A - XIII

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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH

AT HYDERABAD

***

C.A.82/95. Dt. of Decision : 01-10-97

D.Balaraman .. Applicant.

Vs

1. The Sr.Divl.Personnel Officer,
   SC Rly, Divl. Office, Guntakal.

2. The General Manager,
   SC Rly, Sec'bad. .. Respondents.

Counsel for the applicant : Mr. S.Ramakrishna Rao

Counsel for the respondents : Mr.D.F.Paul, SC for Rlys.

CORAM:

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

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

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T/C

(38)

6. While fixing the pay of the applicant by memorandum No.G/1.11/CP.dated 15-12-88 (Annexure-3) nowhere it is mentioned that he had been taken as a fresh entrant and his pay had been fixed in the pay scale of Rs.950-1500/-. Thus the respondents have not conveyed their views in regard to the absence of the applicant from 15-12-80 to 12-12-88 either at the time of posting him as Junior Clerk or while fixing his pay in that post. Thus it has to be held that the applicant was posted as Junior Clerk when medically found fit for that post. Hence at this juncture stating that he was taken as a fresh entrant in the year 1988 cannot be accepted.

7. In thecase of employees removed from service and taken back as a fresh entrant this Tribunal had held the view that a fresh entry is not in accordance with rules and hence the period which he served earlier to his removal should also be considered for purpose of counting the qualifying service at the time of retirement. Ofcourse it was held by the Tribunal that the intervening period from the date of removal till he was posted should be treated as dies-non. The present case is a higher footing than the case of the removed employee taken back on duty and hence it is essential that the case also should be viewed in the proper prospective and a similar direction needs to be given as given in the case of removed employee later posted back to duty. The present case is also in a better Pedestal as the applicant was not removed from service but discharged being a medical unfit case. When he was taken back after he was found fit medically fit for the post of Junior Clerk there is no reason to deny him the period earlier to his medical unfitness for purpose of counting the qualifying service. The learned counsel for the respondents himself admits that he will get pension for the earlier period. If that be so, there is no reason for not counting earlier period

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with all consequential benefits and to set aside the proceedings No.G.P.500/IV/B-426 dated 18-8-94 (Annexure-7) whereby the break in between the two spells of service was refused by holding it as illegal, arbitrary and against the rules in force and in violation of Articles 14 and 16 of the Constitution.

4. A reply has been filed in this OA. The main contention of the respondents in this OA is that the applicant is eligible for payment of pension and pensionary benefits for the service he had rendered from the date of his appointment in the year 1954 till the date of his medical decategorisation on 15-12-80. But the applicant did not take advantage of it and wants the services during the break also to be counted for purpose of fixing his pension and pensionary benefits. The applicant is not entitled for pension for the later part of the service i.e., from 12-12-88 to 31-7-93as by that service he was not getting the qualifying service for purpose of pension and pensionary benefits. The applicant cannot ask for regularisation of the period of his absence from 15-12-80 to 12-12-88 as the same is more than 5 years and hence condoning that period is not permissable

5. Before we analyse this OA, it is necessary to see the wording of memorandum when he was reengaged by order dated 8-12-88. This order states that the applicant was certified medically unfit to hold his present job i.e., the post of Mate was absorbed in the alternative post as Junior Clerk in the scale of pay of Rs.950-1500/-. From the word it is evident that the respondents at the time of his absorption in 1988 did not consider his second posting as a fresh posting. The order has to be read as if he was posted on being medically fit for the post of Junior Clerk. Hence we are not convinced with the reasons given for condoning the break in service from 15-12-80 to 12-12-88.

~~not be counted~~ for ~~the~~ fixing the pension at the time of his retirement in the year 1993. In view of what is stated above, the following direction is given:-

The qualifying service of the applicant should be counted up to 15-12-80 and add the later service from 12-12-88 to 31-7-93 debarring the ineligible period in ~~that~~ these two spells for the purpose of ~~counting~~ calculating the qualifying service. The period from 15-12-80 to 12-12-88 should be treated as dies-non. The applicant is entitled for pension on the basis of the counting the qualifying service as directed above. The pension of the applicant should be fixed accordingly within a period of four months from the date of receipt of a copy of this order.

8. The OA is ordered accordingly. No costs.

CERTIFIED TO BE TRUE COPY

T/C

(37)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH

AT HYDERABAD

O.A.No. 1430/97 Date of Order : 28.10.97

BETWEEN:

D.Nageswar Rao .. Applicant.

AND

1. The General Manager, SCR, (Rep. Union of India), Railnilayam, Secunderabad.

2. The Divisional Railway Manager, SC Rly., Guntakal.

3. The Sr.Divisional Personnel Officer, SC.Rly., Guntakal. .. Respondents.

- - -

Counsel for the Applicant .. Mr.S.Ramakrishna Rao

Counsel for the Respondents .. Mr.D.F.Paul

- - -

CORAM:

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

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

- - -

O R D E R

Mr.S.Ramakrishna Rao, for the applicant and Mr.D.F.Paul, for the respondents.

2. ADMIT. Expedite.

3. The applicant in this OA is a compassionate ground appointee due to full medical invalidation of his father who worked as Gangman in railways. The applicant was initially ~~appointed as a~~ engaged as casual labour Gangman but he was posted as an LR Porter on a regular basis due to the compassionate ground appointment. It is stated that he has progressed to the higher grades subsequently.

Jai

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4. The applicant's father who had discharged from service due to full medical invalidation filed TA.296/86 on the file of this Bench. That was disposed of by order dt. 19.3.87 directing the respondents to assess his suitability and post him if he found suitable in alternate post. On the basis of that direction the suitability of the father of the applicant was assessed and he was posted as a Clerk on 8.12.88.

