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CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH
NEW DELHI

O.A. No. / ~~T.A.~~ No. 2124 of 1995 Decided on: 18.9.97

Shri S.B.Khanna

Applicant(s)

(By Advocate: ~~XXXX~~/Mrs./~~MX~~. Meera Chhibber

VERSUS

U.O.I. & Anr.

Respondents

(By Shri Raj Singh)

CORAM

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

HON'BLE DR. A. VEDAVALLI, MEMBER (J)

1. To be referred to the Reporter or not? YES
2. Whether to be circulated to other Benches of the Tribunal? NO

S.R. Adige
(S.R. ADIGE)
VICE CHAIRMAN (A)

(27)

CENTRAL ADMINISTRATIVE TRIBUNAL
Principal Bench

O.A. No. 2124 of 1995

New Delhi, dated this the 18th September 1997

HON'BLE MR. S.R. ADIGE, VICE CHAIRMAN (A)
HON'BLE DR. A. VEDAVALLI, MEMBER (J)

Shri S.B. Khanna,
S/o Shri J.R. Khanna,
R/o WZ-160, Shiv Nagar,
Janakpuri,
New Delhi-110058.

.... APPLICANT

(By Advocate; Mrs. Meera Chhibber)

VERSUS

1. Union of India through
the L.G.,
Raj Niwas, Delhi.
2. Director of Education,
Dte. of Education,
Old Secretariat,
Delhi.
3. Dy. Director of Education (West),
Administration Branch,
New Moti Nagar,
New Delhi-110015.
4. Principal,
Govt. Boys Sr. Sec. School,
Kair,
New Delhi.

... RESPONDENTS

(By Advocate: Shri Raj Singh)

J U D G M E N T

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

In this O.A. applicant has sought for
the following reliefs:

- (i) to comply with the Respondents' own letters annexed P and P-1;
 - (ii) to settle all the outstanding dues after fixing the pay correctly by adding all the increments due to applicant, honorarium and conveyance charges as he has to cover 55 km. every day at the age of 59 years and LTC claims etc. and to complete the service book within 15 days.
 - (iii) to pay all the dues to applicant along with 24% interest;
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(iv) to give due and drawn statement to applicant so that he can ascertain whether he has been paid all the dues or not as well as the report submitted by Committee;

(v) to fix the responsibility of erring officials and take appropriate action against them;

(vi) to quash the show cause notice dated 1.7.1995.

2. Applicant joined as a Direct Recruit PGT in Delhi Administration on 18.8.64 and was allowed to cross EB in due course. On 18.2.85 he was granted S.G. w.e.f. 1.4.83 (Ann. P-III) but he states that neither was this entry made in his Service Book nor was his pay fixed correctly till 31.12.85. On 9.12.86 he was transferred to GBSS School, Kair, New Delhi, but no salary was paid to him for the period from 1.12.86 to 3.4.87. When he complained, he was orally informed that his LPC was not received and therefore his salary could not be prepared. However, the next month i.e. from 1.5.87 to 30.7.87 he was paid the salary at the minimum of the Senior Grade of Rs.2000/-. He contends that again he was not paid salary from 1.8.87 to 31.8.88 which put him considerable financial hardships, although he kept writing to the school authorities as well as to the Adult Branch under Dte. of Education where he was working prior to transfer to Kair School to send his LPC. In 1988 his LPC was sent but his pay was wrongly fixed and from 1.9.88 to 31.1.89 he was paid at the basic salary of Rs.2750/- which did not include the increments

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after proper fixation, and from 1.2.89 to 28.2.89 again no salary was paid to him. Thereafter w.e.f. 1.3.89 he was paid the salary at the same basic pay Rs.2750/- till 30.4.90 without addition of increment.

