

37

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL: HYDERABAD BENCH :
AT HYDERABAD.

O.A.NO.505 of 1997.

DATE OF ORDER: 5-8-1998

BETWEEN :

A.D. VENKATASWARULU,
S/o A. Doraiswamy,
aged 72 years,
C/o Sri Veerabhadra Kala Mandir,
Mulkanur Post,
Bhimadeverapally Mandal,
Karimnagar District. ... Applicant

A n d

1. Union of India, rep. by
the Secretary, Ministry of Railways,
New Delhi.
2. Senior Divisional Accounts Officer,
(Broad Guage)
South Central Railway,
Secunderabad.
3. The Manager,
Paying Branch,
Andhra Bank,
Kazipet, Warangal District. ... Respondents

Counsel for Applicant : Mr. Venkatachary for Mrs.
S. Tripura Sundari.

Counsel for Respondents : Mr. V. Rajeswara Rao, CGSC

CORAM :

HONOURABLE MR.H. RAJENDRA PRASAD, MEMBER(ADMINISTRATIVE)

HONOURABLE MR.B.S. JAI PARAMESHWAR, MEMBER(JUDICIAL)

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O R D E R.

(Per Hon.Mr.B.S.Jai Parameshwar, Member (J))

1. Hear Mr. Venkatachary for Mrs. S. Tripurasundari, learned counsel for the applicant and Mr. V.Rajeswara Rao, learned Standing Counsel for the respondents.

2. The applicant herein was working as Chief Booking Clerk at Kazipet. At that time a criminal case was registered against him on 18.9.1981 for the offences punishable under Sections 120-B, 420, 467, 468 and 471 of the Indian Penal Code and under Section 5(c) and (d) of the Prevention of Corruption Act,1947. On registering the case, the applicant was placed under suspension with effect from 18.9.1981. Subsequently a charge sheet was filed against the applicant in CC No.18 of 1985 before the Court of the Additional District Judge-cum-Special Judge for SPE and ACB, City Civil Court, Hyderabad.

3. It appears that while he was under suspension, he was not paid the subsistence allowance. Therefore the applicant had approached this Tribunal in O.A.No.677 of 1988 praying for a direction to the respondents to pay him the subsistence allowance. Then it was noticed that the applicant was to retire with effect from 13.9.1982 on attaining the age of superannuation; but however, he was continued in service upto 6.1.1983 and that he retired from service with effect from 7.1.1983. Considering this position, this Bench while deciding the above O.A. on 7th March,1991 directed the respondents therein to pay provisional pension from 7.1.1983 and further observed as under :

" This order passed by us will not preclude the

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respondents from stopping or reducing the pension payable to the applicant in accordance with the rules consequent on his conviction by the Criminal Court."

4. The Criminal Case No.18/85 ended in conviction by the trial Court. The applicant was convicted and sentenced to undergo simple imprisonment for a period of one year and for a further period of 6 months for the offences he was charged with.

5. The applicant preferred an appeal against the judgment and conviction before the Hon'ble High Court of Andhra Pradesh in Criminal Appeal No.186/88. During the pendency of the appeal, as per the interim order passed by the Hon'ble High Court of A.P. dated 10.3.1988 in the Criminal Appeal, the applicant was released on bail.

6. It is submitted that the Hon'ble High Court of A.P. confirmed the conviction of the applicant by the trial Court. The applicant submits that he had approached the Hon'ble Supreme Court but he has not disclosed the details in regard to the SLP etc. in the O.A.

7. As per the directions of this Tribunal in O.A.No.677/88 the respondents sanctioned provisional pension of Rs.919/- per month vide PPO No.59021100285 dated 4.11.1992. He was paid arrears of pension also.

8. On his conviction being confirmed by the Hon'ble High Court, the respondents served a show cause notice in Proceedings No.E(D&A)93 AE8-2 dated 14.2.1997. Thereafter, by the impugned proceedings of even number dated 5.3.1997 the respondents cancelled the pension sanctioned to the applicant.

9. The applicant has filed this O.A. challenging the impugned order dated 5.3.1997 and praying to quash the

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same.

10. The grounds on which he has challenged the impugned order are that the instructions referred to in the impugned order cannot be a 'decision' of the competent authority; that the decision of the Hon'ble Tribunal dated 7.3.1991 in O.A.No.677/88 had become final; that the right for pension was secured also by the aforementioned decision in the O.A. has 'become property of the applicant and it is to be protected under Article 300-A of the Constitution of India; that the orders are void in the absence of any formal statutory proceedings and that the orders offend Article 21 of the Constitution of India.

11. The applicant did not specifically state that the respondents authorities before passing the impugned order had issued him the show cause notice. However, in para-4(e) of the OA, the applicant vaguely submitted that he remembered to have received a letter about 4 years back and remembered to have sent a reply.

12. The respondents have filed the counter stating that the applicant while working as Chief Booking Clerk at Kazipet indulged in fraudulent act of refunding EFTs thereby causing a pecuniary loss to the Railway Administration to the extent of Rs.7,55,151.25 paise.

