

Central Administrative Tribunal
Principal Bench
New Delhi

O.A. No. 2074/98

Decided on 15.4.99

Shri R.C. Dahiya Applicant
(By Advocate: Shri Sanjay K. Dass)

Versus

Union of India Respondent
(By Advocate: Shri D.S. Jagotra)

CORAM

HON'BLE MR. S.R. ADIGE, VICE CHAIRMAN (A)
HON'BLE MRS. LAKSHMI SWAMINATHAN, MEMBER (J)

1. To be referred to the Reporter or Not? YES
2. Whether to be circulated to other outlying benches of the Tribunal or not ? No.

Adige
(S.R. Adige)
Vice Chairman (A)

Central Administrative Tribunal
Principal Bench

O.A. No. 2074 of 1998

New Delhi, dated this the 15th APRIL 1999

Hon'ble Mr. S.R. Adige, Vice Chairman (A)
Hon'ble Mrs. Lakshmi Swaminathan, Member (J)

Shri R.C. Dahiya,
S/o late Shri Khajan Singh,
R/o House No.232/13B
Prem Nagar,
New Delhi. ... Applicant

(By Advocate: Shri Sanjay K. Dass)

Versus

Secretary,
Inter-State Council,
Ministry of Home Affairs,
Vigyan Bhawan Annex,
Maulana Azad Road,
New Delhi-110011. ... Respondent

(By Advocate: Shri D.S. Jagotra)

O R D E R

BY HON'BLE MR. S.R. ADIGE, VICE-CHAIRMAN (A)

Applicant impugns respondents' orders dated 4.9.98 (Ann. A-1) and seeks salary and allowances for the period 3.9.97 to 30.4.98 with interest @ 18% p.a. thereon.

2. Applicant had earlier filed O.A. No. 2137/97 which was disposed of after hearing both parties by order dated 12.3.98 (Ann. A-4). Pursuant to those orders dated 12.3.98, the Inter State Council Secretariat in its letter dated 18.6.98 (Ann. A-6) states that they had repatriated applicant's services back to MHA w.e.f. 3.9.97 vide their letter dated 15.4.98 and further states that it is now MHA's responsibility to regulate the intervening period from 3.9.97 till the date of applicant's joining duty (30.4.98).

3. It is clear that the stand taken by the Inter State Council Secretariat in its impugned order dated 4.9.98 cannot be sustained in law.

The order dated 3.9.97 terminating applicant's services with immediate effect without following the procedure prescribed under Art. 311 of the Constitution despite applicant being a permanent Govt. servant was itself bad in law, and it is for no fault of applicant that he was kept without work, till he got relief from the Tribunal vide aforesaid order dated 12.3.98 in O.A. No. 2137/97, and joined duty in SSO on 30.4.98. In the impugned order dated 4.9.98 the principle of 'No work no pay' has been invoked, but in UOI etc. Vs. K.V. Janakiraman and connected cases 1991 (2) SCALE page 423 the Hon'ble Supreme Court has held thus

"The normal rule of "No work no pay" is not applicable to cases such as the present one when the employee although he is willing to work is kept away from work by the authorities for no fault of his."

4. In the present case it is clear that it was because of the respondents' order dated 3.9.97 that applicant was kept away from work till he rejoined duty on 30.4.98 pursuant to the Tribunal order dated 12.3.98 in O.A. No. 2137/97, and respondents therefore cannot deny applicant his salary and allowances for the intervening period from 3.9.97 to 30.4.98. Applicant's prayer for interest also succeeds because of the delay on the part of respondents in releasing applicant's legitimate dues.

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5. In the result the O.A. succeeds and is allowed to the extent that respondents are directed to release applicant's pay and admissible allowances for the period 3.9.97 to 3-4.98 with interest @ 12% p.a. thereon from 1.5.98 till the actual date of payment within three months from the date of receipt of a copy of this order. No costs.

Lakshmi Swaminathan
(Mrs. Lakshmi Swaminathan)
Member (J)

Anfolign
(S.R. Adige)
Vice Chairman (A)

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