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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL: HYDERABAD BENCH
AT HYDERABAD.

OA. 337/96.

Date of order: 19-3-96.

Between:-

L. Cresswell ... Applicant.

1. The General Manager, South Central Railways,
Rail Nilayam, Secunderabad.
2. The Chief Operating Manager, South
Central Railways, Rail Nilayam,
Secunderabad.
3. The Divisional Railway Manager, South
Central Railways, Sanchalan Bhavan,
Secunderabad.
4. The Loco Forman, South Central Railways,
Kazipet, Warangal.

... Respondents.

Counsel for the Applicant: Mr. N. Krishna Rao.

Counsel for the Respondents: Mr. K. Shiva Reddy, CGSC.

CORAM: ~~Mr. K. Shiva Reddy,~~

HON'BLE MR. JUSTICE M.G. CHOWDHARY, VICE CHAIRMAN

HON'BLE SHRI H. RAJENDRA PRASAD, MEMBER (A)

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DA 337/96.

Dt. of Order:19-3-96.

(Order of the Division Bench per Hon'ble Justice
Sri M.G.Chaudhari, Vice-Chairman).

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Heard the learned counsel for both sides.

By a common judgement in a batch of cases in which the applicant was concerned in DA 92/89, this Tribunal ordered that the applicants will be entitled to receive the salary for the period from the date of dismissal to the date of their attaining the age of superannuation and thereafter the pension as if they have retired on attaining the age of superannuation. That order was modified on review and in so far as applicant and other similarly placed applicants were concerned, the Respondents were directed to re-instate ^{them} with immediate effect and ordered that they will be entitled to all consequential benefits including arrears of salary etc.,. The aforesaid orders were subject matter of appeals in the Supreme Court. The Supreme Court was pleased to further direct that employees who were dismissed for participation in the strike of 1991 were to be restored to their respective posts within a period of three months and the Respondents were directed to pay them compensation equivalent to three years salary inclusive of Dearness Allowance calculated on the scale prevalent before the date of the judgement delivered i.e. 1991. It was further directed that although the applicants shall not ^{be} entitled for any promotional benefits but they shall be given notional continuity from the date of

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termination till the date of restoration for the purposes of calculation of pensionary benefits. (We have re-cited only the portion material for the present purpose). The order on review was passed by the Tribunal on 27-3-91. The order of the Supreme Court was passed on 5-8-93.

2. The applicant retired on superannuation on 30-4-93.

The Respondents thereafter calculated the pensionary benefits vide Annexure-3 dt. 1-2-95. The grievance of the applicant however is that this calculation is not correct and is not in accordance with the directions given by the Supreme Court and this Tribunal. Without approaching the respondents to correct

✓ the calculation, he has directly approach^{ed} the Tribunal by instant O.A. presented on 16-2-96. All that he seeks however is that the calculation made by the respondents is illegal, arbitrary and unconstitutional and it does not amount to implementation of the judgements and that the respondents ~~have~~ be directed to implement the judgement and pay him the salary and other benefits with effect from 1-6-1981 along with upgraded pay and take into account certain other items on account of which he will be entitled to higher pensionary benefits including

✓ gratuity. The applicant also prays for interest on the amount of difference which may be found as per correct calculations. ~~of which to be found correct as per calculations.~~ In our view

no question of unconstitutionality arises. It is a simple question of disputing ~~the~~ calculation of pensionary benefits made by the applicant. It must be presumed that the respondents believe that the calculations made by them are consistent

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with the judgements and leads to the ~~grossly erroneous~~ inference that according to them the applicant is not entitled to claim higher benefits on the basis of items listed in clauses (3) to (6) of prayer clause in para-9. Since it is the contention of the applicant that he is entitled to these benefits that raises a dispute involving calculations as per the rules and such task has to be undertaken in the first instance by the respondents.

✓ It is ~~not~~ only if the respondents ^{would} ~~did~~ not agree to any of the items claimed by the applicant that he can come to this Tribunal.

We are therefore unable to entertain any dispute in the present form as the applicant had not invited a decision from the respondents in that respect. The calculations were made by the respondents as far back as on 1-2-1995. The applicant has lost time of more than a year in approaching the respondents. However,

✓ ^{having} ~~as regards~~ ^{to} the spirit behind the judgement of the Supreme Court and of this Tribunal we are inclined to give an opportunity to the applicant in the interest of justice to submit a proper representation to Respondent No.3. If such a representation is filed, the respondent No.3 or such other authority as competent to deal with the same shall dispose of the same in accordance with the rules and if necessary, after giving opportunity to the applicant of being heard. In the result, we give liberty to the applicant to file a representation to the Respondent No.3, if so advised, within a period of one month from today. The representation shall be precise elucidating the claims on different items and shall not be in the nature of a general representation. The learned counsel for the Respondents has

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no objection for the question being examined by the authorities in accordance with the rules. If such a representation is filed within the stipulated time, the Respondent No.3 shall deal with it on merits in the light of the observations made above and convey reply thereon to the applicant. If still aggrieved, the applicant will be at liberty to adopt such legal remedies as he may be advised including approaching this Tribunal.

3. O.A. disposed of in terms of the above order, no order ^{as to} ~~has to~~

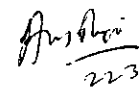
pass. costs


(H. RAJENDRA PRASAD)
Member (A)


(M.G. CHAUDHARI)
Vice-Chairman

Dated: 19th March, 1996.
Dictated in Open Court.

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Deputy Registrar (D) CC

Copy to:-

1. The General Manager, South Central Railways, Rail Nilayam, Secunderabad.
2. The Chief Operating Manager, South Central Railways, Rail Nilayam, Secunderabad.
3. The Divisional Railway Manager, South Central Railways, Sanchalan Bhavan, Secunderabad.
4. The Loco Forman, South Central Railways, Kazipet, Warangal.
5. One copy to Mr. N. Krishna Rao, Advocate Flat. No. 10, Block. No. 7, MIG-II, APHB Colony, Baghlingampally, Hyderabad-500 044.
6. One copy to Mr. K. Shiva Reddy, CGSC. CAT. Hyd.
7. One copy to Mr. K. Lakshma Reddy, Advocate CAT. Hyd. (For RR)
7. One spare copy.

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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH AT HYDERABAD

A. Choudhary

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

AND

H. Raghendraswarao

THE HON'BLE MR. R. TANGARAJAN - M(A)

Dated: 17-3-1996

ORDER/JUDGMENT

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

In

O.A. No. 337/96

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.

No Spare Copy

केन्द्रीय प्रशासनिक अधिकरण
Central Administrative Tribunal
ब्रेफ़/DESPATCH

25 MAR 1996

हैदराबाद ब्याचपीठ
HYDERABAD BENCH