

CENTRAL ADMINISTRATIVE TRIBUNAL, PRINCIPAL BENCH
New Delhi

O.A. No. 2826/1997

New Delhi, this 27th day of the November, 2000

Hon'ble Mr. ~~Justice~~ S.R. Adige Vice-Chairman (A)
Hon'ble Dr. A. Vedavalli Member (J)

Gyanshyam S/o Shri Inder Singh
R/o H.No. 93, Temur Nagar,
Srinivaspuri,
New Delhi -65.

... Applicant

(By Advocate: Shri U. Srivastava & Shri Gyanashwar)

Versus

Union of India through

1. The Secretary
National Capital Territory of Delhi
5, Sham Nath Marg,
New Delhi.
2. The Director
Department Directorate/ CPWD
Nirman Bhawan
New Delhi.
3. The Executive
F. Division, CPWD
New Delhi.

... Respondents

(By Advocate: Shri R.V. Sinha)

ORDER (oral)

Justice S.R. Adige:

Applicant prays for re-fixation of his pay as has been done in the case of similar situated persons.

2. Applicant was appointed by an order dated 5.5.1980 as a Chowkidar with effect from 14.5.1980. According to him, he gave a statement after his appointment saying that a criminal case was pending against him from 1977 in respect of offences under Section 147, 148 and 149 of the Indian Penal Code. The authorities,

when they came to know that the applicant was facing a prosecution for serious criminal charges when he was appointed as Chowkidar, terminated his services by order dated 30.9.1981. According to the applicant, he was acquitted of the charges levelled against him, vide orders of the Metropolitan Magistrate dated 15.3.1985. When the authorities were appraised of this subsequent event, they had taken steps to reinstate the applicant in service in 1986.

3. Applicant had filed TA 220/1986, seeking payment of back wages for the period from 30.9.1981 till he reinstated on 4.9.1986. That claim was considered and rejected after hearing both sides by order dated 20.2.1992 (Annex-III).

4. RA No. 167/1992, seeking review of the order dated 20.2.1992 was also dismissed.

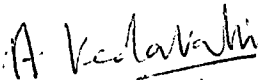
5. From applicants representation dated 12.05.1992 (Annex-1), it is clear that what he is now seeking, is re-fixation of pay after granting him increments for the period 1.10.1981 to 4.9.1986.


6. At the outset, it is noticed that this claim is clearly hit by constructive resjudicata under Order 2 Rule 23 CPC as well as ^{Section} 11 Explanation IV CPC.

7. That apart, the question of applicant claiming increments for the period from 1.10.1981 to 4.9.1986 would arise only, if he had ^{worked in} ~~waited~~ for the aforesaid

period. By Tribunal's order dated 20.2.1992, the applicant claim for back wages for the period of 30.9.1981 to 4.9.1986 have been rejected, it is clear the question of granting him increments for the above mentioned period does not arise.

8. In the light of the above, we do not find any ground to grant relief prayed by the applicant. The OA is dismissed. No costs.


(Dr. A. Vedavalli)
Member(J)


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

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