5. Now the noticeG/P.241/I/Guards, dt. 9.10.97 (A-1) has been issued asking for his explanation ask why he should not be discharged from service as his father ~~whose~~ full medical invalidation resulted in his compassionate ground appointment is now reverted and posted as a regular employee in the railways.

6. This OA is filed challenging that notice.

7. In the said notice we do not see any relevant rules/instructions under which such action can be taken in discharging from services a compassionate ground appointee. In the absence of any rules/regulations the OA has to be considered ~~in full~~ ~~and considered~~ on merit.

8. In view of the above the balance of convenience lies with the applicant and hence the notice has to be suspended until further orders in this OA. Accordingly the impugned notice dt.9.10.97 is kept suspended until further orders. The suspension of the order will not stand in the way of the applicant to file his explanation if any to the respondents.

(B.S. JAI PARAMESHWAR)
Member (Judl.)

(R.RANGARAJAN)
Member (Admn.)

Dated: 28th October, 1998

D.R.

sd

(39)

OA.1430/97

Copy to:-

1. The General Manager, South Central Railway, Rail Nilayam, Secunderabad.

2. The Divisional Railway Manager, South Central Railway, Guntakal,

3. The Sr. Divisional Personnel Officer, South Central Railway, Guntakal.

4. One copy to Mr. S.Ramakrishna Rao Advocate, CAT., Hyd.

5. One copy to Mr. D.F. Paul, SC for Rlys, CAT., Hyd.

6. One copy to D.R.(A), CAT., Hyd

7. One duplicate copy.

srr

(7)

TYPED BY
COMPARED BY

CHECKED BY
APPROVED BY

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD

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

AND

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

Dated: 28-10-97

ORDER/~~JUDGMENT~~

~~M.A/R.A/C.A.NO.~~

in

O.A.NO. 1430/97

Admitted and Interim Directions
Issued.

Allowed

Disposed of with Directions

Dismissed

Dismissed as withdrawn

Dismissed for Default

Ordered/Rejected

No order as to costs.

YLKR

II Court

केन्द्रीय प्रशासनिक अधिकरण
Central Administrative Tribunal
प्रेषण/DESPATCH
-3 NOV 1997
हैदराबाद न्यायपीठ
HYDERABAD BENCH

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, HYDERABAD BENCH

AT HYDERABAD.

..

O.A.No.1430/97.

Date of decision: March 25,1999.

Between:

D.Nageswara Rao. .. Applicant.

And

1. The General Manager SCR, represented by Union of India, Rail Nilayam, Secunderabad.

2. The Divisional Railway Manager, SCR, Guntakal.

3. The Sr.Divisional Personnel Officer, SCR, Guntakal. .. Respondents.

Counsel for the Applicant: Sri S.Ramakrishna Rao.

Counsel for the Respondents: Sri D.Francis Paul.

CORAM:

Hon'ble Sri R.Rangarajan, Member(A)

Hon'ble Sri B.S. Jai Parameshwar, Member(J)

JUDGMENT.

(by Hon'ble Sri R. Rangarajan, Member(A)

Heard Sri S.Ramakrishna Rao, learned counsel for the Applicant. Sri Santhy for Sri D.Francis, learned counsel for the Respondents.

The Applicant was appointed on compassionate grounds as Porter by Order No. G/P.564/CG/1977 d/23.9.78 (Annexure A-II Page 12 to the O.A.). The applicant thereafter progressed as Assistant Guard. The impugned Order No. G/P.214/I/Guards dated 9.10.1997 was issued after a lapse of about 19 years ~~asking him~~ proposing to terminate his services as his father was re-screened and found suitable for absorbtion and posted as Clerk in Sr.DEN/O/GTL on 12.12.1988. The Respondents' Organisation issued the proposed termination order asking the applicant to file his representation as his compassionate ground employment was nullified because of the appointment of his father who was earlier discharged from service due to which the applicant was appointed on compassionate grounds.

This O.A. is filed to set aside the impugned order dated 9.10.1997 of the Respondent No.3 deciding to terminate the services of the applicant and calling for representation in this regard and to declare the same as arbitrary, illegal, unwarranted and for a consequential direction to the respondents to continue the applicant as Assistant Guard in the present post with all consequential benefits.

A show cause notice was issued on 9.10.1997 directing the applicant to file his representation, if any, against the proposed termination of his service. The applicant has not filed any representation to the

respondents in this connection. Hence, passing an order by this Tribunal,in our opinion is not proper as the applicant should normally follow the channels/ remedies available to him for redressal of his grievances.

An interim order was passed in this O.A., on 28-10-1997 suspending the impugned notice dated 9.10.1997 until further orders. It is also noted in the interim order that the suspension order ~~will~~ would not stand in the way of the applicant to file his representation, if any, to the respondents in regard to the proposed termination of his services. It is brought to our notice, that no representation was ~~filed~~ addressed to the respondents. Hence, we do not like to step into the jurisdiction of the respondents in disposing of the case without giving an opportunity to the respondents' organisation to decide the case of the applicant in accordance with law.

