

(3)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH
NEW DELHI.

DA No.259/95

Date of decision 7-9-95

Hon'ble Shri N.V.Krishnan, Acting Chairman
Hon'ble Smt. Lakshmi Swaminathan, Member (J)

Shri Bharat Prasad Shukla,
s/o Shri Lalji Shukla
peon in the office of Deputy
Director, Udyan Vikas
Mandal No.1 (Accounts Branch)
Lok Nirman Vibhag (PWD) Delhi
Administration MSO Building,
13th Floor, I.P.Estate,
New Delhi.

(By Advocate Shri M.L.Chawla)

... Applicant

Versus

1. The Lt.Governor,
Delhi State, Raj Niwas, Delhi.
2. The Chief Director General,
Director General, Kendra Lok
Nirman Bhawan (Works Department)
Nirman Bhawan, New Delhi.
3. The Chief Engineer,
Division 2, PWD (Lok Nirman Vibhag)
Delhi Administration, New Delhi
4. The Superintending Engineer,
Circle No.3, Lok Nirman Vibhag (PWD)
Delhi Administration, New Delhi
5. Deputy Director
Udyan Vikas Mandal, Mandal No.1
Lok Nirman Vibhag (P.W.D.)
Accounts Branch, Delhi Admn.
MSO Building, 13th Floor, I.P.Estate,
New Delhi.

(By Advocate Shri Vijay Pandita)

... Respondents

ORDER (ORAL)

(Hon'ble Shri N.V. Krishnan, Acting Chairman)

The applicant who is is/blind person and
working as peon in the office of 5th respondent (Deputy
Director, Udyan Vikash Mandal No.1) has prayed for the
following reliefs:-

- (1) To direct the respondents to refund
forthwith a sum of Rs 1504/- illegally and
arbitrarily recovered from the salary
of the applicant for ^{the} months of Feb. and
March, 1994 without substantiating the
allegations made against the applicant as

(1)

well as without affording him an opportunity to defend himself ;

(ii) To direct the respondents to devise ways and means for the blind employees for marking attendance in the Attendance Register themselves which they cannot do otherwise in a routine manner by providing BRAILLE type Register or through the thumb impressions to be put in the Attendance Register before a responsible officer in order to safeguard the interest of the handicapped blind employees ;

(iii) To further direct the Respondents not to harass the blind peon, who has none else in his family except his blind wife to assist him in submitting replies to Memoranda issued to him from time to time on frivolous grounds ;

His case is that he is a blind person and his attendance was marked through the assistance of some officer. It is alleged against him by the notice dated 2.2.1994 (Ann.A.1) that he had remained absent for various periods in 1992 and 1993. That notice reads as follows:-

"

You were on leave on 29.5.92, 30.5.92, 2.7.92, 24.8.92 to 25.8.92, 27.8.92, 4.9.92 5.9.92, 8.9.92, 9.9.92, 15.9.92 to 19.9.92 19.11.92, 20.11.92, 2.12.92, 10.12.1992, 14.12.92 to 17.12.92 and on 3.6.93, 8.6.93 to 11.6.93, 25.8.93 to 26.8.93, and you have not given any applications for leave for all these days. If you have given the applications then the same are not traceable in the office.

You are requested to submit leave application from duly filled in otherwise your salary will not be drawn."

He denied the allegations in his reply dated 18.4.94 (Annexure A-2). Thereupon the further order dated 23.5.94 (Annexure A-3) was passed. As the applicant did not submit leave application recovery from the pay of Feb. and March, 1994 has been ordered for the period of above referred to.

2. Respondents have filed a reply. We wanted to know as to whether, when the pay was disbursed to the applicant each month, verification was not done at that time as to whether the applicant was absent in that

(2)

month without submitting an application for leave. No satisfactory explanation has been given in this regard.

The impugned Annexure A-3 order only states as follows:-

"A scrutiny of the Attendance Register of the Accounts Branch revealed that during the years 1992 and 1993 you were absent on the dates already conveyed. Your applications are not available/traceable in the office of the Mandal. During this period there was no permanent Establishment Clerk in the Mandal Office and for this reason you were not asked to submit your applications earlier."

3. We are unable to accept this reason/disbursement of salary is an important responsible task. No one will take the risk of making a payment if it is not due. Even if there was no permanent establishment clerk, payment could have been made only after leave account of every person was verified. The leave is stated to have been taken in May, July, August, September, November and December, 1992 and in the months of June and August, 1993. Even if the record in one month was not verified due to absence of permanent establishment clerk, it should have been verified in the next month. Instead for the entire period, the notice is issued only in Feb., 1994.

4. No explanation is given for this laxity. In the circumstances, we find that absence without leave has not been established. We are, therefore, of the view that the decision of the respondents to recover the payment for the various periods mentioned has to be quashed and we do so. We direct the respondents to pay back to the applicant amounts recovered from him within a period of two months from the date of receipt of a copy of this order.

5. Respondents may look into the prayer at (ii) above. We do not find any need to give any direction in respect of prayer (iii).

6. In the circumstances of the case, cost of Rs 500/- (Rs Five hundred only) is awarded to the applicant.

Lakshmi Swaminathan
(Smt. Lakshmi Swaminathan)

Member (J)

(N.V.Krishnan) 7.7.94
Acting Chairman