

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH
AT HYDERABAD

C.A. 273/97.

Dt. of Decision : 11-03-97.

Abbas Khan

.. Applicant.

Vs

1. The Union of India,
Rep.by its General Manager,
SC Rly, Rail Nilayam,
Sec'bad.
2. The Divl.Railway Manager (MG) ,
SC Rly, Hyderabad Division,
Sec'bad.
3. The Sr.Divl. Mech. Engineer,
(MG) , Hyderabad Division,
SC Railway, Rail Nilayam,
Sec'bad.

.. Respondents.

Counsel for the applicant : Mr. S.Lakshma Reddy

Counsel for the respondents : Mr. N.R.Devaraj, Sr.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.P.M.Srinivasa Rao for Mr.S.Lakshma Reddy, learned counsel for the applicant and Mr.N.R.Devaraj, learned counsel for the respondents.

2. The applicant in this OA while serving as Foreman 'A' was removed from service w.e.f., 26-09-83 by order No.YP/DAR/EIR/18 dated 29-09-83 (Annexure-1). He appealed against the same to R-2. R-2 on his appeal reinstated him in service as FMA in the scale of pay of Rs.290-350/- as a fresh entrant fixing his pay at the minimum of the scale of pay of Rs.290-350/- by his order No.YP/563/F/11/1/MG dated 2-5-84 (Annexure-II). The applicant retired from service on 31-1-97. The application has been filed on 29-1-97 earlier to the date of his retirement.

3. The applicant in the present OA requests for counting of his service earlier to his removal dated 26-09-83 for reckoning his qualifying service for the purpose of pension and other pensionary benefits. He has filed representation dated 31-03-1994 (Annexure-VI) to the General Manager. No reply has been given to that representation.

4. This OA is filed praying for a declaration that the action of the respondents in treating the applicant's reinstatement as a fresh appointment at the minimum of the pay scale of Rs.290-350/- vide proceedings dated 2-5-84 passed by R-2 and not counting the previous service rendered prior to reinstatement for the purpose of qualifying service for pension and other retirement benefits is totally illegal, without jurisdiction and for a consequential direction to the respondents to treat the period from the date of his appointment i.e., 16-10-1964 to the date of his retirement on 31-01-1997 as continuous for the purpose of reckoning the qualifying service for granting him retirement and other pensionary benefits.

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5. The applicant relies on the judgement of this Tribunal in OA.1521/93 decided on 31-03-1994. In that OA the applicant therein was taken back ^{on} duty as a Shunter as a fresh entrant. ^{it} In that OA ^{it} was held as follows:-

"Passing of order of re-appointment of the applicant herein as Shunter as a fresh entrant has to be held as in dis-regard of rules. It is to be construed as an order of major penalty in accordance with Rule 6(v), by lowering the pay of the applicant in the category of Shunter to the minimum of the scale i.e., Rs.1200-2040/- and that the annual increments accrue thereafter. The period from 29-03-88 the date of removal till 26-8-89 the date of reinstatement should be treated as 'dies-non'."

6. In this OA also the applicant was taken as a fresh entrant as FMA. ^{and he} On the same analogy taking him back on duty as a fresh entrant is dehorst ^{to} rules. But the punishment granted to him by fixing his pay at the lowest of the grade is in order. As the applicant was away from service from the date of removal i.e., from 26-9-83 till he was reinstated by order dt.2-5-84 that period of absence should be treated as dies-non for the purpose of ^[Country] qualifying ~~earlier~~ service. ^{period} earlier to 26-9-83 should be counted ^{for reckoning qualifying service}.

7. In the result, the following direction is given:-

The services put in by the applicant earlier to his date of removal i.e., 26-9-83 should ~~also~~ be counted along with the later period after his reinstatement for purpose of reckoning the qualifying service. On that basis the pension and pensionary benefits of the applicant has to be fixed. The period from 26-5-83 i.e., the date of removal from service till he was reinstated should be treated as dies-non.

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

(B.S. JAI PARAMESHWAR)
MEMBER (JUDL.)

(R. RANGARAJAN)
MEMBER (ADMN.)

Dated : The 11th March 1997.
(Dictated in the Open Court)

1.4.

Copy to:

1. The General Manager, South Central Railway,
Railnilayam, Secunderabad.
2. The Divisional Railway Manager, (MG), South Central Railway,
Hyderabad Division, Secunderabad.
3. The Senior Divisional Mechanical Engineer, (MG),
Hyderabad Division, South Central Railway,
Railnilayam, Secunderabad.
4. One copy to Mr.S.Lakshma Reddy, Advocate, CAT, Hyderabad.
5. One copy to Mr.N.R.Derraj, Sr.CGSC, CAT, Hyderabad.
6. One copy to D.R(A), CAT, Hyderabad.
7. One duplicate copy.

YLKR

20/3/97

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APPROVED BY

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:

11/3/97

ORDER/JUDGEMENT

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

R.A.No. 273/97ⁱⁿ

ADMITTED AND INTERIM DIRECTIONS ISSUED

ALLOWED

DISPOSED OF WITH DIRECTIONS

DISMISSED

DISMISSED AS WITHDRAWN

ORDERED/~~REJECTED~~

NO ORDER AS TO COSTS.

II COURT

YLKR

A/w copy to