There appears to be a ground for resisting the impugned order dated 9.10.1997. The applicant submits that he was independently working as Casual Labour under PWI/BG/GTL with effect from 23.1.1978 even before the accident of his father. The father of the applicant was discharged from service and because of that discharge, the applicant was appointed as Porter on compassionate grounds. Later his father was re-screened and appointed due to the Court Order. Whether that re-appointment of the father of the applicant will stand in the way of the applicant to continue him as a compassionate

ground appointee /is a point for consideration. Normally, if any discharged employee has been re-engaged and the compassionate ground appointment was also made only a few years earlier to his re-engagement, then probably it may be appropriate to issue the orders proposing to terminate that compassionate ground appointment. But in this case the applicant was appointed in the year,1978 i.e., more than two decades ago. His father was re-engaged in the year,1988 and the show cause notice was issued in the years,1997. Hence, it looks that the issuance of the impugned order dated 9.7.1997 may not be a proper order. But we do not want to finally dispose of the matter at this stage and we leave the matter for the respondents to decide it in accordance with law following the principles of natural justice.

The applicant should submit his representation if he has already not submitted one within a period of 15 days from the date of receipt of a copy of this Order. If he had already submitted his representtion to the respondents, a copy of the same should be sent to the respondents ~~from the~~ within the above stipulated period of 15 days. The respondents shall take an appropriate decision in this connection as indicated above within a period of three months from the date of receipt of a copy of this Judgment.

The interim orders passed in this O.A., on 28.10.1997 shall continue to be in force one month after the communication of the final decision of the respondents to the applicant.

The O.A., is disposed of with the above directions. No costs.

(B.S.JAI PARAMESHWAR)
Member(J)

(R.RANGARAJAN)
Member(A)

Date: 25-3-1999.

Dictated in open Court.

sss.

Copy to:

1. HDHNJ
2. HHRP M(A)
3. HBSJP M(J)
4. D.R.(A)
5. SPARE

IST AND IIND COURT

TYPED BY | CHECKED BY
COMPARED BY | APPROVED BY

THE CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH : HYDERABAD.

THE HON'BLE MR.JUSTICE D.H.NASIR:
VICE - CHAIRMAN

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

THE HON'BLE MR.R.RANGARAJAN :
MEMBER (A)

THE HON'BLE MR.B.S.JAI PARAMESWAR
MEMBER (J)

DATED: 25.3.99.

~~ORDER~~/JUDGEMENT

MA./RA./CP.No. ——

IN

O.A. NO. 1430/97

ADMITTED AND INTERIM DIRECTIONS ISSUED.

ALLOWED

DISPOSED OF WITH DIRECTIONS

DISMISSED

DISMISSED AS WITHDRAWN

ORDERED/REJECTED

NO ORDER AS TO COSTS

SRR

7 Copies

Form No.9.
(See Rule 29)

BY.R.P.A.D.

CENTRAL ADMINISTRATIVE TRIBUNAL HYDERABAD BENCH AT HYDERABAD.
1st Floor, HAC Bhavan, Opp: Public Garden, Hyderabad.500004.A.P.

ORIGINAL APPLICATION NO. 1430. OF 199 7.

Applicant(S) D.Nageswar Rao. V/S Respondent(S)

The General Manager, S.C.Rlys, Sec'bad.& 2 others.

By Advocate Shri: S.Rama Krishna Rao.

(By/Central Govt.Standing Counsel)

Mr.D.F.Paul, SC for Rlys.

To.

1. The General Manager, South Central Railway, Union of India, Rail Nilayam, Secunderabad.

2. The Divisional Railway Manager, South Central Railway, Guntakal.

3. The Senior Divisional Personnel Officer, South Central Railway, Guntakal.

Whereas an application filed by the above named applicant under Section 19 of the Administrative Tribunal Act, 1985 as in the copy annexed hereunto has been registered and upon preliminary hearing the Tribunal has admitted the application.

Notice is hereby given to you that if you wish to contest the application, you may file your reply along with the document in support thereof and after serving copy of the same on the applicant or his Legal practitioner within 30 days of receipt of the notice before this Tribunal, either in person or through a Legal prectitioner/ Presenting Officer appointed by you in this behalf. In default, the said application may be heard and decided in your absence on or after that date without any furthar Notice.

Issued under my hand and the seal of the Tribunal

This the . .Twenty Eighth. . . . . day of . . October. . . . .199 7.

//BY ORDER OF THE TRIBUNAL//

FOR REGISTRAR.

Date: 12-11-97.

13/11/97

केन्द्रीय प्रशासनिक अधिकरण
Central Administrative Tribunal
प्रेषण/DESPATCH
26 NOV 1997
हैदराबाद न्यायपीठ
HYDERABAD BENCH

49

IN THE COURT OF THE CENTRAL ADMINISTRATIVE TRIBUNAL

AT HYDERABAD

O.A No. of 199

BETWEEN :-

D. Nageswara Rao — PLAINTIFF / PETITIONER / APPELLANT / COMPLAINANT

AND

The G.M, SCR, Secunderabad and another — DEFENDANT / RESPONDENT / ACCUSED

Accepted

VAKALAT

Accepted

ACCEPTED

Advocate for : Appellant

Filed 25-10 199

Address for Service

SANKA RAMAKRISHNA RAO
B.A.LL.B., P.G.D.C.R.S.,
ADVOCATE
1-1-10/2, Jainahar School Lane,
Jawahar Nagar, RTC X Road, Hyderabad-500 020.
PHONE : 638883

IN THE COURT OF THE CENTRAL ADMINISTRATIVE TRIBUNAL, HYDERABAD BENCH.

