesting him for suitable additional monetary benefit but that had no response. Thus, according to the applicant as he had worked for full 10 years in higher post, and he was never given any promotion, he ^{expected} ~~accepted~~ that he would be suitably remunerated with emoluments and benefits attached to the post of Hamal Maistry. But neither the respondents replied his representations ^{nor} ~~nor~~ ^{gave} him higher pensionary benefits nor any remuneration. He had to approach the Tribunal for seeking relief that the respondents may be directed to pay him difference in salary and allowances between the post of Goods Shed Hamal and Hamal Maistry for the period from 25-10-1981 upto 31-8-1990 and revise his pension and pensionary benefits on that basis.

4. Annexure-D undoubtedly goes to show that the applicant was required to discharge duties of Hamal Maistry, ^{However, whether} ~~where the~~ applicant had been required to discharge those duties ever since 20-10-1981 till the date of his retirement involves factual inquiry. Similarly the case of the applicant that heavy burden was placed upon him in discharging those duties as his services were utilised almost throughout the day without additional staff and he had handled heavy traffic also needs to be verified from the records.

5. Now ^{if} both the above aspects are found to have existed then it appears unfair and unjust that without promoting the applicant to the post of Hamal Maistry, he was required to discharge strenuous duties without adequately remunerating

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him for the same. If this has been done by the respondents for a decade it would amount to exploitation of a backward class person holding low post. It is not as if the applicant had not been demanding additional remuneration. Yet if he had discharged duties without any response being shown that should be regarded as indicative of his sincerity, honesty, and devotion to work with the respondents. If these features are not rewarded, the inference of exploitation would become pronounced. Going by the averments of the applicant, it appears that respondents never informed him that his case was seriously considered but nothing was possible to be done for him. It was open to the respondents to send him back as Goods Shed Hamal but the applicant states that he had been made to work as Hamal Maistry for long period of 10 years. This situation, surely, was required to be seriously and sympathetically ~~be~~ considered by the authorities. In what way the applicant could be rewarded - was for the authorities to determine. Thus, ^{here is therefore} ~~therefore~~ is a case where ~~the~~ the authorities of the respondents are required to look into the claim of the retired backward class hamal for due recognition of his services rendered by him to the Railways and to reward / remunerate him suitably by making every endeavour to do so within the permissible discretion of the authorities concerned. After all, for a retired person, a small addition to the pension and pensionary benefits goes a long way.

6. I am, therefore, inclined to pass the following order :

The DRM, SC Railway, Vijayawada, is directed to examine the request of the applicant as contained in his

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representation dated 3-2-1994 read with the representation dated 6-11-1990 and the averments made by the applicant in the instant OA and take a reasonable decision in the matter in the light of observations made herein above. It is left open to the respondent-2 to refer the matter to the General Manager, SC Railway, if on verification of the facts it is found that the applicant deserves award of additional remuneration in some manner, so as to enable the General Manager to take appropriate steps permissible within his powers and discretion if that be necessary.

Respondent-2 is directed to take the decision within a period of three months from the date of receipt of copy of this order and to communicate the same to the applicant by registered post at the address given in the cause title of this OA. It is hoped that the authorities concerned will adopt a rational and sympathetic view in the matter.

7. At this stage Mr. K. Siva Reddy, learned counsel for the respondents submitted that it appears that the applicant may have been replied in the past in answer to his representations and if that be the position then it would be difficult for the respondents to reopen the question. It is, however, directed that in the interests of justice, the case may be reexamined as directed above and a decision taken and communicated to the applicant.

8. Copy of this order shall be forwarded to the applicant for his information. A copy of the OA alongwith the annexures may also be sent to Respondent-2 along with the copy of this order.

9. The OA is disposed in terms of the directions given above. No order as to costs.

M.G. Chaudhari
(M.G. Chaudhari)
Vice Chairman

Dated : 28th August, 96
Dictated in Open Court

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M. N. Singh
Deputy Registrar (D) cc

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O.A.1085/96.

To

1. The General Manager, SC Rly,
Railnilayam, Secunderabad-3.
2. The Divisional Railway Manager,
SC Rly, Vijayawada.
3. One copy to Mr.M.Venkata Ramana, ~~At~~ Party-in-person,
18-14-4, Vadavapuram, Kakinada.
4. One copy to Mr.K.Siva Reddy, SC for Rlys, CAT.Hyd.
5. One copy to Library, CAT.Hyd.
6. One spare copy.

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9/10/96

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TYPED BY

CHECKED BY

COMPARED BY

APPROVED BY

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH AT HYDERABAD

THE HON'BLE MR. JUSTICE M.G. CHAUDHARI
VICE-CHAIRMAN

AND

THE HON'BLE MR. H. RAJENDRA PRASAD: M(A)

Dated: 28-8-1996

~~ORDER~~ / JUDGMENT

M.A./R.A./C.A. No. 577/96
in

O.A.No. 1085/96

T.A.No. (w.p.)

Admitted and Interim Directions
Issued.

Allowed.

Disposed of with directions

Dismissed

Dismissed as withdrawn.

Dismissed for Default.

Ordered/Rejected.

No order as to costs.

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केन्द्रीय प्रशासनिक अधिकरण
Central Administrative Tribunal

DESPATCH

3 OCT 1996

हैदराबाद ब्याचपीठ
HYDERABAD BENCH

100 OA copy to R-2