

(24)
CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH

OA 17/1999
MA 1997/2000

New Delhi, this the 26th day of March, 2001

Hon'ble Smt. Lakshmi Swaminathan, Vice-Chairman (J)
Hon'ble Shri Govindan S. Tampi, Member (A)

Shri S.C.Bhatia, S/o Shri G.C.Bhatia
R/o C-18, Soami Nagar
New Delhi - 110 017.

(By Advocate Shri B.S.Charya)

...Applicant.

V E R S U S

1. The Director General
All India Radio, Akashwani Bhavan
Parliament Street
New Delhi - 110001.
2. The Pay & Accounts Officer (IRLA)
Ministry of Information & Broadcasting
AGCR Building, I.P.Estate
New Delhi - 110002.
3. Union of India
Ministry of Information and Broadcasting
Govt. of India, Shastri Bhawan
New Delhi - 110001.
through its Secretary.
4. The Station Director,
All India Radio
Gorakhpur (UP) 273 001.

(By Advocate Shri Mohar Singh)

...Respondents

O R D E R (ORAL)

Hon'ble Smt. Lakshmi Swaminathan, Vice-Chairman (J)

In this application the applicant has impugned the validity of the letters issued by the respondents dated 9-9-98 and 15-9-98 (Annexures P4 & P2, respectively). The applicant's claim relates to the deduction of an amount of Rs. 40,564/- (Rupees forty thousand five hundred and sixty four only) on account of pay and allowances for days on which the

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respondents have stated that he has not worked and that period has been treated on Extraordinary Leave (EOL) without pay.

2. After hearing the learned counsel for the parties and by Tribunal's order dated 30-1-2001, we had noted the earlier order passed on 23-5-2000 by the Joint Registrar of the Tribunal which in turn had been passed in pursuance of the Tribunal's order dated 10-4-2000. We had also observed that the main issues raised in this case relates to a question of fact, which has to be verified from the relevant records. For this purpose vide our order dated 30-1-2001, the respondents were directed as follows :-

(i) To pass a reasoned and speaking order after giving a personal hearing to the applicant by an officer not below the rank of the Director in the office of the respondent No.1 Director General, All India Radio, New Delhi. This shall be done as early as possible, and atleast within three weeks from the date of receipt of a copy of this order, with intimation to the applicant;

(ii) In view of the fact that this is the second application filed by the applicant and inspite of several directions, given earlier the respondents have submitted that certain records are still not forthcoming or are to be traced, in case the aforesaid officer is unable to reject the claim of the applicant only on the ground of non-availability of records, the same facts shall be taken in favour of the applicant.

3. The case was listed for final hearing today and is a part heard case. Today Shri Mohar Singh, learned counsel seeks a further adjournment by atleast antoher two weeks two weeks on the same ground, that the respondents have not been able to procure the records, this time, from Gorakhpur. He has also submitted that Shri M.L.Raipuria, Director,



had given a personal hearing to the applicant on 1-3-2001, but has still not passed the reasoned and speaking order, as directed by the Tribunal on 30-1-2001. This is the second OA filed by the applicant for the same claim. Taking into account the facts and circumstances of the case, the plea of the respondents for further adjournment is rejected as being un-warranted, as the respondents have already been given sufficient opportunities and time to trace their records and pass a reasoned and speaking order. This, they have failed to do within the time allowed to them. Learned counsel for the respondents states that a copy of this order has been received by them in the 3rd week of February and hence, it also shows that they had ample time to pass a reasoned and speaking order, if they had wanted to. It is relevant to note from the records that a copy of the Tribunal's order dated 30-1-2001, has been sent to the learned counsel for the parties and received by them on 9-2-2001. This also, therefore, shows that the respondents have had sufficient time to comply with the directions of the Tribunal in that order.

4. In the above circumstances, in accordance with our previous directions contained in the order dated 30-1-2001, the OA is disposed of. Shri B.S.Charya, learned counsel for the applicant has submitted that the present disputes centers around 196 days leave, on which he states that the maximum leave that has been availed of by the applicant is 28 days, which leaves a balance of 168 days. He has fairly submitted that out of the 74 days leave due to the applicant, 28 days E.L. could be deducted and the

balance 46 days would also lapse for the relevant period, and 28 days is the balance of the disputed period. In the circumstances, learned counsel has submitted that the entire amount of Rs.40,564 (Rupees forty thousand five hundred and sixty four only) on account of pay and allowances for the period of 196 days, which has been illegally deducted by the respondents should be ordered to be refunded with interest.

5. In view of the directions contained in Tribunal's order dated 30-1-2001, on the failure of the respondents to comply with that order, we have no reason not to accept the submissions made by Shri B.S.Charya, learned counsel for the applicant. In the circumstances, the OA succeeds and is allowed as follows :-

Respondents are directed to refund the wrongfully deducted amount of Rs. 40,564/- (Rupees forty thousand five hundred and sixty four only) from the pay and allowances of the applicant, within one month from the date of a receipt of a copy of this order. However, taking into account the facts and circumstances of the case, the claim for interest is rejected. No order as to costs.

(Govindan S. Tampi)
Administrative Member

(Smt. Lakshmi Swaminathan)
Vice-Chairman (Judicial)

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