AT HYDERABAD

O.A No. 1430 of 1997

BETWEEN :- D. Nageswara Rao — PLAINTIFF / PETITIONER / APPELLANT / COMPLAINANT

AND

The G.M. SCR, Secunderabad and another — DEFENDANT / RESPONDENT / ACCUSED

I/W D. Nageswara Rao

do hereby appoint and retain

SANKA RAMAKRISHNA RAO
B.A.LL.B., P.G.D.C.R.S.,
ADVOCATE

K.J. PRASAD, BA, BL
ADVOCATE

Central Administrative Tribunal Hyderabad Bench
RECEIVED
27 OCT 1997
3478

Advocate/s to appear for me/us in the above suit/case and to conduct and Prosecute (or defend) the same and all Proceedings that may be taken in respect of any application for execution of any decree or order Passed therein. I/we empower my/our, Advocates to appear in all miscellaneous proceedings in the above suit or matter till all decrees or orders are fully satisfied or adjusted to compromise and to obtain the return of documents and draw any moneys that migth be payable to me/us in the said suit or of matter (and I/w do further empower my/our Advocates to acception my/our behaif, service of notice of all or any appeals or petitions filed in any court of Appeal, reference of Revision with regard to said suit or matter before disposal of the in this Honourable Court.)

D. Nageswara Rao

Certified that the executant who is well acquanted with English Read this Vekalatnama the contents of the Vekalatnama were read out and explained in Telugu/Urdu to executant or he/she/they being unacquaintant with English/who appeared Perfectiy to understand the same and signed or put his/her/their signature/s or/and marks and in my Presence.

Executed 23 day or 10 1997

Advocate

FORM NO. 21. (Sec. Rule)114)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL HYDERABAD BENCH. HYDERABAD.

C.P. 97/99 O.A. No. 1436/ 1997

D.N. Rao. Applicants.

Versus

The G.M, SCR, Secbad.

Respondent (s)

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5.	Rejoinder.	
6.	Orders in (final Orders) 24-9-99	14 & 15 to 20

21/10/99

Signature of dealing Head in Record Section.

Signature of S.O.

(SEE RULE 12) FORM No.4

CENTRAL ADMINISTRATIVE TRIBUNAL HYDERABAD BENCH: HYDERABAD

ORDER - SHEET

~~O.A.~~ No. 97/99 in OA 1430 OF 1997

D. Nageswara Rao Applicant(S)

Through M/s _____ Advocate

VERSUS

The GM SCR, Secbad

Respondents

Date	Note of the Registry	Order of the Tribunal
9/9/99		list on 24/9/99. HBSJP M(J) HRRN M(A)
24/9/99		Mr. S. Ramakrishna Rao, for the applica and Mr. D.F. Paul, for the respondent. When the CP was taken up for hearing, the le counsel for the applicant submitted that reply has been received and hence he is not pressing the C In view of the above, CP is closed as not pressed. HBSJP M(J) HRRN M(A)

MEMORANDUM OF CONTEMPT APPLICATION
(UNDER SECTION 17 OF ADMINISTRATIVE TRIBUNALS ACT, 1985)

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

CONTEMPT APPLICATION NO: 97 OF 1999
IN
O.A. NO: 1430 OF 1997

BETWEEN:

D.Nageswara Rao, S/o.D.Balaraman,
aged about 40 years, Occ: Asst. Guard,
S.C.Railway, Guntakal, Dist: Anantapur. .. APPLICANT

A N D

1. The General Manager, S.C.Railway,
(Rep. Union of India), Rail Nilayam,
Secunderabad.

2. The Divisional Railway Manager,
S.C.Railway, Guntakal.

3. The Sr. Divisional Personnel Officer,
S.C.Railway, Guntakal. .. RESPONDENTS/CONTEMNORS

For the reasons stated in the accompanying affidavit, it is respectfully prayed that the Hon'ble Tribunal may be pleased to take cognizance of offence committed by the Respondents 1. The General Manager, S.C.Railway, (Rep. Union of India), Rail Nilayam, Secunderabad, 2.The Divisional Railway Manager, S.C.Railway, Guntakal, and 3. The Sr. Divisional Personnel Officer, S.C.Railway, Guntakal, and direct them to appear before this Hon'ble Tribunal with the letter having complied with the orders of the Hon'ble Tribunal dated 25.3.1999 in O.A. No.1430/97 with a speaking order and with cogent reasons, and be pleased to pass such other and further order or orders as the Hon'ble Tribunal may deem fit and proper in the circumstances of the case.

Hyderabad.
22.8.1999

K. Parvati
COUNSEL FOR THE APPLICANT

Contd.....

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

CONTEMPT APPLICATION NO:97 OF 1999

IN
O.A. NO: 1430 OF 1997

BETWEEN:

D.Nageswara Rao .. APPLICANT

A N D

The General Manager, SCR,
(Rep. by Union of India), Rail Nilayam,
Secunderabad. .. RESPONDENTS/CONTEMNORS

A F F I D A V I T

I, D. Nageswara Rao, S/o.D.Balaraman, aged about 42 years, Occ: Asst. Guard, S.C.Railway, Guntakal, District Anantapur, do hereby solemnly and sincerely state on oath as follows :

1. That I am the deponent herein and the applicant in OA No.1430/97 and therefore well acquainted with the facts of the case.

2. I submit that I filed OA No.1430/97 aggrieved against the impugned notice No.G/P.214/Guards dated 9.10.1997 communicating the decision to terminate my services and thereby calling for my representation, inspite of my 20 years of service in Railways. The above OA was disposed of on 25.3.1999 with the following directions:

> "There appears to be a ground for resisting the impugned order dated 9.10.1997. The applicant submits that he was independently working as Casual Labour under PW1/BG/GTL with effect from 23.1.1978 even before the accident to his father. The father of the applicant was discharged from service and because of that discharge,

Contd.....

