

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH

AT HYDERABAD

O.A.1191/96.

Dt. of Decision : 18-11-96.

K.S. Harshavardhana

.. Applicant.

Vs

1. The Divl.Railway Manager,
SC Rly, Vijayawada.
2. The Chief Personnel Officer,
SC Rly, Rail Nilayam,
Sec'bad.
3. The Union of India, Rep.by
the Secretary, Railway Board,
Rail Bhavan, New Delhi.

.. Respondents.

Counsel for the Applicant : Mr. G.V.Subba Rao

Counsel for the Respondents : Mr. V.Rajeswara Rao Adal.CGSC

CORAM:

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

THE HON'BLE SHRI B.S. JAI PARAMESHWAR : MEMBER (JUDL.)

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ORDER

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

Heard Mr.G.V.Subba Rao, learned counsel for the applicant and Mr.V.Rajeswara Rao, learned counsel for the respondents.

2. The applicant in this OA passed ~~the~~ B.Tech(Mech.Engineer) in July 1988 while in service. He was granted the incentive as provided for in the Board's letter No.E(NG)1167 RCI/87 dated 4-3-68. The letter referred to above was modified in pursuance of the recommendations of the 4th Pay Commission and grant of advance increments was sanctioned to those employees in service passing ^{the} higher technical examination vide letter No.E/NG/I/87/IC2/1 dated 29-5-89. The applicant submits that he is entitled for the benefit of the circular dated 29-5-89 even though he passed in July 1988 as the earlier incentive given in terms of letter dated 4-3-68 had lapsed and the new scheme dated 29-5-89 came into force from 1-7-88. As the applicant passed the examination in July 1988 ^{he} is entitled for the same benefit and this was up-held by the Madras Bench of this Tribunal in OA.1013/90 dated 28-1-92. It is further stated for the applicant that the above ratio of the ~~Madras Bench~~ Madras Bench of the Tribunal was also followed by this Tribunal in OA.672/94 ^{decided} on 27-1-95 and OA.721/94 decided on 27-7-95. He filed joint representation on 17-8-95 along with some others and it is stated that ~~that~~ representations ^{was} not replied so far.

3. Aggrieved by the above, he has filed this OA praying for the extension of the benefit of the judgement in OA.721/94 ^{to} the applicant herein also and for a further direction to grant him four more advance increments from July 1988 the date of passing of the B.Tech examination, with all consequential benefits such as arrears of salary and allowance from time to time and regulate his pay in the present grade.

4. The main contention of the respondents in this ^{OA} that the letter of the Railway Board ~~letter~~ dt. 29-5-89 shall have only prospective effect i.e., from the date of issue of that letter. As the applicant had passed in July 1988 earlier to the issue of the Board's letter he is not entitled for the incentive granted by that letter. But he is eligible to get the incentive as was existing earlier to the issue of the letter i.e., in accordance with the letter dated 4-3-68. It is further stated for the respondents that he has been given the necessary incentive increments ^{as per} with the earlier letter dated 4-3-68. || The Madras Bench of this Tribunal had considered this issue in regard to the date of applicability of the letter of the Railway Board letter dated 29-5-89. After careful consideration and considering various contentions raised in that OA which are similar to the present contentions herein, ^{the} learned Members of that Madras Bench came to the conclusion that the ^{effect} ~~date~~ of the letter dated 29-5-89 comes into force from 1-7-88 as the earlier letter dated 4-3-68 lapsed on 30-6-88. The reasons given in this connection by the Madras Bench is at para-15 of the judgement in OA.1013/90. This Bench also in OA.721/94 and OA.672/94 came to the conclusion that the new scheme ^{should} ~~could have~~ to be applied even to ^{them} who acquired necessary qualification on or after 1-7-88. Hence the contention ^{projected} ~~now rejected~~ by the learned counsel for the respondents had already been answered and hence needs no further consideration.

