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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL: HYDERABAD BENCH:

HYDERABAD

O.A.No.535 of 1999.

DATE OF ORDER:23-3-2000.

BETWEEN:

T.S.Prasad.

...Applicant

a n d

1. The Sr.Superintendent,
R.M.S., Hyderabad Sorting Division,
Hyderabad-27.
2. The Chief Postmaster General,
AP Circle, Hyderabad.
3. The Chairman, P & T Board, New Delhi.

....Respondents

COUNSEL FOR THE APPLICANT :: Mr.N.R.Devaraj

COUNSEL FOR THE RESPONDENTS :: Mr.B.Narsimha Sharma

CORAM:

THE HON'BLE SRI R.RANGARAJAN, MEMBER (ADMN.)

THE HON'BLE SRI B.S.JAI PARAMESHWAR, MEMBER (JUDL.)

: O R D E R :

(PER HON'BLE SRI R.RANGARAJAN, MEMBER (A))

Heard Mr.W.Satyanarayana for Mr.N.R.Devaraj, learned
Counsel for the Applicant and Mr.M.C.Jacob for Mr.B.Narsimha-
Sharma, learned Standing Counsel for the Respondents.



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2. The applicant was appointed as a Time Scale Sorting Assistant on 30-12-1980. It is stated that he passed his confirmation examination held on 9-5-1982 as per the Order No.B/Conf/Exam/May,82, dated 3-7-1982 and Circle Office letter No.R&E/26-4/May/82/11, dated 24-6-1982. There was an agitation in the form of work to rule with effect from 31-1-1983 and sit-in-strike on 4-2-1983.

3. The Central Headquarters of the Union to which he is serving as an Assistant Branch Secretary, gave a call for observation of non-cooperation with the Government from 15-1-1983 as a solidarity action with RMS employees of Bihar. ^{The} Respondent No.1 informed the applicant and the other office bearers on 17-1-1983 that their services would be terminated if they do not report for duty on 18-1-1983. The applicant submits that he had obeyed the orders and reported for duty on 18-1-1983. In spite of that he was issued ~~by~~ Order No.B1/Misc/82-83, dated 18-1-1983, terminating his services under Sub-Rule (1) of Rule.5 of the CCS (Temporary Services) Rules, 1965. The applicant submitted an appeal on 2-2-1983 against the order of termination to the Respondent No.3. But the DG, P&T, vide his Order No.7/12/83-Vig.III, dated 13-4-1983, confirmed the order of termination, which was communicated to the applicant, vide Letter No.ST/14-1/83, dated 29-4-1983 of Respondent No.2. Thereafter, the applicant also submitted a Review Petition dated 14-11-1984 to the Respondent No.3 requesting him to reinstate him. The Respondent No.3 by ^{ordered} his order No.7/4/85-Vig.III, dated 26-4-1985/appointing the applicant as a fresh entrant and after more than one year three months Proceedings No.ST/14-1/83, dated 28-7-1986 and B1/PF/

180(KW), dated 29-7-1986 respectively, were issued re-appointing the applicant as a fresh recruit as Time Scale Sorting Assistant. The period from 18-1-1983 to 29-7-1986 when he joined service was not regularised as duty contends the applicant. He submitted a representation and that representation was disposed of by Order No.ST/16-2/89, dated 1-10-1997 of Respondent No.2 communicated through Order No.B1/PF/180/KW, dated 3-10-1997, (Annexure.II, page 1 to the OA), informing the applicant that the question of treating the intervening period as duty does not arise.


4. This OA is filed to call for the impugned Orders issued in Memo No.B1/PF/180(KW), dated 29-7-1986 issued by the Respondent No.1, No.ST/16-2/89, dated 1-10-1997 of Respondent No.2 communicated through Order No.B1/PF/180/KW, dated 3-10-1997 of Respondent No.1, and declare the orders as unjust, arbitrary^{and} illegal, and for a consequential direction to the respondents to treat the period from 18-1-1983 to 29-7-1986 i.e., from the date of termination till the date of reinstatement as service for all purposes and to treat the service rendered by the applicant prior to his termination on 18-1-1983 in continuation with the present service.

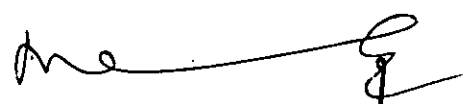
5. In Railways earlier, a ^{removed} ~~terminated~~ employee when reinstated as a fresh entrant, this Tribunal took the view that reinstating as a fresh entrant is not in order and it should be treated as a reduction in punishment and that the intervening period from the date of removal till reinstatement ^{as a} ~~by the~~ fresh entrant should be treated as dies-non.

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6. In the present case, it has not arisen due to the disciplinary proceedings. The termination order under Sub-Rule (1) of Rule (5) is a sort of punishment to the applicant for disobeying the orders of the authority. As the applicant was a temporary servant, ^{hence} the said Rule i.e., Rule 5(1) of CCS (Temporary Services) Rules, was invoked and the services of the applicant were terminated with effect from 18-1-1983. However, Respondent No.3 on humanitarian grounds had reinstated the applicant as a fresh entrant. The above facts of this case are exactly same as in the earlier cases of ^{the} Railways. Hence, we are of the opinion that the applicant having been taken as a fresh entrant on humanitarian grounds, the same should be treated as a reduction in ^{severity} ~~punishment~~ of the earlier orders and on that basis the period of absence should be decided. As in the earlier cases, the period of absence was decided as dies-non, we are of the opinion that the same will hold good in this case also and the period of absence of the applicant from 18-1-1983 to 29-7-1986 should be treated as dies-non. The services of the applicant earlier to 18-1-1983 should be counted for the qualifying service at the appropriate time and the period of dies-non will not be counted for the qualifying service.

7. With the above direction, the OA is disposed of. No costs.


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


(R. RANGARAJAN)
MEMBER (ADMN.)

DATED: this the 23rd day of March, 2000

Dictated in the Open Court

DSN

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, HYDERABAD BENCH.
HYDERABAD.

1ST AND 2ND COURT

TYPED BY
COMPILED BY

CHECKED BY
APPROVED BY

COPY TO

1. HDHND

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

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

3. HBSJP. M. (JUDL)

4. D.R. (ADMN)

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

5. SPARE

6. ADVOCATE

7. STANDING COUNSEL

DATE OF ORDER

23/3/00

MA/RA/CP. NO

IN

C.A. NO.

535/00

ADMITTED AND INTERIM DIRECTIONS
ISSUED

ALLOWED

C.P. CLOSED

R.A. CLOSED

DISPOSED OF WITH DIRECTIONS

DISMISSED

DISMISSED AS WITHDRAWN

ORDER/REJECTED

NO ORDER AS TO COSTS

(7 copies)