D.Nageswara Rao

the applicant was appointed as Porter on compassionate grounds. Later his father was re-screened and appointed due to the Court Order. Whether that re-appointment of the father of the applicant will stand in the way of the applicant to continue him as a compassionate ground appointee is a point for consideration. Normally, if any discharged employee has been re-engaged, and the compassionate ground appointment was also made only a few years earlier to his re-engagement, then probably it may be appropriate to issue the orders proposing to terminate that compassionate ground appointment. But in this case the applicant was appointed in the year, 1978 i.e., more than two decades ago. His father was re-engaged in the year 1988 and the show cause notice was issued in the years, 1997. Hence, it looks that the issuance of the impugned order dated 9.7.1997 may not be a proper order. But we do not want to finally dispose of the matter at this stage and we leave the matter for the respondents to decide it in accordance with law following the principles of natural justice.

The applicant should submit his representation, if he has already not submitted one within a period of 15 days from the date of receipt of a copy of this order. If he had already submitted his representation to the respondents, a copy of the same should be sent to the respondents within the above stipulated period of 15 days. The respondents shall take an appropriate decision in this connection as indicated above within a period of three months from the date of receipt of a copy of this judgement.

Contd.....

CR

K. Jagneswara Rao

The interim orders passed in this OA on 28.10.1997 shall continue to be in force one month after the communication of the final decision of the respondents to the applicant."

Based on the above directions I have made representation to R-3 on 19.9.1998 and 17.4.1999. But there is no response for both the representations. As such I have no other alternative except to approach this Hon'ble Tribunal seeking redressal of my grievance.

3. In the light of the above directions of this Hon'ble Tribunal, it is incumbent on the part of the respondent to act upon and to proceed in accordance with the law. But unfortunately respondents have not implemented the said judgement as it was intended to be implemented and did not act upon as directed by the Hon'ble Tribunal. This inaction on the part of the respondents is reprehensible, wanton and deliberate disobedience of the orders of this Hon'ble Tribunal and constitutes a grave and ex-facie contempt of court and the respondents are liable for the due punishment under the provisions of Contempt of Courts Act, 1971 read with section 17 of Central Administrative Tribunals Act, 1985. Non-compliance of the orders of the Hon'ble Tribunal by the respondents is deliberate, willful and malafide contempt of them, attracting passing of strictures against them for causing enormous financial loss and mental agony which situation needs to be taken cognizance of.

Contd.....

x G. Nageswar Rao

Therefore, it is respectfully prayed that the Hon'ble Tribunal may be pleased to take cognizance of offence committed by the Respondents 1.The General Manager, S.C.Railway, (Rep. Union of India), Rail Nilayam, Secunderabad, 2.The Divisional Railway Manager, S.C.Railway, Guntakal, and 3. The Sr. Divisional Personnel Officer, S.C.Railway, Guntakal, and direct them to appear before this Hon'ble Tribunal with the letter having complied with the orders of the Hon'ble Tribunal dated 25.3.1999 in O.A. No.1430/97 with a speaking order and with cogent reasons, and be pleased to pass such other and further order or orders as the Hon'ble Tribunal may deem fit and proper in the circumstances of the case.

K. Nageswar Rao

Sworn and signed on this
22nd day of August, 1999.

D E P O N E N T

BEFORE ME
Krishna Mohan
ADVOCATE

Contd.....

The Applicant was appointed on compassionate grounds as Porter by Order No. G/P.564/CG/1977 d/23.9.78 (nnexure A-II Page 12 to the O.A.). The applicant thereafter progressed as Assistant Guard. The impugned Order No. G/P.214/I/Guards dated 9.10.1997 was issued after a lapse of about 19 years ~~xxxxxxxx~~ proposing to terminate his services as his father was re-screened and found suitable for absorbtion and posted as Clerk in Sr.DEN/C/GTL on 12.12.1988. The Respondents' Organisation issued the proposed termination order asking the applicant to file his representation as his compassionate ground employment was nullified because of the appointment of his father who was earlier discharged from service due to which the applicant was appointed on compassionate grounds.

This O.A. is filed to set aside the impugned order dated 9.10.1997 of the Respondent No.3 deciding to terminate the services of the applicant and calling for representation in this regard and to declare the same as arbitrary, illegal, unwarranted and for a consequential direction to the respondents to continue the applicant as Assistant Guard in the present post with all consequential benefits.

A show cause notice was issued on 9.10.1997 directing the applicant to file his representation, if any, against the proposed termination of his service. The applicant has not filed any representation to the

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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, HYDERABAD BENCH

AT HYDERABAD.

..

O.A.No.1430/97.

Date of decision: March 25,1999.

Between:

D.Nageswara Rao. .. Applicant.

And

1. The General Manager SCR, represented by Union of India, Rail Nilayam, Secunderabad.

2. The Divisional Railway Manager, SCR, Guntakal.

3. The Sr.Divisional Personnel Officer, SCR, Guntakal. .. Respondents.

Counsel for the Applicant: Sri S.Ramakrishna Rao.

Counsel for the Respondents: Sri D.Francis Paul.

CORAM:

Hon'ble Sri R.Rangarajan, Member(A)

Hon'ble Sri B.S. Jai Parameshwar, Member(J)

JUDGMENT.

(by Hon'ble Sri R. Rangarajan, Member(A))

Heard Sri S.Ramakrishna Rao, learned counsel for the Applicant. Sri Sreenivas for Sri D.Francis, learned counsel for the Respondents.

ground appointee
/is a point for consideration. Normally, if any discharged employee has been re-engaged and the compassionate ground appointment was also made only a few years earlier to his re-engagement, then probably it may be appropriate to issue the orders proposing to terminate that compassionate ground appointment. But in this case the applicant was appointed in the year, 1978 i.e., more than two decades ago. His father was re-engaged in the year, 1988 and the show cause notice was issued in the years, 1997. Hence, it looks that the issuance of the impugned order dated 9.7.1997 may not be a proper order. But we do not want to finally dispose of the matter at this stage and we leave the matter for the respondents to decide it in accordance with law following the principles of natural justice.

