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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH

O.A. 226/99

Date: 09 APR 99

Between:

D. Rama Rao .. Applicant

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1. Dy. Regional Director,
National Savings (GOI)
Kurnool.
2. Regional Director,
National Savings (GOI)
Hyderabad.
3. Sri C. Niranjan,
Dy. Regional Director,
National Savings (GOI)
Kurnool .. Respondents.

Counsel for the applicant : Mr. N. R. Devraj

Counsel for the respondents : Mr. V. Vinodkumar

Coram:

Hon'ble Shri Justice D. H. Nasir, Vice-Chairman

Hon'ble Shri H. Rajendra Prasad, Member (A) *Q*
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J U D G E M E N T
(Per Hon'ble Shri H. Rajendra Prasad, Member (A))

Heard Mr. N.R. Devraj for the Applicant
and Mr. V. Vinod Kumar for the Respondents.

2. This case should never have come before this Tribunal. There is very little in this case which calls for judicial interpretation of any service- or other law. The actions, grievances and complaints figuring in this dispute lie more properly in the area of routine administrative management than in the sphere of adjudication by a Tribunal. The case has more to do with an individual's ruffled feathers, overconsciousness regarding pay-scales in relation to real or fanciful status, insensitivity to hurt feelings, hasty actions and adamant attitudes - none of which can conceivably be regarded as legal questions in need of settlement through adjudication, but which can well be settled by responsible and rational behaviour of the one and judicious management by the other party to the dispute.

3. The facts, such as they are, need nevertheless to be stated.

The Applicant's grievance is that his name should be entered in the office attendance register above those of the Lower Division Clerks since he is in a higher pay-scale than those officials. The Respondents say that the name of the Applicant (a Driver-cum-Operator in Technical Group C) can figure only below the Lower Division Clerks, as per an old practice everywhere. The contention arose because, according to the Applicant, on a certain day he attempted to occupy a chair across the table where his immediate superior happened to be seated.

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The Respondent states that while the Applicant can sit next to his superior while at the wheel of a vehicle, he cannot presume to do it inside the office chamber. "It is purely the nature of the duties," it is explained, "and the need of such duties one such sits before/besides the officer but not merely the grade ..." And so it goes on. From this non-issue and trivial incident arise a host of recriminations and allegations. Links are traced to it nearly eight years later and hostilities are sought to be established until a messy internal situation appears to have been reached by now in a relatively small office manned only by a handful of officials. Not a happy state by any means in a Government organisation - but not, nevertheless, something which needs to be looked into by this Tribunal, for, as has been recorded already, no legal issues are involved here.

4. An only aspect of the case which merits our attention is one relating to non-payment of salary to the Applicant for his alleged unauthorised absence from duty, and non-acceptance of the medical certificates and leave application submitted by the Applicant on 4th January, 1999, besides the proposed recoveries from his pay. We shall presently deal with these issues, before which, however, the question of the Applicant's place in the office attendance register needs settlement.

5. The Applicant's claim that his name should figure above those of the LDCs of the office appears to be a newly-developed grievance arising from a particular incident. It is stated

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that entering on the name of Driver-cum-Operator, being one of the Technical staff, below the Administrative staff has been an old practice ~~hence~~ elsewhere in the Departmental offices, as also in this particular office. If it is so, there is no reason why it should be changed merely because someone develops a sudden conscientious objection to this long-established arrangement. We see no justification for any departure from the existing arrangement. The Applicant's pleas and arguments in this regard are unacceptable since we believe that, stated simply, a person's status and place in an organisation do not after all depend on his place in the attendance register.

6. It is alleged by the Respondents that the Applicant has been unauthorisedly absent in different spells. It is particularly pointed out that he was away from office on several days when he was pleading his own cases before this Tribunal and no permission of absence or leave was either applied for or granted, nor was any exemption from attendance given to him in respect of those days. On the other hand, the Applicant claims that he has been performing his duties regularly by attending to such tasks as were entrusted to him even if he was not signing the attendance register. These are matters of fact which have to be verified and determined by the Administrative authorities in the Respondent organisation, and not by this Tribunal. As to whether or not the failure to sign the attendance register amounts to insubordination or a conduct unbecoming of a government servant is also a question on which a view is required to be taken by the authorities. This is not of immediate concern to this Tribunal.

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7. Turning to the question of non-payment of salary to a Government servant and recoveries therefrom, these are measures of penal nature which can only be enforced by following certain prescribed procedures after affording adequate opportunity to the official concerned. Action of a punitive nature, or one which affects his normal monetary entitlements, cannot be initiated or enforced abruptly or in isolation. In this case, the Respondents are seen to have been disbursing the pay of the Applicant periodically including for the periods during which he is alleged to have been unauthorisedly absent from duty. The allegation and this action of the Respondents are mutually contradictory and ununderstandable despite the explanation that is sought to be offered in the counter affidavit.

