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CENTRAL ADMINISTRATIVE TRIBUNAL  
PRINCIPAL BENCH, NEW DELHI.

OA-1653/2001

New Delhi this the 3<sup>rd</sup> of April, 2002.

Hon'ble Dr. A. Vedavalli, Member(J)  
Hon'ble Sh. Govindan S. Tampi, Member(A)

Constable Vinod Kumar,  
S/o Sh. Ramesh Chander,  
R/o Vill. & P.O. Pilana,  
Distt.-Meerut, UP. .... Applicant

(through Sh. Sachin Chauhan, Advocate)

Versus

1. Union of India through  
its Secretary,  
Ministry of Home Affairs,  
North Block, New Delhi.
2. Dy. Commissioner of Police,  
Traffic, Tin Murti Lines,  
New Delhi. .... Respondents

(through Mrs. Sumedha Sharma, Advocate)

O R D E R

Hon'ble Dr. A. Vedavalli, Member(J)

Pleadings in this case are complete. At the request of the learned counsel for both the parties this OA is being disposed of at the admission stage itself.

2. The applicant Vinod Kumar a Constable in Delhi Police is aggrieved by the denial of consequential benefits and back wages for the period 30.12.1992 (date as admitted in Para 4.2 of the rejoinder) to 21.10.1999 by the respondents after his reinstatement in service pursuant to this Tribunal's order dated 17.08.1999 in an earlier OA-2168/1994 filed by him (Ann/A-2). He has impugned the said order dated 21.10.1999 (Ann/A-1) passed by the respondents in this regard.

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3. Facts of this case briefly are as under:-

The applicant earlier was dismissed from service for unauthorised absence by an order dated 30.12.1992 passed by the Disciplinary Authority. The said order was upheld by the Appellate Authority by his order dated 13.05.1993. Aggrieved by the said orders the applicant moved this Tribunal earlier in OA-2168/1994 which was disposed of by the Tribunal by its order dated 17.08.1999 (Ann/A-2). The operative portion of the said order is as follows:-

"10. In the facts and circumstances of the case, this O.A. succeeds and is allowed. Respondents are directed to re-instate the applicant within two months from the date of receipt of a copy of this order. Upon re-instatement, applicant shall be entitled to such consequential benefits, including back wages, if any, as are admissible in accordance with rules, instructions and judicial pronouncements on the subject. No costs."

4. Pursuant to the said order, the respondents passed the impugned order dated 21.10.1999 (Ann-A/1) reinstating the applicant in service with immediate effect. However, consequential benefits and back wages etc. were denied to him. His period of absence which was treated as leave without pay from 30.09.1991 to 30.12.1992 was treated as "Dies-non" i.e. "No work No Pay". The period from the date of issue of the said order to the date of joining of duties is to be treated as "Leave of Kind Due".

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5. Aggrieved by the aforesaid order the applicant filed a Contempt Petition No.355/1999 in the earlier OA-2168/94. The said petition was rejected by the Tribunal by its order dated 02.08.2000 (Ann-A/3) in the light of the ruling of the Hon'ble Supreme Court in J.S. Parihar Vs. G. Duggar & Ors. (JT 1996(9)SC 608) holding that:-

"consequential benefits including non-release by respondents of back wages" to applicant cannot be said to amount to disobedience of the Tribunal's order dated 17.08.1999 in OA-2168/1994, if on the basis of certain instructions, respondents conclude that applicant is not entitled to the same.

It is open to applicant to agitate for the same separately in accordance with law, if so advised, giving liberty to applicant as aforesaid, the C.P. is rejected. Notices discharged."

6. Thereafter the applicant filed the present OA seeking the following reliefs:-

- "(i) To set aside the impugned order dated 21.10.1999 to the extent that it denies consequential benefits and back wages for the period 13.12.1992 (30.12.1992 as admitted in the rejoinder) to 21.10.1999 to the applicant.
- (ii) To direct the respondents to treat the aforesaid period as spent on duty for all purposes including back wages to be paid to the applicant and to accord all the consequential benefits to the applicant including seniority and promotion.
- (iii) Any other relief which this Hon'ble Court deem fit and proper may also be awarded to the applicant."

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7. The applicant submits that the dismissal order which was impugned in the earlier OA was quashed and set aside by the Tribunal and the OA was allowed on merits. Learned counsel for the applicant Shri Sachin Chauhan contends that the impugned order in the present OA is, therefore, contrary to the directions of the Tribunal in the earlier OA and is also violative of FR 54(A)(3) and deserves to be quashed and set aside and that the applicant is entitled for the reliefs as claimed by him in this OA.