The applicant should submit his representation if he has already not submitted one within a period of 15 days from the date of receipt of a copy of this Order. If he had already submitted his representation to the respondents, a copy of the same should be sent to the respondents ~~from the~~ within the above stipulated period of 15 days. The respondents shall take an appropriate decision in this connection as indicated above within a period of three months from the date of receipt of a copy of this Judgment.

respondents in this connection. Hence, passing an order by this Tribunal, in our opinion is not proper as the applicant should normally follow the channels/ remedies available to him for redressal of his grievances.

An interim order was passed in this case, on 28-10-1997 suspending the impugned notice dated 9.10.1997 until further orders. It is also noted in the interim order that the suspension order ~~will~~ would not stand in the way of the applicant to file his representation, if any, to the respondents in regard to the proposed termination of his services. It is brought to our notice, that no representation was ~~filed~~ addressed to the respondents. Hence, we do not like to step into the jurisdiction of the respondents in disposing of the case without giving an opportunity to the respondents' organisation to decide the case of the applicant in accordance with law.

There appears to be a ground for resisting the impugned order dated 9.10.1997. The applicant submits that he was independently working as Casual Labour under PW 1/DS/GTL with effect from 23.1.1978 even before the accident to his father. The father of the applicant was discharged from service and because of that discharge, the applicant was appointed as porter on compassionate grounds. Later his father was re-screened and appointed due to the Court Order. Whether that re-appointment of the father of the applicant will stand in the way of the applicant to continue him as a compassiona

The interim orders passed in this O.A., on 28.10.1997 shall continue to be in force one month after the communication of the final decision of the respondents to the applicant.

The O.A., is disposed of with the above directions. No costs.

प्र मा णि त प्रति
CERTIFIED TRUE COPY
क्रम संख्या
CASE NUMBER O.A.1430/97
25.3.99
5.4.99
Court Officer
Administrative Tribunal
HYDERABAD BENCH.

sss.

Rej - II

Guntakal,
Date: 17-4-99.

From

D. Nageswara Rao,
Assistant Guard,
GUNTAKAL.

To

The Sr. Divisional Personnel Officer,
South Central Railway,
GUNTAKAL.

(THROUGH PROPER CHANNEL)

Sir,

Sub:- Notice for Termination of service.

Ref:- 1) Sr.DPO/GTL Lr.No.G/P.214/1/Guards, dt.9-10-97.

2) Interim orders of CAT/HYB, dt.28-10-97 in O.A.No.1430/97.

3) Decision of CAT/HYB, dt.25-3-99 in O.A.No.1430/97.

The Hon'ble CAT/HYB had in their decision referred to under item (iii) of the reference cited above have observed vide pages 2 to 4 as under:-

This O.A. is filed to set aside the impugned order dated 9-10-1997 of the Respondent No.3 deciding to terminate the services of the applicant and calling for representation in this regard and to declare the same as arbitrary, illegal, unwarranted and for a consequential direction to the respondents to continue the applicant as Assistant Guard in the present post with all consequential benefits.

A show cause notice was issued on 9-10-1997 directing the applicant to file his representation, if any, against the proposed termination of his service. The applicant has not filed any representation to the respondents in this connection. Hence, passing an order by this Tribunal, in our opinion is not proper as the applicant should normally follow the channels/remedies available to him for redressal of his grievances.

An interim order was passed in this O.A., on 28-10-1997 suspending the impugned notice dated 9-10-1997 until further orders. It is also noted in the interim order that the suspension order would not stand in the way of the applicant

(Contd.,2)

to file his representation, if any, to the respondents in regard to the proposed termination of his services. It is brought to our notice, that no representation was addressed to the respondents. Hence, we do not like to step into the jurisdiction of the respondents in dispusing of the case without giving an opportunity to the respondents' organisation to decide the case of the applicant in accordance with law.

There appears to be a ground for resisting the impug ned order dated 9-10-1997. The applicant submits that he was independently working as Casual Labour under PW.1/BG/GTL with effect from 23-1-1978 even before the accidents to his father. The father of the applicant was discharged from service and because of that discharge, the applicant was appointed as porter on compassionate grounds. Later his father was re-screened and appointed due to the Court order. Whether that re-appointment of the father of the applicant will stand in the way of the applicant to continue him as a compassionate ground appointee is a point for consideration. Normally, if any discharged employee has been re-engaged and the compassionate ground appointment was also made only a few years earlier to his re-engagement, then probably it may be appropriate to issue the orders proposing to terminate that compassionate ground appointment. But in this case the applicant was appointed in the year, 1978 i.e., more than two decades ago. His father was re-engaged in the year, 1988 and the show cause notice was issued in the years, 1997. Hence, it looks that the issuance of the impugned order dated 9-7-1997 may not be a proper order. But we do not want to finally dispose of the matter at this stage and we leave the matter for the respondents to decide it in accordance with law following the principles of natural justice.

The applicant should submit his representation, if he has already not submitted one within a period of 15 days from the receipt of a copy of this order. If he had already submitted his representation to the respondents, a copy of the same should be sent to the respondents within the above stipulated period of 15 days. The respondents shall take an appropriate decision in this connection as indicated above within a period of three months from the date of receipt of a copy of this Judgement.

(Contd., 3)

I am afraid that the fact of my case had not been correctly brought to the notice of the Hon'ble CAT/HYB.