8. As regards the Medical Certificates of sickness/fitness, which too figure in this case, there are well-defined rules and instructions governing the timely as well as delayed submission of these documents. Procedures are prescribed laying down the course of action or options which would be available to the authority competent to sanction leave in cases where he has reservations or reasons for dissatisfaction with a medical certificate of sickness submitted by an official. Merely returning the medical certificates to an official is ~~an~~ certainly not one of the options, or approved courses of action, in such situations. Without resort to such steps, it has to be held that the rejection and return of the Medical certificates by Respondent-3 (Annexure-X) was incorrect and impermissible.

9. In view of the discussion contained in the preceding paragraphs, it is considered expedient in the interests of justice to issue the following directions :

A. The Applicant shall:

- (a) report immediately and submit a proper charge-report;
- (b) start signing forthwith the attendance register without asking for any change; in the existing order of names in it - it will not be necessary to assign a separate page in the Register for the Applicant and the practice which was in vogue earlier will continue unaltered;
- (c) apply for leave for such days and dates on which he was present in the court in pursuit of the cases filed by him before this Tribunal;
- (d) carry out and implicitly obey all reasonable orders/instructions issued by his immediate superiors in the matter of discharge of his official duties; and
- (e) not indulge in any action hereafter which is capable of being regarded as amounting to insubordination or indiscipline; - he would be well-advised to overcome his seemingly unquenchable urge to litigate constantly, and to behave as a responsible government servant and a member of the team.

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B. The Respondents on their part shall :

- (a) admit the Applicant back to duty on his reporting to work;
- (b) assign such regular and productive duties to the Applicant that would keep him fruitfully occupied throughout the duty hours on all working days and otherwise utilise his experience and skills in a positively productive and useful manner;
- (c) grant such leave to the Applicant for which he is eligible, for (i) the days on which he was away from duty and present in this Tribunal (ii) the period(s) covered by the Medical certificate(s) if such certificate(s) are otherwise in order, and (iii) any leave, if duly applied for by him already, for any period(s) other than (i) and (iii) above; thereafter
- (d) release the withheld salary for the spells mentioned in (c) above, and for the remaining disputed periods which shall have to be treated as one spent on duty;
- (e) not order or enforce any recoveries from the pay and allowances of the Applicant's for any period(s) mentioned in (c) & (d) above.

10. The time for the compliance of the above directions is within -

Para 9.A.(a) : two days, ~~Expt~~
 (c) : seven days, and
 B.(c) : fifteen days
 (d) : one month

of the receipt of a copy of this order

by the concerned party. In order to forestall any more derelictions, no extensions can be granted for compliance of these orders by either party and none shall be asked for.

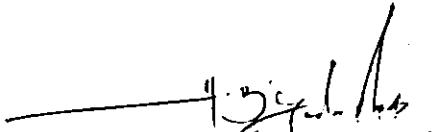
11. Before we part with the case, we feel compelled to draw the attention of the Commissioner, National Savings Organisation, Government of India, to the present inadequate and unsatisfactory utilisation of the Applicant's services which appears to be due to the fact that the transport(vehicle), which it is a part of his duty to drive, is reportedly off-road for several years. We understand that a similar situation prevails in many other offices elsewhere. It needs to be explored, therefore, how soon the off-road vehicles can be got repaired and put back on road, or if they are beyond all economical repair, to procure replacements for them. If neither of these courses is feasible of implementation in foreseeable future it needs to be examined if the services of the Driver-cum-Operators can be better utilised, than at present, requiring them to carry out their duties by resorting to public transport. If none of these steps is possible of implementation due to any administrative reasons, it needs atleast to be examined if these officials can be properly assigned a set of alternate tasks and duties which might keep them engaged fruitfully and productively. The present Applicant has produced for our perusal stray papers purporting to show that he had been indeed performing certain official tasks during the period of his alleged unauthorised absence. These relate to an occasional typing or odd despatch work which would require little time to perform. This is a

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gross under-utilisation of staff and a needless drain on public exchequer. In any view of the matter, the problem needs urgent attention and a feasible solution does not brook delay.

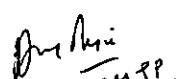
12. A copy of this order shall be sent to Mr.T.S.Murthy
National Savings Commissioner, National
Savings Organisation, CGO Complex, Block 'A', 4th Floor
Nagpur - 440 006
for such action as he may deem fit to initiate.

13. The OA is disposed of in terms of the
above order. No costs.


(H. RAJENDRA PRASAD)
Member (A)


(D.H. NASIR)
Vice-Chairman

MD


D.H. Nasir
Vice-Chairman