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CENTRAL ADMINISTRATIVE TRIBUNAL, PRINCIPAL BENCH

OA No. 730/96

New Delhi, this 24th day of January, 2000

Hon'ble Shri Justice Ashok Agarwal, Chairman
Hon'ble Smt. Shanta Shastray, Member(A)

R.R. Sharma
Plot No.740, Palam Village .. Applicant
New Delhi

(None present)

versus

Govt. of NCT of Delhi, through

1. Lt. Governor
Raj Niwas, Delhi
2. Secretary (Services)
5, Shamnath Marg, Delhi
3. Director of Health Services
E Block Saraswati Bhavan
New Delhi .. Respondents

(By Shri S.K. Sinha, proxy for Shri Vijay
Pandia, Advocate)

ORDER(oral)
Hon'ble Smt. Shanta Shastray

Neither the applicant nor his counsel appeared.
Therefore this OA has been taken up for disposal on
merits on the basis of available material on record.

2. The applicant was working as Stenographer Grade I in the Secretariat of Delhi Admn. with effect from 8.2.1980. While he was so working in the office of the Financial Commissioner, a charge-memo was served on him on 14.9.88. A penalty of withholding of three increments with cumulative effect was imposed on the applicant vide order dated 13.12.88 of Delhi Admn. He filed an appeal before the Chief Secretary, Delhi Admn. who set aside the impugned penalty order by his order dated 16.4.92. It was however ordered that fresh charge memo be issued.

3. In the meantime, the applicant was promoted alongwith certain other candidates. He was posted as Grade I Stenographer against the vacant post of Sr. PA in the Lt. Governor's Secretariat with effect from 21.2.92. However, when the applicant went to join duty in pursuance of the order he was not allowed to join his duty and was asked to go back to Services Department. He was made to wait for nearly seven months before the respondents issued another order dated 3.2.93 vide which he was posted in the Directorate of Health Services. Again there was difficulty in joining the new post. Finally he was allowed to join on 13.5.93. On 10.6.1994, again the applicant was not allowed to mark his attendance in the attendance register in the office of R-3.

4. Applicant has prayed for a direction to the respondents to release his salary for the period from November, 1987 to July, 1989 with annual increments due from February, 1989 with interest @ 18% till date after fixation of pay at the relevant points of time. He has further sought reliefs in terms of releasing difference in salary from 1.8.89 to 28.2.92 after fixation of pay and grant of increments, pay salary from 1.3.92 till date with interest @ 18% and also assign duties to him commensurate with his status and position.

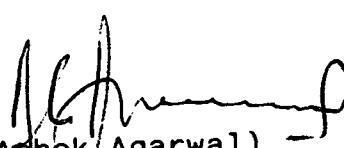
5. Learned proxy counsel for the respondents submits that the OA has become infructuous. With reference to the prayer in 8(a) and 8(b) of the OA, the counsel

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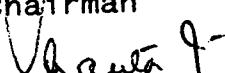
submits that the salary has already been paid to the applicant. He submits further that the applicant was absent from duty from 5.3.92 to 12.5.93 and again from 16.7.93 to 2.7.96 for which he is not entitled to any salary and the absence case has not been settled as yet. He draws our attention to letters from different departments from R-18 onwards (pages 47-49 of the paper book) ^{Annexures} to show that the applicant did not join duty in any of the departments. It is the stand of the respondents that the applicant was absent and therefore not entitled to any pay during the periods aforementioned.

6. After perusing the relevant papers and in view of the averments made by the learned proxy counsel for the respondents, we are satisfied that the applicant has been paid his salary for the period he had worked and he has rightly been denied salary for the period when he did not work.

7. In the result, we find the OA is devoid of merit and we dismiss the same but without any order as to costs.


(Ashok Agarwal)

Chairman


(Smt. Shanta Shastray)
Member(A)

21.02.2000

Present : Shri P. P. Khurana, counsel for applicant.

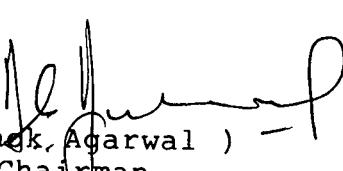
Shri Vijay Pandita, counsel for respondents.

Shri Khurana has now appeared in the present proceedings. He as also Shri Pandita are re-heard. Shri Pandita has brought to our notice that in respect of the period of absence disciplinary proceedings are being initiated against the applicant. It is only after a decision is taken on the disciplinary proceedings that the period of absence would be considered and it is thereafter that the applicant's claim for being paid salary for the said period will be decided.

In the circumstances, we direct the respondents to hold the disciplinary proceedings expeditiously. The show cause notice containing the charges be framed and served on the applicant within a period of four weeks. Respondents will thereafter proceed to invite objections to it from the applicant, proceed to appoint an enquiry officer and decide the proceedings expeditiously and within a period of six months. It goes without saying that the respondents would in the process decide the period of absence in the disciplinary proceedings.

The present order will not adversely affect the right of the applicant to challenge the issuance of the chargesheet, if so advised.

Present O.A. is disposed of with the aforesaid directions.


(Ashok Agarwal)
Chairman


(Shanta Shastry)
Member (A)

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