In fact, in response to the notice of termination of service No.G/P.214/I/Guards dt.9-10-97 issued by the Sr.DPO/ I have promptly submitted my representation dt.17-10-97 through proper channel.

It would not, therefore, be correct to say that I have failed to submit my representation to the notice of termination.

As directed by the Hon'ble CAT/HYB, a copy of my representation dt.17-10-97 in reply to Notice of termination is submitted herewith.

Before finalising my case, I would like to invite your kind attention to the fact that the question of termination of my service was proposed earlier and the same was withdrawn by the competent authority, the Guntakal Divisional Railway Administration had committed as under in their reply statement (counter) in case C.C.No.4/88 of 1983, dt.21-7-88.

> "The respondent regrets very much on behalf of his predecessor for the inadvertent wrong step taken by him in advising the petitioner in this office letter No.G/P.Con/Vol.VII of 29-2-88 (copy enclosed) that his case for absorption in an alternative job can be considered only on receipt of the declaration from the petitioner and his son that the services of his son who was appointed on compassionate grounds are terminable at this juncture. The competent authority has reviewed the above action and directed the respondent to advise the potitio ner to treat the contents of this office letter of even No. dated 29-2-88 as "Cancelled" and that the name of the Petitioner will be continued to be kept in the waiting list till 31-12-88 as a special case so as to make every effort to provide the petitioner alternative job, recommended by the screening committee before that date, even though no provision exists under Rules to continue the name of a medically decategorised employees in the waiting list for absorption in alternative job for more than six months leave on loss of pay granted to him, subject to absorption in an alternative post. Accordingly, the petitioner was advised vide this office letter No.gG/P.11/Con/ Vol.VII of 25-4-88".

In view of the above commitment to the Hon'ble CAT/HYB in C.C.~~x~~ No.4/88 of 1980, dt.21-7-88, which was not brought to the notice of the Hon'ble CAT by my Counsel, I request that my case may please be dispassionately dealt with and the proposed notice of termination of service issued against me withdrawn.

Thanking you,

Yours faithfully,

D. Nageswara Rao

(D. NAGESWARA RAO)

Encl: Representation dt.17-10-97.

Copy to: Shri S. Ramakrishna Rao.
Counsel for Applicant.

-:oOo:-

Reg! - contempt petition

:6:

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL: HYDERABAD BENCH:
AT HYDERABAD

CONTEMPT APPLN.NO: OF 1999
IN
O.A. NO: 1430 OF 1997

D. Nageswara Rao... APPLICANT

A N D

The G.M. SCR, Secunderabad and 2 others... RESPONDENTS/ CONTEMNORS

Central Administrative Tribunal
केन्द्रीय प्रशासनिक अधिकरण
प्राप्ति
24 AUG 1999
3428
हैदराबाद न्यायपीठ
Hyderabad Bench

CONTEMPT APPLICATION FILED UNDER SECTION 17 OF AT ACT 1985

Recd copy
SC
24/8/99

FILED ON: 22.8.1999

FILED BY:

SANKA RAMA KRISHNA RAO,
ADVOCATE,
1-8-549/C, IIND FLOOR,
CHIKKADAPALLY,
HYDERABAD-500 048.

COUNSEL FOR THE APPLICANT

May be filed
1/9/99

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL HYDERABAD BENCH.HYDERABAD.

CP.NO.97/99OA.NO.1430/1997

Between Date.24-9-99

D.Nageswara Rao ..Applicant

And

1. The General Manager,SC Rly
   Railnilayam.Sec'bad.
2. The Divisional Rly Manager
   SC Rly Guntakal.
3. The Sr.Divisional Personnel Officer
   SC Rly,Guntakal. ..Respondents

Counsel for the Applicant ..S.Ramakrishnarao
Counsel for the Respondents ..DF.Paul,Addl.CGSC

CORAM.
THE HON'BLE MR.R. RANGARAJAN.MEMBER (ADMN)
THE HON'BLE MR.B.S.JAI PARAMESHWAR.MEMBER(JUDL)

*****

THE TRIBUNAL MADE THE FOLLOWING ORDERS.

Mr.S.Ramakrishna Rao, for the applicant and Mr.DF.Paul, for the respondents.

When the CP was taken up for hearing the learned counsel for the applicant submitted that reply has been received and hence he is not pressing the CP.

In view of the above, CP is closed as not pressed.

Section Officer.

COPY TO :-

1. HDHNJ
2. HRRN M (A)
3. HSSJP M (J)
4. D.R.(A)
5. SPARE
6. ADVOCATE
7. STANDING COUNSEL

IST AND IIND COURT

TYPED BY CHECKED BY
COMPARED BY APPROVED BY 11/10/99

THE CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH : HYDERABAD.

THE HON'BLE MR.JUSTICE D.H.NASIR
VICE - CHAIRMAN

THE HON'BLE MR.R.RANGARAJAN
MEMBER (ADMN.)

THE HON'BLE MR.B.S.JAI PARAMESWAR
MEMBER (JUDL.)

* * *

DATE OF ORDER: 24/9/99

~~MA/RA~~/CP.NO. 97/99

IN

OA. No. 1430/97

ADMITTED AND INTERIM DIRECTIONS ISSUED

ALLOWED (6 copies)

CP CLOSED

RA CLOSED

DISPOSED OF WITH DIRECTIONS

DISMISSED

DISMISSED AS WITHDRAWN

ORDERED / REJECTED

NO ORDER AS TO COSTS

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL HYDERABAD BENCH

O.A. 1430/97

Between

Date: 24-9-99

1. Nageswara Rao

..Applicant

and

1. The General Manager, S.C. Rly
   Rail Nilayam, Sec'bad.
2. The Divisional Rly Manager
   S.C. Rly, Guntakal.
3. The Divisional Personnel Officer
   S.C. Rly, Guntakal.

