

**HON'BLE THE CHIEF JUSTICE
SRI THOTTATHIL B. RADHAKRISHNAN
AND
HON'BLE SRI JUSTICE A.RAJASHEKER REDDY**

WRIT PETITION No.11688 OF 2018

ORDER: (ORAL) (Per the Hon'ble the Chief Justice Sri Thottathil B.Radhakrishnan)

This writ petition under Article 226 of the Constitution of India is filed challenging the decision of the Central Administrative Tribunal on an original application and the order passed on a review application thereon. The applicant is the writ petitioner.

2. The writ petitioner/applicant retired from the service of the Railways. He sought a direction from the Tribunal regarding balance leave due payment and consequential reliefs. The Tribunal relied on the reply statement filed by the Railways and concluded that the applicant was not entitled to any relief.

3. Hearing the applicant/writ petitioner-in-person and the learned counsel for the Railways, we see that during the course of this writ petition, a counter affidavit was placed on record by the establishment. It is also submitted by the writ petitioner that he has also placed a rejoinder.

4. While the Tribunal acted on paragraphs 8 and 9 of the reply statement filed by the establishment before the Tribunal, we see that different version comes out through the counter affidavit of the establishment. This clearly indicates that there was the requirement to

re-consider the calculations. The writ petitioner/applicant now disputes the stand taken by the Railways in its counter affidavit placed before this Court, sworn to on 13.11.2018.

5. In the aforesaid factual matrix, we are of the view that this is not an issue to be adjudicated by us under Article 226 of the Constitution though ends of justice may require that the litigation is given a quietus at the earliest on appropriate adjudication by competent authority. This can be best carried out through the jurisdiction of the Tribunal under the Administrative Tribunals Act, 1985.

6. For the aforesaid reasons, the impugned order of the Tribunal on the original application as well as the order on the review application are set aside and this writ petition is allowed, remitting the original application for re-consideration of the Tribunal. The parties are directed to place a copy of the counter affidavit of the respondents as filed before this Court in the proceedings before the Tribunal. It will be open to the writ petitioner/applicant to place further pleadings before the Tribunal. If such pleadings are placed, the establishment will also be at liberty to place further pleadings and materials. We hasten to add that the writ petitioner/applicant is apprehensive of any further delay in final adjudication of the matter. We, therefore, request the Tribunal to sympathetically consider expediting the final disposal of the original application following this order of remit. The parties are directed to mark appearance in the office of the Central

Administrative Tribunal, Hyderabad Bench. The Tribunal is directed to take up the matter on 18.03.2019. No order as to costs.

Miscellaneous Petitions, if any, pending in the writ petition stand closed.

THOTTATHIL B. RADHAKRISHNAN, CJ

A.RAJASHEKER REDDY, J

27th February 2019

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