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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH

AT HYDERABAD

O.A.No.72/96

Date of Order: 21.8.96

BETWEEN:

Meriga Abraham

.. Applicant.

AND

1. Union of India rep. by its
Secretary Railway Board,
Ministry of Railways,
Rail Bhavan, New Delhi.
2. General Manager, S.C.Rly.,
Secunderabad.
3. Divisional Railway Manager,
S.C.Rly., Vijayawada Division,
Vijayawada.
4. Divisional Railway Manager,
S .C.Rly., Hubli Division,
Hubli.

.. Respondents.

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Counsel for the Applicant

.. Mr.J.M.Naidu

Counsel for the Respondents

.. Mr.V.Bhimanna

- - -

CORAM:

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

- - -

J U D G E M E N T

X Oral order as per Hon'ble Shri R.Rangarajan, Member (Admn.) X

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Heard Mr.J.M.Naidu, learned counsel for the applicant.
and Mr.V.Bhimanna, learned standing counsel for the respondents.

2. The applicant joined as a Gangman on 2.4.56. He was removed from service for some allegations after following the disciplinary proceedings No.B/P.CON/227/VII/76/7, dt. 4.12.78 (page-3). He appealed against that removal and the appellate authority took a lenient view and appointed ^{him} as a casual labour in the Hubli Division. He was thereafter regularised ~~also~~ as

Gangman

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Gangman in the Hubli Division. He retired from service w.e.f. 30.6.86.

3. The applicant filed OA.505/93 on the file of this Bench which was disposed of on 28.3.94. The respondents were directed in that OA to consider the case of the applicant for grant of compassionate ~~allowance~~ in terms of relevant pension rules in view of the fact that he had put in 22 years of service in the first spell and ~~six~~ years of the service in the second spell. The case of the applicant for grant of compassionate allowance was considered and was rejected by the impugned order No.B/P.626/VII/2/1129 dt. 28.11.94 (A-1). Though no reasons have been indicated in the impugned order, the Annexure-3 to the reply statement indicates the reason given by the competent authority, ^{namely} Senior DEN/Coord/BZA for rejecting his case.

4. This OA is filed for setting aside the impugned order No.B/P.626/VII/2/1129 dt. 28.11.94 of R-3 by holding it as illegal, arbitrary and violative of Articles 14 and 16 of the Constitution of the India and for a consequential direction to the respondents to pay the employee compassionate allowance forthwith.

5. A reply has been filed. In the reply no reasons for rejecting his case for compassionate allowance has been indicated. However it is stated in para-6 of the reply that the reason for rejecting the compassionate allowance is in view of the reasons given in Annexure-3 enclosure. From the A-3 enclosure it is seen that the applicant is governed by contributory CPF rules and hence the provisions of para 309 MRPR are not binding on him. It is also stated in the A-3 enclosure that the applicant herein has not brought to the notice any rule/provision for payment of compassionate allowance even though he is governed by contributory P.F. Rules. In view of the

above

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above enclosure it has to be held that the competent authority has seen this case and disposed of representation for compassionate allowance. The reason given by the competent authority cannot be faulted except if rules to the contrary are produced.

*In accordance
with rules.*

6. The applicant has not filed any rejoinder in this connection. Hence he cannot claim any relief when the rule position is otherwise. However the learned counsel for the applicant now submits that the applicant is entitled for compassionate allowance even if he is removed from service in view of some orders issued by the Railway Board in the year 1985. But that order is not produced even today. The applicant also relies on the judgement of the Apex Court reported in 1994 (1) LSJ 88 (Rajbushnam Gandhi Vs. Haryana State Electricity Board) to state that even if an employee is removed from service and reinstated later even on casual basis on humanitarian grounds his earlier service before removal should be taken into consideration for purpose of payment of final settlement dues. The applicant had not brought to notice of the circular of the Railway Board and the judgement of the Apex Court to any of the concerned authority earlier. Having failed to do so he cannot claim any relief in this OA on the basis of those circular and the law laid down by the Supreme Court. In this view the present OA is liable only to be dismissed. However this dismissal will not stand in the way of the applicant to file a fresh representation to the General Manager i.e. R-2 herein for getting the relief he prays for in this OA.

7. In the result, the OA is dismissed; however this dismissal will not stand in the way of the applicant to file a fresh representation for the relief prayed for in this OA taking all the available contentions to R-2 herein.

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OA.72/96.

Copy to:-

1. The Secretary, Railway Board, Ministry of Railways, Union of India, Ministrx Rail Bhavan, New Delhi.
2. General Manager, S.C.Railway, Secunderabad.
3. Divisional Railway Manager, S.C.Railway, Vijayawada Division, Vijayawada.
4. Divisional Railwa Manager, S.C.Railway, Hubli Division, Hubli.
5. One copy to Sri. J.M.Naidu, advocate, CAT, Hyd.
6. One copy to Sri. V.Bhimanna, Addl. CGSC, CAT, Hyd.
7. One copy to Library, CAT, Hyd.
8. One spare copy.

Rsm/-

24/96

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THE CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH HYDERABAD

~~Justice~~
~~Hon'ble Mr. J. B. C. Saksena, J.~~
THE HON'BLE SHRI R. RANGARAJAN: M(A)

DATED: 21/8/96

ORDER/JUDGEMENT
R.A./C.P./M.A. NO.

O.A. NO. 72/96

ADMITTED AND INTERIM DIRECTIONS ISSUED
ALLOWED
DISPOSED OF WITH DIRECTIONS
DISMISSED
DISMISSED AS WITHDRAWN
ORDERED/REJECTED
NO ORDER AS TO COSTS.

YLKR

II COURT

NO Spare Copy

केन्द्रीय प्रशासनिक अधिकरण
Central Administrative Tribunal
ब्रेव/DESPATCH
- 9 SEP 1996
HYDERABAD BENCH