..Respondents

Counsel for the applicant ..Mr. Venkateswara Rao
Counsel for the respondents ..Mr. Paul, Addl. CGSC

[illegible]

[illegible]

Mr. B. Venkateswara Rao, for the applicant and Mr. T. Paul, for the respondents.

When the OA was taken up for hearing the learned counsel for the applicant submitted that reply has been received and hence he is not pressing the OA.

In view of the above, OA is closed as not pressed.

Sd/-xxxx
Section Officer.

केस संख्या CP 97/99
CASE NUMBER OA 1430/97
निर्णय का तारीख
Date of Judgement 24/9/99
प्रति तैयार करने का दिनांक
Copy Made Ready on 4/10/99

Section अधिकारी/न्यायिक उप रजिस्ट्रार (न्यायिक)

[illegible]

C.A.No.1437/1997 ... 1433/1997

Between

Date.20-3-[illegible]

...Applicant No ... Applicant

and

1. The General Manager, [illegible] ly [illegible], [illegible].
2. The Divisional [illegible] ly [illegible] ly [illegible].
3. The Divisional Personnel Officer [illegible] ly, Guntakal. ... Respondents

Counsel for the applicant ... Mr. [illegible]
Counsel for the respondents ... Mr. [illegible]

[illegible]

Mr. B. Ramakrishna [illegible], for the applicant and Mr. [illegible], for the respondents.

Then the [illegible] for [illegible] the learned counsel for the applicant submitted that really has been resolved [illegible] in the [illegible].

In view of the above, it is closed as not [illegible].

Sd/-xxxx
Deputy Registrar.

केस संख्या CP 97/98
CASE NUMBER OA 1437/97
[illegible] 24/9/98
Copy Made Ready on 4/11/98
अनुभाग अधिकारी(न्यायिक)/उप रजिस्ट्रार(न्यायिक)
Section Officer (J)/Dy. Registrar (J)

[illegible] 17/[illegible] [illegible] 1633/1997

Date [illegible]

Between

[illegible] ..Applicant

and

1. The [illegible] Manager, [illegible] ly [illegible]
2. The Divisional [illegible] ly [illegible]
3. The [illegible] Divisional Personnel Officer [illegible] ly, Guntakal. ..Respondents

Counsel for the applicant ..Sri [illegible]
Counsel for the respondents .. [illegible]

[illegible]

Sri S. Ramakrishna Rao, for the applicant and Sri [illegible], for the respondents.

When the [illegible] was taken up for hearing, the learned counsel for the applicant submitted that reply has to be received and hence he is not ready for hearing the [illegible].

In view of the same, [illegible] is adjourned to [illegible].

sd/-xxxx
Adjudication Officer.

केस संख्या CA 847/98
CASE NUMBER CA 1633/97
[illegible] 20/9/98
[illegible] 4/11/98
[illegible]
[illegible] (J. Dy. Registrar)

IN THE COURT OF THE Central Administrative Tribunal

AT Hyderabad

CP No. of 1999 in OA/1430/97

BETWEEN :-

D. Nageswara Rao — PLAINTIFF / PETITIONER / APPELLANT / COMPLAINANT

AND

G.M. SCRly Secunderabad and others — DEPENDANT / RESPONDENT / ACCUSED

Accepted

VAKALAT

Accepted K. Parvati

Central Administrative Tribunal ACCEPTED RECEIVED 24 AUG 1999 Hyderabad Bench

Advocate for : Applicant

Filed on : 24-8-1999

Address for Service

SANKA RAMAKRISHNA RAO
K. PARVATI

ADVOCATE/S
1-8-549/C, IInd FLOOR, CHIKKADPALLY,
HYDERABAD - 500 020.
Phone : 7638883

(20)

IN THE COURT OF THE CENTRAL ADMINISTRATIVE TRIBUNAL: HYDERABAD BENCH

AT HYDERABAD.

CP No. 97 of 1999 in OA/1430/97

BETWEEN :-

D. Nageswara Rao — PLAINTIFF / PETITIONER / APPELLANT / COMPLAINANT

AND

GM, SC Rly, Rail Nilayam, Secunderabad and others — DEPENDANT / RESPONDENT / ACCUSED

I/~~We~~ D. Nageswara Rao

do hereby appoint and retain

SANKA RAMAKRISHNA RAO
K. PARVATI

ADVOCATE/S

Advocate/s to appear for me/us in the above suit/case and to conduct and Prosecute (or defend) the same and all Proceedings that may be taken in respect of any application for execution of any decree or order Passed therein. I/We empower my/our, Advocates to appear in all miscellaneous proceedings in the above suit or matter till all decrees or orders are fully satisfied or adjusted to compromise and to obtain the return of documents and draw any moneys that might be payable to me/us in the said suit or of matter (and I/We do further empower my/our Advocate/s to accept on my/our behalf, service of notice of all or any appeals or petitions filed in any court of Appeal, reference of Revision with regard to said suit or matter before disposal of the same in this Honourable Court.)

D. Nageswara Rao

Cerified that the executant who is well acquanted with English Read this Vakalatnama as the contents of the Vakalatnama were read out and explained in Telugu/Urdu to executant he/she/they being unacquaintant with English/who appeared Perfectly to understand the same and signed or put his/her/their signature/s or/and marks in my Presence.

Executed on this day of 199

Advocate
HYDERABAD.