

(80)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH

AT HYDERABAD

O.A. 673/99.

Dt. of Decision : 01-06-99.

G.Venkata Rao

..Applicant.

Vs

1. The Sr.Divl.Personnel Officer,
SC Rly, Vijayawada,
Krishna Dist., A.P.

2. The Divl.Rly.Manager,
SC Rly, Vijayawada,
Krishna Dist., A.P.

..Respondents.

Counsel for the applicant : Mr.P.Venkateswarlu

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.)

R✓

..2/-

ORDER

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

None for the applicant. Heard Mr.D.F.Paul, learned counsel for the respondents.

2. The applicant in this OA states that he joined as casual labour in South Central Railway, Vijaywada Division before 1959 and he was granted C.P.C. scales of pay and usual allowances w.e.f., 1-4-59 vide memorandum No.B/P.524/V/1, dated 3-9-59. Subsequently, he was appointed as F.F.Lasker/Tends vide office order No.B/P.269/IV/Vol.II/ dated 2-8-1961 in the scale of pay of Rs.70-85/- in the office of the Divisional Superintendent (Personal Branch), Vijayawada. He retired while he was working at Nallapadu CMC/MSM Master Craftsman/ Mechanical Siggal Maintainer in Vijaywada Division on 31-7-96. It was informed to him in August, 1995 stating that he had no leave to his credit. The applicant submits that he is entitled for 8 months leave encashment. So he sent a representation to the authorities to ~~peruse~~ the records and grant him the leave salary. As he could not get any satisfactory ^{reply} he filed OA.962/97 on the file of this Bench. In that OA he prayed for a direction to the respondents to produce the records relating to the service register, leave charts and the original muster rolls to the applicant and further consequential direction to the respondents to pay him the leave encashment amounts for 8 months with interest.

3. That OA was disposed of as follows:-

R-1 should summon the applicant to be present when the leave chart of the applicant is being examined so as to

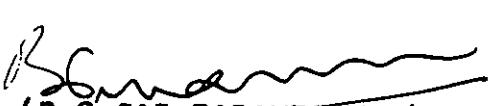
enable the applicant also to submit his case at the time of verification and on that verification if there is any leave to his credit at the time of his retirement, he should be paid encashment of that leave.

4. In response to that direction the respondents heard him and issued the reply vide letter No.B/P.483/V dated 5-12-97 (Annexure-4). It has been stated that the leave chart was verified and the applicant was given opportunity to verify the leave chart personally on 12-09-97. It is stated that the leave chart is an authentic official record. It is further stated that letter No.B/P.524/V/1 dated 3-9-59 produced by him shows that he has been granted temporary status w.e.f., 1-4-59. But that letter does not state that he had been continuously working from 1-4-59 to 3-8-61. The entry in his SR shows that he had been appointed on regular basis on 4-8-61 and his pay has been fixed at Rs.70/- in the scale of pay of Rs.70-85/- which in the opinion of the respondents indicate that he did not earn any increment from 1959 to 1961 and as such the accumulation of leave does not arise. It is also stated that the applicant without any resistance accepted the pay fixed at Rs.70/-. Hence, the leave account has therefore been maintained w.e.f., the day ^{was} i.e., 4-8-1961 on which date he ~~had been~~ appointed on regular basis. Hence his claim for leave for the period 1-4-59 to 3-8-61 was rejected. It is also stated in that letter that his allegations that the unavailed joining time of 10 days on transfer account from Bapatla to Ulavapadu is not correct. It is further added that ~~on~~ the said joining time was credited to his leave account in IIInd half of 1994 thereby the leave in his credit was increased from 83 to 93 days.

5. The applicant has filed this OA praying for setting aside the impugned order No.B/P.483/V, dated 5-12-97 and for a consequential direction to the respondents to consider the service of the applicant from 1-4-59 to 3-8-61 thereby giving leave to his credit for the said period with all consequential benefits.

6. A reading of the affidavit in this OA does not give us any indication as to why the impugned order dated 5-12-97 is resisted by him. In the affidavit there is not ^a murmur in regard to the correctness of that letter. Merely challenging the letter without ~~any~~ reason is notenable. The applicant having accepted his pay at the minimum of the scale of pay in 1960 ^{for} cannot ~~said~~ that he had earned increment before his regular appointment. Only if he ~~had~~ worked for certain period which earned him increment then only that period will also earn ^{to} his credit. ~~But~~ As the applicant does not appear to have earned any increment before his actual ⁱⁿ appointment ^{from} 1961 he cannot demand leave ^{from} earlier period earlier to his regular appointment. It has been clearly stated that he was granted leave to the extent of 93 days including joining time. Thus, we find the respondents have acted in accordance with the rules and on the basis of the records available before them.

7. In view we find no reason to set aside the impugned letter dated 5-12-97 and grant the relief as prayed for in this OA. Hence, the OA is liable only to be dismissed and accordingly it is dismissed. No costs.


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


(R.RANGARAJAN)
MEMBER(ADMN.)

1-6-99 Dated : The 1st June, 1999.
Dictated in the open court.

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Amul
7/6/99

1ST AND 2ND COURT

COPY TO:-

1. H.D.H.N.J
2. H.H.R.P. M.(A)
3. H.B.S.C.R. M.(J)
4. D.R.(A)
5. SPARE

TYPED BY
COMPARED BY

CHECKED 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)

ORDER: 1-6-99

ORDER & JUDGEMENT

MA./RA./CP No.

in
OA. No. OA 673199

~~ADMITTED AND INTERIM DIRECTIONS
ISSUED.~~

~~ALLOWED.~~

~~C.P. CLOSED.~~

~~R.A. CLOSED.~~

~~O.A. CLOSED.~~

~~DISPOSED OF WITH DIRECTIONS.~~

~~DISMISSED~~

~~DISMISSED AS WITHDRAWN.~~

~~ORDERED / REJECTED.~~

~~NO ORDER AS TO COSTS.~~

SRR

Central Administrative Tribunal
HYDERABAD BENCH

14 JUN 1999

Hyderabad Hyderabad
HYDERABAD BENCH