3. In May, 1990 he was further promoted as Vice Principal in the pay scale of Rs.2000-3500 and he became entitled to two increments but again these increments were not paid to him. He states that till the date of O.A. was filed i.e. 9.11.95 he was at the same basic salary of Rs.2750/- which was wrongly fixed by the Dept. He states that he kept approaching the authority at all levels but they failed to redress his grievance upon which a legal notice dated 18.1.90 was served through an Advocate, after which he sent reminders to the Directorate of Education with a copy to the L.G., upon which he received a copy of the letter dated 17.8.90 from the Grievances Rdressal and Anti Corruption Cell addressed to the Dy. Director of Education (West) to take suitable action under relevant rules. Consequent to this letter, the DDE(W) by order dated 5.9.91 (Ann. P-IX) constituted a Committee to look into the applicant's case. Applicant states that he placed the entire case before that committee but he was not informed about its decision despite repeated requests. The Committee submitted its report in 1994 but even before that the DDE (W) had written to

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the Principal vide letter dated 6.8.91 to settle the payment of outstanding arrears but no action was taken thereon. On the basis of the Committee's report another letter dated 24.4.94 was written to the Principal, Kair School directing him to take further action, but despite that nothing was done, upon which applicant represented to the Education Minister on 10.4.95, who wrote to the Dept. but instead of doing any thing concrete they called for the applicant's explanation to which he represented with a reply that he was only adopting the democratic path because he failed to get the justice from the Dept. (Ann. P-XIV). After this the Dte. wrote yet another letter dated 17.7.95 to the Principal but till then no action was taken by him. Meanwhile the applicant retired on superannuation on 31.5.96.

4. Respondents in their reply contend that although applicant was transferred on 9.12.96 he joined GBSS School, Kair on 7.1.87, his salary was not fixed for want of LPC as the same was not received from his previous school/institution, and he was paid at the minimum of the scale i.e. at the rate of Rs.2000/- in accordance with rules that in case LPC was not received for any reason on administrative ground, the individual could be paid at the minimum of the scale i.e. at the rate of Rs.2000/- in accordance with

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rules that in case LPC was not received for any reason on administrative ground, the individual could be paid at the minimum of the scale on his request. Respondents further state that to regularise the period of leave i.e. from 10.12.86 and onwards, the case had been taken up and the DDE (W) directed the concerned office authorities to get all the dues verified and expedite payment to him.

5. Applicant filed his rejoinder in which he denied the contents of the reply and has broadly reiterated the contents of his O.A. He states that he was relieved on 9.12.86 from the Adult Branch and on the same day he submitted his joining report to DDE (W). He states that he was called upon by the Addl. Director, Adult Branch for performing some official duties and was also given a certificate to that effect from 10.12.86 to 1.1.87 which was duly considered by the Committee and was accepted. Thereafter on 2.1.87, he gave a joining report to DDE (W) and remained in the District from 2nd to 6th January, 1987 and then joined Kair School on 7.1.87. He has asserted that he cannot be deprived of his salary for want of LPC because the same was to be issued by the Respondents themselves.

6. Respondents No.2 and 4 have filed additional affidavit stating that applicant remained on E.L. from 24.7.85 to 20.11.85 and from 20.3.86 to 11.5.86; on H.A.P. from 21.11.85 to 18.3.86 and 12.5.86 to 10.8.86

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and on EOL on medical ground from 11.8.86 to 5.12.86 which was eventually regularised by order dated 9.12.87. They state that the applicant was transferred from Adult Branch to Dist. West and was relieved on 9.12.86 and he reported for duty in Dist. West on 2.1.87.

He was posted to GBSS School, Kair where he joined on 7.1.87. He was asked to obtain his LPC and submit the same to GBSSS in time. He submitted an applicant on 20.4.87 to the Principal/DDO of the School to release his salary at the lowest basic pay of Rs.2000-3200 with a plea that he was on leave for two years on medical ground and that the LPC could not be produced (Ann. I). Respondents state that he was issued LPC by Adult Edu. Branch on 27.5.88 after regularising his leaves for various periods including EOL but he submitted his LPC in Sept. 1988 without showing any reason for submitting the same after long delay. It is further contended that no salary for the period from 1.8.87 to 31.8.88 was paid to him as he was on unauthorised leave and did not submit his proper/genuine timely medical certificate and fitness certificate. He submitted certain MC and FC only 16.1.89. Again he was not paid the salary for the months of January, 1989 and Feb. 1989 owing to his unauthorised leave/absence from duty and not submitting timely MC. It is contended that

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since the applicant was irregular and not submitted his LPC/MC/FC in time and for want of regularisation of all these and non-cooperation of the applicant, he was paid at the minimum as per his request dated 20.4.87. It is further stated that the applicant was designated as DDO of the institution/school and he was authorised to draw his salary and other amounts to which he was entitled but for the reason best known to him, he never drew his dues and salary except a sum of Rs.14,759/- on account of arrears, etc. for the period 9.3.90 to 31.12.85. It is therefore contended that the arrear salary which had accumulated since 1986 was only on account of lapses and irregularities on the part of the applicant and for that he has to blame none else but to himself.