8. The respondents have contested the OA. They have submitted in their reply that the applicant remained absent from duty w.e.f. 30.09.1991 till the date of dismissal i.e. 30.12.1992 and not 13.12.1992 as stated by him. Learned counsel for the respondents submits that the applicant was reinstated in service by the impugned order pursuant to the Tribunal's order dated 17.08.1999 in the earlier OA and that the question of consequential benefits and back wages, if any, was examined as directed by the Tribunal in the light of the relevant rules, instructions and judicial pronouncements on the subject. Thereafter the applicant's period of absence from 30.09.1991 to 31.12.1992 was treated as leave without pay "as dies-non" i.e. "No Work No Pay" in accordance with FR 54 and also the relevant Government instructions under FR 54(B). Learned counsel for the respondents Smt. Sumedha Sharma pointed out that in view of the above position the OA is devoid of any merits and deserves to be dismissed with costs.

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9. The applicant in his rejoinder has denied the averments made by the respondents in the reply filed by them in a general way and reiterated his averments made in the OA broadly. However, contents of Para 4.2 of the reply are admitted so far as the corrections in the relevant dates are concerned.

10. Heard the learned counsel for both the parties. Pleadings and material papers and documents placed on record have been perused. We have given our careful consideration to this matter.

11. The impugned order dated 21.10.1999 (Ann-A/1) is as under:-

"In pursuance of judgement dated 17.8.1999 passed by the Hon'ble Central Administrative Tribunal in O.A. No.2168/94-Ex Constable Vinod Kumar V/s U.O.I. & others and DCP/Vigilance, Delhi's memo.No. 11242/P.Cell (Vig.) P-IV dated 24.9.99, this office order No. 41921-98/HRB-T (D-II) dated 30.12.1992, so far, as it relates to the dismissal of Constable Vinod Kumar, No.1486/T (PIS No. 28823241) from force and the order of the Appellate Authority rejecting his appeal vide order No. 301-303/P. Sec. (S&T) dated 13.5.93, are hereby, set-aside. He is, hereby re-instated in service with immediate effect. He shall not be entitled for consequential benefits and back wages etc. His period of absence which was treated as leave without pay from 30.9.91 to 30.12.92 is treated as DIES-NON i.e. "No Work No Pay". The period from the date of issue of this order to the date of joining his duties will be treated as leave of kind due.

He is, hereby, directed to report to RI/RND."



12. The order dated 21.10.1999 states that the applicant is reinstated in service with immediate effect. His period of leave from 30.09.1991 to 30.12.1992 is treated as leave without pay and DIES-NON, i.e. No Work No Pay. It is also stated therein that the applicant "shall not be entitled for consequential benefits and back wages etc.". Prima facie, there is nothing in the said order which indicates that the applicant's case for reinstatement with back wages and consequential benefits etc. has been examined on its merits in the light of the Tribunal's order dated 17.04.1999 in earlier OA-2168/1999 (Ann-A/3) and the relevant rules/instructions/judicial pronouncements etc. The basis on which the applicant was denied back wages and consequential benefits have not been spelt out clearly and specifically in the aforesaid impugned order. The manner in which the period from the date of dismissal i.e. 30.12.1992 to the date of reinstatement i.e. 21.10.1999 is to be regulated and the pay and allowance to which the applicant is entitled for the said period have also not been indicated in the aforesaid order. The averments in the counter regarding the application of FR 54 to the present case are vague and do not clarify as to why the matter, inter alia, was not examined in the light of the relevant provisions of FR 54-A. The actual date of joining of the applicant has not been mentioned anywhere in the counter. Specific order, if any, passed by the respondents regarding the pay and allowances to which the applicant

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is entitled from the date of his dismissal to the date of reinstatement and from the date of reinstatement to the date of his joining has not been filed by the respondents alongwith their counter.

13. In view of the above, we are of the opinion that the impugned order dated 21.10.1999 is sketchy, vague and incomplete and hence a fresh order should be passed by the respondents strictly in accordance with law.

14. The respondents are hereby directed to examine the claim of the applicant in the present OA seeking consequential benefits and back wages for the period 30.12.1992 to 21.10.1999 and for treatment of the aforesaid period as spent on duty on its merits in the light of the earlier order of this Tribunal dated 17.08.1999 in OA-2168/1994 and also the observations and findings given by us in the present OA and pass a fresh order which should be a detailed and speaking one regarding the said claim spelling out clearly and specifically the particular rule/instruction and judicial pronouncement etc. on the basis of which the order is passed. The aforesaid order should be passed by the respondents under intimation to the applicant within two months from the date of receipt of a copy of this order.

15. OA is disposed of as above. No costs.

(Govindan S. Tampi)  
Member(A)

(Dr. A. Vedavalli)  
Member(J)