

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL: HYDERABAD BENCH
AT HYDERABAD

OA. 365/99

dated : 31-3-2000

Between

P. Pratap Reddy

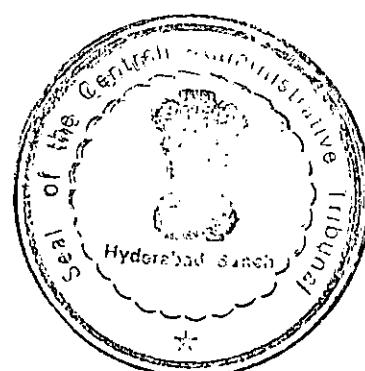
: Applicant

and

1. Union of India, rep. by
its Secretary
Min. of Railways
Railbhawan, New Delhi

2. General Manager
SC Rly., Rail Nilayam
Secunderabad

3. Divnl. Rly. Manager
SC Rly., Guntakal
Anantapur Dist.



: Respondents

Counsel for the applicant

: J. Ravishankar
Advocate

Counsel for the respondents

: J.R. Gopal Rao
SC for Railways

Ceram

Hon. Mr. R. Rangarajan, Member (Admn.)

Hon. Mr. B.S. Jai Parameshwar, Member (Judl.)

[Signature]

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Order

Oral order (per Hon. Mt. R. Rangarajan, Member (Admin.))

Heard Mr. Suraynarayana Sastry for Mr.J. Ravishankar, learned counsel for the applicant and Mr. J.R. Gopal Rao, learned counsel for the respondents. Mr. G. Srinivasa Rao, Senior DPO, Guntakal Division, was present with records.

1. The applicant while he was working as Deputy Station Superintendent, Chigicherla, was suspended from duty with effect from 23.5.1985 to 23.6.1985 for 32 days as he was alleged to be involved in a criminal case. The suspension order was revoked vide message of SR/DOS/GTL/Vide No.G/T.172/Control./Cell/SMS/ASMS dated 24.6.85. The applicant submits that suspension period of 32 days was regularized as leave on average pay and also submits that he was paid the difference of wages through salary for the month of July, 1985. The applicant's pay was fixed in the IV Pay Commission scale of pay with effect from 1.1.1986. The respondents on the basis of the records submit that the applicant was drawing a pay of Rs.600/- as on 1.1.1985. He earned an increment of Rs.20/- and hence pay was fixed at the stage of Rs.620/- on 1.1.1986 in the scale of Rs.455-700 on 1.1.1987. It was further raised to Rs.640/- due to introduction of V Pay commission scale of Rs.1400-2300 equivalent to Rs.455-700. The pay of the applicant was fixed at Rs.1900/-. That was found to be erroneous and hence a notice was issued by the impugned order No.G/P.524/I/Fixation/Vol.I DATED 18.8.1995 (Annex.1) to revise his pay as shown in that list. That revision has resulted in recovery of Rs.25,000/- from the applicant which was recovered from the final settlement dues.

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2. Aggrieved by the above recovery the applicant has filed this petition praying for a direction to the respondents to release the withheld amount of Rs.25,000 with interest and costs upto date and to allow the pay fixed originally at Rs.2,600/- p.m. as he was drawing at the time of retirement by treating the revision of pay fixation order dated 18.8.1995 as illegal, arbitrary and unconstitutional.

3. An interim order was passed in this OA on 15.3.2000 wherein the respondents were directed to "produce the pay fixation of the applicant initially and the necessity to revision of IV Pay scale".

4. Today the Senior DPO, Guntakal Divison, submitted that the period of suspension was not regularized and the applicant has not given his option to come to the IV Pay scale from the date of his next increment on 1.1.1987. Hence, his pay was fixed with effect from 1.2.1986 taking the suspension period as such thereby showing his date of increment from 1.1.1986 to 1.2.1986.

5. We questioned from the official in regard to the entries made in the Service Register. In the Service Register there is no entry in regard to treatment of suspension period. When a suspension is revoked the disciplinary authority must necessarily indicate as to how that period was regularized and that remark of the Disciplinary authority should have been entered in the Service Register. As the respondents failed to record the necessary details and no details are also available in regard to suspension period, we cannot accept the submission of the respondents that because of suspension his increment which fell on 1.1.1986 was postponed to 1.2.1986. Further the applicant has enclosed a letter dated 24.6.1985 (Annex.11) issued by the DOS, Guntakal that suspension has been revoked as he was not in the picture of Criminal case for which he was taken to the Police Station. The respondents should have checked the veracity of the letter submitted

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now. But no such pleadings are available. Further the letter clearly indicates that he is free of charge and taken back to duty. In that view of the matter showing of the date of increment from 1.1.86 to 1.2.1986 is unwarranted and no recovery is to be made and the same has to be paid back to the applicant.

6. The next contention that the applicant has not given any option to come to the IV Pay scales from 1.1.1987 and hence it was fixed from the earlier date 1.1.1986. The applicant submits that he has submitted his option through Station Superintendent, SC Rly., Kadiri, for which he has enclosed option form dated 1.9.1988 (Annex.6). Annex.6 reveals that it was signed by the Station Superintendent, SC Rly, Kadiri, on 1.9.88. The respondents should have easily checked the veracity of the letter if required by contacting the Station Superintendent who signed ^{and} ~~the same while forwarding~~ and could have examined in regard to the authenticity ^{was taken} of that letter. But any such action ^{done} is not clear. The respondents can now call that official and check from him the veracity of that letter enclosed as Annex.6. If the Station Supdt. Kadiri, who signed that letter ^{is not available} ~~then punishment has~~ ^{Benefit 2} ~~and~~ to be given to the applicant. If he is available, his statement should be recorded witnessed by some other Railway Official and on that basis final decision has to be taken in regard to the submissions of the option form in time. If he has submitted in time on the basis of the above evidence then his pay should be fixed in IV Pay scale from 1.1.1987 ~~as per the pay fixation~~ and on that basis necessity of any recovery has to be examined.

7. In pursuance of the directions ^{above} ⁱⁿ if any recovery is to be made then the ~~paid back to the applicant~~ kept back amount of Rs.25,000/- should be ~~returned~~. But we do not give any direction in regard to interest, as the applicant did not take up his case in 1995.

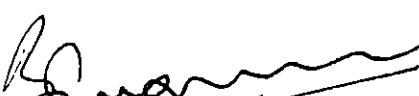
8. The learned counsel for the respondents submits that excess amount has been paid as leave encashment at the time of his retirement to the applicant. That

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must be checked and if any excess is paid, the respondents are at liberty to deduct ^{and recovery} that amount from the amount kept back from the official. But before ordering that ~~the~~ the applicant should be informed so in writing.

9. Time for compliance is three months from the date of receipt of copy of this order.

10. The OA is ordered accordingly. No costs.


 (D.O. Jai Paramashwar)
 Member(Judl)
 313-A


 (R. Rangarajan)
 Member(Admn)

Dated: 31 March, 2000
 dictated in Open Court

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