7. Applicant has filed reply to this additional affidavit in which he has denied the contents made by the Respondents, and emphasised that there was no delay on his part. In particular, he has placed emphasis that a Committee was set up to enquire into the reasons for non-payment of his salary.

8. We have heard Mrs. Meera Chhibber for applicant and Shri Raj Singh for Respondents.

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9. During hearing it was contended on behalf of the Respondents that the report of the Committee to enquire into the reasons for non-payment of salary to the applicant, called the Iqbal Committee was placed at Annexure R-2 of the Respondents' reply. We note that this was only a record of minutes of the meeting held on 4.4.90 and the applicant's counsel emphasised that there was another report. Accordingly we called for the relevant file maintained by the Respondents bearing No. 25/SBK/Ex PGT. The report was prepared by the Committee headed by Shri Iqbal Singh, DEO which is available at pages 100/105 of that file. A perusal of that report shows that the Committee had noted that the applicant had submitted a legal notice u/s 80 CPC for non-payment of salary for the period when he was posted to GBSSS, Kair w.e.f. 10.12.86.
10. In the Report it was recommended that the applicant may be paid the arrears of his salary as claimed by him vide notice u/s 80 CPC. Thereupon an order dated 24.6.94 was issued directing that on the basis of the Committee's report, appropriate action should be taken for settlement of applicant's case immediately. It was mentioned in that order that if the issue of payment of salary was settled, the other two issues i.e. less

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payment of salary and non-fixation of pay would automatically be settled. The concerned functionary was directed to settle the outstanding dues of the applicant and other arrears arising due to fixation of pay, regularisation of leave, etc. without further delay.

11. During hearing applicant's counsel Mrs. Chhibber has stated that arrears of salary have been paid but what now survives in the O.A. is the claim for payment of interest by applicant on arrears of salary w.e.f. 1986. There can be no doubt that payment of salary was delayed because of non-issue of LPC by respondents in time. If applicant's LPC had been issued in time after his transfer to GBSSS, Kair on 9.12.86 the subsequent delay could well have been avoided. The Iqbal Committee Report itself recognises the justness of applicant's claim for arrears of salary as per his legal notice. Applicant cannot be held responsible for delay in issue of his LPC which ^{is} squarely the responsibility of respondents, which they failed to discharge, depriving applicant of his rightful emoluments on due date, and then putting him to financial loss for which he is entitled to interest. Although applicant has claimed interest @ 24% p.a., having regard to

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the prevalent rate of interest in GPF we consider 12% p.a. a fair rate of interest and accordingly direct respondents to pay applicant interest @ 12% p.a. on the arrears of salary from the date those arrears became due till the date it was actually paid. These directions should be implemented within three months from the date of receipt of a copy of this judgment.

12. Applicant's counsel also states that the claim for honorarium for the period 24.11.94 to 15.5.96 as well as in respect of some TA bills still survives. In the absence of full facts we are not able to adjudicate conclusively on this claim. It will be open to applicant to represent to respondents on this claim, on receipt of which respondents should dispose of that representation in accordance with rules and regularisation within three months of its receipt.

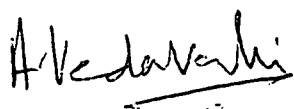
13. Respondents also need to fix responsibility for the delay in releasing applicant's salary arrears for such departmental action as they consider appropriate against those found to be at fault.

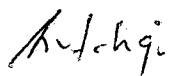
14. It is also contended on behalf of applicant that consequent to his retirement some amount of his PF dues not yet been paid to him on account of missing credits and/or dual entries. We are informed by respondents

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that these details are in the process of being verified in the office of the Principal Controller of Accounts. This verification should be completed within three months from the date of receipt of a copy of this judgment, and such P.F. amounts as are still due to applicant paid to him immediately thereafter together with interest 12% p.a. from the date these dues became payable, till the date payment was actually made.

15. This O.A. is disposed of in terms of Paras 11, 12, 13 & 14 above. No costs.


(DR. A. VEDAVALLI)
Member (J)
/GK/


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