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CENTRAL ADMINISTRATIVE TRIBUNAL  
PRINCIPAL BENCH

OA 1962/2001

New Delhi this the 7th day of March, 2002

Hon'ble Smt. Lakshmi Swaminahan, Vice Chairman (J)  
Hon'ble Shri M.P. Singh, Member (A)

Smt. Vinod Jaiswal,  
Asstt. Director (OL),  
R/O X-710, Sarojini Nagar,  
New Delhi.

..Applicant

(By Advocate Shri L.R. Luthra )

VERSUS

1. Union of India,  
Through Secretary,  
Department of Official  
Languages, Ministry of  
Home Affairs, Lok Nayak  
Bhawan, New Delhi.

2. National Commission for  
Scheduled Castes and Scheduled  
Tribes, Lok Nayak Bhawan,  
New Delhi through its Secretary.

..Respondents

(By Advocate Shri Arun Bhardwaj  
for Respondent No.1 )

(By Advocate Sh. Madhav Panikar  
for Respondent No.2 )

O R D E R (ORAL)

(Hon'ble Shri M.P. Singh, Member (A))

By filing this application, the applicant has claimed the relief for a direction to the respondents to pay her pay and allowances for the period from 1.1.2001 onwards with interest at the highest rate thereon and compensation of Rs.25,000. She has also sought for a direction to the respondents to grant her leave applied for on medical grounds and assign her appropriate duty.

2. The brief relevant facts of the case are that the applicant, a permanent Grade II officer of the

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Central Secretariat (Official Language) Service, was posted to the office of Respondent No.2 by order dated 10.1.1995. The applicant suffered from PIVD (Slip disc.) and remained on medical leave from 1999 upto 31.12.2000. Respondent No. 2 had sanctioned her leave upto 28.7.2000 and surrendered her to parent Department i.e. Respondent No. 1 on 6.9.2000. The applicant reported for duty to Respondent 1 on 1.1.2001 but Respondent 1 had directed her to submit joining report to Respondent No.2. Respondent 2 again directed her to go back to Respondent No.1 as she had already been surrendered by them. She had made a representation to both Respondent No.1 and 2. The Respondent No.1 thereafter transferred the applicant to the office of Directorate of Enforcement by their order dated 29.3.2001. But Directorate of Enforcement did not accept her transfer and wrote back to Respondent No.1 in this regard on 4.4.2001. Finally she was posted to Department of Culture and she reported for duty on 9.10.2001. According to the applicant she has not been granted leave from 29.7.2000 to 5.9.2000 and again from 6.9.2000 to 31.12.2000. She has also not been paid her salary from 1.1.2000 to 8.10.2000. However, it is an admitted fact that after R-2 issued letter dated 6.9.2000, the applicant had reported for duty to Respondent 1 on 1.1.2001 i.e. after a gap of about four months. According to the learned counsel for the applicant, she had submitted an application for grant of leave for this period but the same has not yet been granted by R I or R II. Aggrieved by this, she has filed this OA claiming the aforesaid reliefs.

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3. The respondent No.1 in their reply has stated that the applicant had joined her duty on 1.1.2001 with respondent 2. Department of Official Languages (respondent No.1) is the cadre controlling authority in respect of Central Secretariat Official Language Service but has no provision of funds at its disposal for payment of pay and allowances etc. to the Central Secretariat Official Language Service Personnel. The pay and allowances are to be paid by the participating units where the incumbent is posted. Thus respondent No.1, therefore, informed Respondent No.2 to release the pay and allowances which was due to the applicant. The respondent No.1 had also convened a meeting to settle the matter on 21.3.2001 and in that meeting it was agreed<sup>v</sup> that respondent No.2 would settle all the dues to the applicant upto 31.3.2001 and respondent No.1 would transfer the applicant to some other office w.e.f. 1.4.2001. Accordingly, the respondent No.1 issued orders of transfer of the applicant to Directorate of Enforcement but the Dte.of Enforcement did not allow the applicant to join duties.