5. The second contention of the respondents is that the Railway Board vide letter No.E(NG)I/87/IC 2/1 dated 24-3-94 (Annexure-R-IV to the reply) had clarified that the orders dated 29-5-89 should be given effect from 29-5-89. This clarificatory order ^{was} ~~have~~ issued by the Railway Board after the delivery of the judgement of the Madras Bench dated 28-1-92 to the effect that the letter dated 19-5-89 comes into force from 1-7-88. Hence it is evident that the ^{order} clarificatory/issued by the Railway Board is contrary to the orders

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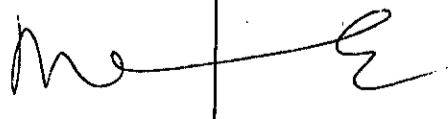
given by the Madras Bench of this Tribunal. It is not very clear whether the Railway Board was aware of the judgement of the Madras Bench of this Tribunal in OA.1013/90 decided on 28-1-92 while issuing the letter dated 24-3-94. If it is aware of the judgement of the Madras Bench of this Tribunal then the Railway Board has clearly transgressed the orders of the Madras Bench of this Tribunal. Such disobedience of the order of the Madras Bench of the Tribunal is not called for. In any case we do not want to go into merits of this case on this point. The Madras Bench of this Tribunal had categorically stated that the Railway Board's order dated 29-5-89 comes into effect from 1-7-88. Hence the Railway Board letter dated 24-3-94 cannot be up-held. Further there is no review application filed in the Madras Bench of this Tribunal against the order of that Bench dated 28-1-92. No SLP is ~~ap~~ pending. ~~nothing was produced before us in this connection~~ The learned counsel for the respondents submitted that he is not aware of the filing of the review or SLP in this case. However, the learned counsel for the applicant asserted that ~~no~~ ^{been} review has been filed nor SLP has ^{been} filed. Even when the order of this Tribunal ~~had~~ ^{was} passed in 1995 in OA.672/94 and 721/94 there ^{was} ~~is~~ no mention in regard to the review application against the orders of the Madras Bench. Hence it has to be held that ~~there are no orders~~ ^{petition} of review has been filed in this connection.

6. In view of what is stated above, we are satisfied that the OA has to be allowed.

7. In the result this OA is allowed with a direction to the respondents to give the applicant the benefit of scheme introduced by the Railway Board vide its letter dated 29-5-89.

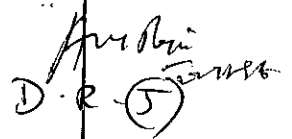
8. The OA is ordered accordingly at the admission stage itself. No costs.


(B.S. JAI PARAMESHWAR)
MEMBER (JUDL.) 18/11/96


(R. RANGARAJAN)
MEMBER (ADMN.) 1

Dated : The 18th Nov. 1996.
(Dictated in the Open Court)

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D.R. (5)

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O.A.NO.1191/96

Copy to:

1. The Divisional Railway Manager,
South Central Railway,
Vijayawada.
2. The Chief Personnel Officer,
South Central Railway,
Railnilayam, Secunderabad.
3. The Secretary, Railway Board,
Rail Bhavan, New Delhi.
4. One copy to Mr.G.V.Subba Rao, Advocate,
CAT,Hyderabad.
5. One copy to Mr.W.Rajeswar Rao, Addl.CGSC,
CAT,Hyderabad.
6. One copy to Library,CAT,Hyderabad.
7. One duplicate copy.

YLKR

9/12/96
O.A. 1191/86

TYPED BY
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THE CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH HYDERABAD

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

AND

THE HON'BLE SHRI B.S. JAI PARAMESHWAR:
M(J)

DATED: 18/11/86

ORDER/JUDGEMENT

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

O.A.NO. 1191/86ⁱⁿ

ADMITTED AND INTERIM DIRECTIONS ISSUED
ALLOWED

DISPOSED OF WITH DIRECTIONS

DISMISSED

DISMISSED AS WITHDRAWN

~~ORDERED/REJECTED~~

NO ORDER AS TO COSTS.

II COURT

YLKR