13. That the City Civil Court convicted the applicant by its judgment dated 3.2.1988; that the applicant was under suspension from 18.9.1991; that while the criminal case was pending, the applicant reached age of superannuation, viz., 30.9.1982 when he was not retired from service from that date but however he was allowed to retire from service effective from 7.1.1983; that as per the direction of this Tribunal in OA No.677/88 provisional pension was released to the applicant; that

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the Senior Divisional Commercial Manager who is the competent authority after perusing the judgment of the Sessions Court, recommended for stoppage of cent percent of the pension and withholding of the entire gratuity amount; that the imposition of the said penalty required the sanction of the President of India in accordance with Rule 9 of the IREM and hence, records were submitted to the UPSC for their advice on the orders to be passed by the President of India; that thereafter the applicant submitted a representation on 12.8.1994 and the President considering the representation of the applicant and after consulting the UPSC decided that the entire monthly pension otherwise admissible to the applicant should be withheld on a permanent basis vide his order No.E(D&A)93/AE8-2 dated 13.2.1997 (Annexures A & B); that in terms of the order dated 13.2.1997 of the President, the Senior Divisional Accounts Officer by the impugned order advised the Manager, Andhra Bank, Kazipet Branch, to stop the pension on a permanent basis which was authorised vide PPO number quoted above dated 4.11.1992. They further submit that the contention of the applicant that he had preferred an appeal before the Hon'ble Supreme Court is not known to them; and that they further submit that as per the Railway Board's letter No.E(D&A)76-RG6-4 dated 4.3.1976 the disciplinary authority can impose a penalty on a Government servant on the ground of conduct which led to his conviction on a criminal charge without waiting for the decision in the appeal. In this case the guilt of the applicant had been proved beyond reasonable doubt. As such the impugned order does not call for interference by this Tribunal.

14. Learned Counsel for the applicant during the

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course of his lengthy arguments attempted to submit that the disciplinary authority should have initiated the disciplinary proceedings and that should have been with respect to the incident which took place 4 years prior to the date of his superannuation. It is to be noted that the applicant was under suspension. Even had the authority desired to initiate the disciplinary proceedings, then the issue of charge sheet would have dated back to the date of suspension. The applicant attained the age of superannuation on 30.9.1982. He was allowed to retire on 7.1.1983. The City Civil Court convicted the applicant on 3.2.1988.

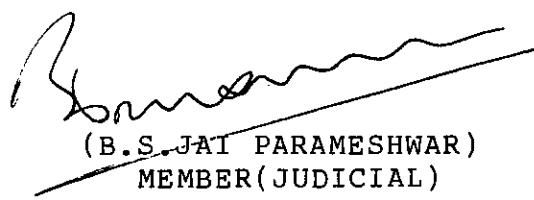
14. In this background, the departmental authorities after noticing his conviction decided to stop the pension permanently. Accordingly, they issued a show cause notice to the applicant through letter dated 14.2.1994. The applicant actually suppressing this fact attempted to challenge the impugned order.

15. Whenever a pensioner is convicted, the authority sanctioning the pension can cancel the pension sanctioned to him after giving an opportunity to the pensioner. In this case, the applicant was convicted after he retired from service and when the Senior Divisional Commercial Manager noticing his conviction recommended for stoppage of cent percent pension and further retiral benefits, then the authorities issued a show cause to the applicant and by the impugned order stopped the pension which was paid to him @ Rs.919/- per month.

16. Considering the loss caused by the applicant to the Railway Administration, we feel that the authorities were absolutely justified in stopping the pension to him. Even before taking such a decision, they have given an

opportunity to the applicant and also consulted the UPSC. In this view of the matter, we find no merits in the O.A. and the only order that can be passed in the O.A. is to dismiss the same.

17. Accordingly the O.A. is dismissed, leaving the parties to bear their own costs.



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



(H. RAJENDRA PRASAD)
MEMBER(ADMINISTRATIVE)

DATED THE 5TH AUGUST, 1998.

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Deputy Registrar

O.A. 505/97

TO

1. The Secretary, Ministry of Railways,
Union of India, New Delhi.
2. The Senior Divisional Accounts Officer,
(Broad Gauge) SC Rly, Secunderabad.
3. The Manager, Paying Branch,
Andhra Bank, Kazipet, Warangal Dist.
4. One copy to Mrs. S. Tripura Sundari, Advocate, CAT.Hyd.
5. One copy to Mr. V. Rajeswar Rao, ~~and~~ SC for Rlys, CAT.Hyd.
6. One copy to MBSJP.M. (J) CAT.Hyd.
7. One copy to DR(A) CAT.Hyd.
8. One spare copy

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COMPARED BY APPROVED BY

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH AT HYDERABAD

THE HON'BLE MR.JUSTICE

VICE-CHAIRMAN

AND

THE HON'BLE MR.H.RAJENDRA PRASAD:M(A)

~~The Hon'ble Mr. B.S.Jain~~ ~~Law Officer~~
DATED: 5 - 8 - 1998.

ORDER/JUDGMENT

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

in

O.A.No. 505/97.

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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