4. Respondent No.2 in their reply has stated that the applicant had been sanctioned 123 days extra-ordinary leave on medical grounds during the year 1999. Due to her frequent absence on medical ground, the applicant was asked to appear before the Medical Board of Dr.RML Hospital vide letter dated 5/6.1.1999 for a second medical opinion but she did not appear before the Board. Her reluctance to appear before the Medical Board for a second medical opinion raised

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doubts about her illness. Therefore, she was granted extra ordinary leave (not on medical grounds) w.e.f. 1.10.1999 to 28.7.2000 for a total period of 177 days. Thereafter she was relieved from the Commission w.e.f. 6.9.2000 and she was directed to report the Department of Official Language. It is further stated that as the applicant was relieved from the Commission on 6.9.2000 she ceased to be on the rolls of the respondent No.2 and her application dated 5.1.2001 was sent to the Department of Official Language for their consideration and necessary action.

5. We have considered the rival contentions of the learned counsel for thhe parties and perused the records. During the course of arguments, the learned counsel for the applicant has submitted that he does not press for the grant of compensation and also payment of interest as claimed by him in the OA. He will be satisfied if the leave of the applicant for the period from 28.7.2000 to 31.12.2000 is sanctioned/regulated and she is also paid salary for the period from 1.1.2001 to 8.10.2001 in accordance with the rules, law and instructions.

6. Learned counsel for the respondent No.1 has drawn our attention to the letter dated 30.12.1983 (Annexure A 5 to the reply). As per Paragraph 2 of the aforesaid letter the day to day administrative problems like fixation of pay, annual increments, payment of pay and allowances, grant of leave, TA and DA etc. will continue to be handled by the concerned



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Ministries/ Departments and Attached Offices. Like-wise disciplinary matters will be handled by the concerned administrative Departments. In this view of the matter, the case relating to grant of leave and payment of salary to the applicant is the concern of respondent No.2 and in that case Ministry of Social Welfare which is the administrative Ministry. On the other hand, learned counsel for Respondent 2 has submitted that the applicant was surrendered to respondent No.1 on 6.9.2000. Thereafter she ceased to be an employee of Respondent 2 and therefore, the matter relating to the grant of leave, payment of salary etc. after 6.9.2000 are to be decided by Respondent No.1.

7. The matter for consideration before us is as to who would grant leave to the applicant from 29.7.2000 to 31.12.2000 and make payment of salary from 1.1.2001 to 8.10.2001. In our considered view, it is for respondents 1 and 2 to settle the matter between themselves and grant her leave and make payment of salary which is due to her in accordance with law and rules. The period of absence is to be regularised by grant of kind of leave due to her as per rules. The payment of salary, if admissible under the rules, has also to be made to her for the period from 1.1.2001 to 8.10.2001. It is apparent that both respondents 1 and 2 have not taken any decision in this regard. In fact R-1 has taken the plea that Department of Official Languages is only the cadre Controlling Authority and all day to day administrative problems like payment of

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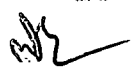
pay and allowances, and grant of leave etc. are to be handled by the participating units where the incumbent is posted. We find that it is essentially between two Departments/Ministries of the Govt. which ought to have settled the matter themselves and should not have come before the Tribunal.

8. In a similar case, the Hon'ble Supreme Court in Oil and Natural Gas Commission and Another Vs. Collector of Central Excise. (1992 ( Supp (2) SCC 432 has held as under:-

" This Court has on more than one occasion pointed out that Public Sector Undertakings of Central Government and the Union of India should not fight their litigations in Court by spending money on fees of counsel, court fees, procedural expenses and wasting public time. Courts are maintained for appropriate litigations. Court's time is not to be consumed by litigations which are carried on either side at public expenses from the source. Notwithstanding these observations repeated on a number of occasions, the present cases appear to be an instance of total calousness. The letter of October 3, 1988, indicated that the Cabinet Secretary was looking into the matter. That has not obviously been followed up. As an instance of wasting public time and energy this matter involves a principle to be examined at the highest level".

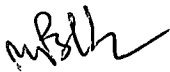
(emphasis added )


9. In the above facts and circumstances of the case, we dispose of this OA directing the respondent No. 1 to take a decision in consultation withh respondent No.2 at the appropriate level and settle the matter of the applicant with regard to grant of leave and payment of salary etc. to her. This shall be done as expeditiously as possible and in any case within four months from the



date of receipt of a copy of this order. We also make it clear that Rs 25,000 which has been paid to the applicant as an interim measure, will be adjusted against her salary for the aforesaid period. The claim for interest is rejected.

No order as to costs.

  
( M.P.Singh )  
Member (A)

  
(Smt.Lakshmi Swaminathan )  
Vice Chairman(J)

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