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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL HYDERABAD BENCH AT HYDERABAD

O.A.NO. 113/96

Date of Order: 31-1-96

Between:

G.Shankar

... Applicant

and

1. Senior Divisional Operating Manager,
S.C.Railway, Secunderabad Division,
Sanchalan Bhavan, Secunderabad.
2. Senior Divisional Personnel Officer,
S.C.Rly, Secunderabad Division,
Sanchalan Bhavan, Secunderabad.
3. Divisional Railway Manager, S.C.Rly,
Secunderabad Division, Sanchalan Bhavan,
Secunderabad.

Respondents.

For the Applicant :- Mr. B.Narasimha Sharma, Advocate

For the Respondents: Mr. V.Bheemanna.
Ex./Add.CGSC

CORAM:

THE HON'BLE MR.RARANGARAJAN : MEMBER(ADMN)

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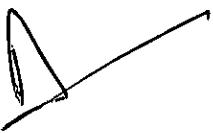
JUDGEMENT

Dt:31.1.96

Heard Shri B.Narasimha Sharma, learned counsel for the applicant and Shri V.Bhimanna, learned standing counsel for the respondents.

2. The applicant filed OA 832/92 on the file of this Bench against the punishment of removal from service with effect from 6.2.92. That OA was disposed of by a judgement of this Bench dt.30.6.94 setting aside the removal order on technical grounds and hence liberty was given to the respondents therein to initiate action afresh in regard to the alleged acts of omissions on the part of the applicant in regard to the said Railway accident. In pursuance of the judgement, the applicant was reinstated by the proceedings dated 29/30.11.94 and he was deemed to be under suspension from the date of his earlier removal till reinstatement and that suspension was continued till date. He was granted subsistence allowance in accordance with the Rule 1342 (1)(a)(i) to (iii) of Indian Railway Establishment Code Vol.II (IREC Vol.II). It is stated for the applicant that he was given 50% of pay as subsistence allowance during the period of his suspension. In the meantime, a charge sheet was issued afresh and the inquiry is under progress.

3. In the meantime, the applicant submitted the representation dated 1.4.95 for review of the subsistence allowance after the expiry of three months from the date



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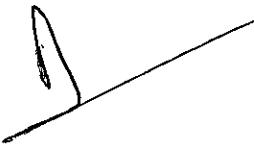
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of suspension and grant him increased subsistence allowance in terms of Rule 1342(1)(a)(i) to (iii) of IREC Vol.II quoted above. This representation was followed by another representation dt.27.12.95. The representation dt.27.12.95 was disposed of by the letter No.E/671/Optg/HBU dt.3.1.96 rejecting his request for upward revision of subsistence allowance.

4. The applicant also gave a legal notice dt.20.10.95 to R-1 and R-3 for increasing his subsistence allowance in accordance with the rules. That legal notice is yet to be replied.

5. The contention of the applicant is that the rejection of his request for upward revision of subsistence allowance by the impugned letter dated 3.1.96 is a non speaking one without giving any reason for rejection and R-1 has not dealt this case in accordance with Rule 1342 (1)(a)(i) to (iii) of IREC Vol.II quoted above and he had also not applied his mind.

6. Aggrieved by the above, the applicant has filed this OA praying for direction to the respondents to increase his subsistence allowance from the date of completion of three months of suspension with an additional amount equivalent to 50% of the subsistence allowance admissible during the first three months of suspension after declaring the proceedings No.E/671/Optg/HBU dt.3.1.96 issued by R-2 as arbitrary, illegal and violative of Articles 14 and 16 of the Constitution of India.

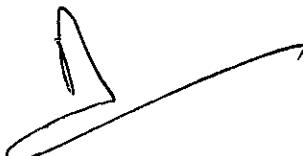


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7. It is admitted by the applicant that the order of R-1 is appealable one and the next higher authority for submitting his appeal is R-3. It is also the case of the applicant that he attended the inquiry without fail and hence he complied with the rule provision as envisaged in Rule 1342(1)(a)(i) to (iii) of IREC Vol.II. In view of the above, the learned counsel for the applicant states that he is entitled for the upward revision of the subsistence allowance.

8. There is no doubt that the impugned letter dated 3.1.96 is a cryptic one and it does not indicate any reason as to why the upward revision was rejected. There is no indication from this letter whether the applicant cooperated with the authorities in completing the inquiry. Reasons taken into account for rejection of his request for upward revision have not been given which is necessary when an employee is in a prolonged suspension. As it is an appealable order, I feel that it would be appropriate to remit this case back to the appellate authority viz, R-3 herein to dispose of the Lawyer's notice dated 20.10.95, following the rules in this connection in regard to the upward revision of the subsistence allowance and give a speaking order direct to the applicant within a period of one month from the date of receipt of a copy of this order. Liberty is given to the applicant to approach this Tribunal by filing a fresh OA under the relevant sections of the Administrative Tribunals Act, if he is going to be aggrieved by the reply to be given by R-3.



100%

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

m
(R.RANGARAJAN)
MEMBER (ADMN.)

Dated: 31st January, 1996.
Open court dictation.

vsn

Ambrin
1-2-96
Deputy Registrar (J)CC

To

1. The Senior Divisional Operating Manager,
S.C.Rly, Secunderabad Division,
Sanchalan Bhavan, Secunderabad.
2. The Senior Divisional Personnel Officer,
S.C.Rly Secunderabad Division,
Sanchalan Bhavan, Secunderabad.
3. The Divisional Railway Manager, SC Rly,
Secunderabad Division, Sanchalan Bhavan,
Secunderabad.
4. One copy to Mr.B.Narasimha Sharma, Advocate, CAT.Hyd.
5. One copy to Mr.v.Bheemanna, SC for Rlys, CAT.Hyd.
6. One copy to Library, CAT.Hyd.
7. One spare copy.

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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 V.NEELADRI RAO
VICE-CHAIRMAN

and

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

DATED:- 31 - 1 - 1996

ORDER/JUDGMENT.

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

in

O.A.No. 113/96

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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alongwith OA copy

No Spare copy

