

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI

OA NO. 1160/94

New Delhi this the 31st day of January 1995.

Hon'ble Mr. J.P. Sharma, Member (J)
Hon'ble Mr. S.R. Adige, Member (A)

10

V.S. Datta
R/o D-22, Khazan Basti
Nangal Raya
New Delhi

....Applicant

(By Advocate: Mr Hari Shankar)

Versus

1. Union of India through
Lt. General
Adjutant General & Chairman
Army Headquarter Council (JCM)
South Block, AG's Branch,
New Delhi.
2. Lt. General
Director General of Ordnance Services
Army Headquarters
South Block
D.H.Q. P.O.
New Delhi.
3. The Officer-In-Charge
Army Ordnance Corps Record
Secunderabad.
4. Commandant
Central Vehicle Depot
Delhi Cantt - 10
5. All India Defence Civilian
Clerks Association, through
Lt. General
Secretary Plot No. 82 (House No.332)
Sector 12, R.K. Puram
New Delhi-22

....Respondents

JUDGEMENT (Oral)

Hon'ble Mr. J.P. Sharma, Member (J)

By an order dated 12.1.1994, the posting of the applicant from
Delhi to Field Ordnance Depot, Bhatinda was cancelled. He was earlier
transferred by the order dated 17th Aug. 1991, having been struck off

1

from the rolls of CVD Delhi Cantt. It appears that the applicant (11) did not join the place after cancellation of the order of transfer. The applicant represented for joining at Delhi, and when he was not favoured by acceptance ^{of} in his representation, in May 1994, he filed the present application praying for grant of relief that the respondents be directed to allow the applicant to join duty after the cancellation of the transfer order by the competent authority dated 12.1.1994. He has also prayed for grant of arrears of pay for the period he was not allowed to join.

2. A notice was issued to the respondents and the respondents in their reply stated that he has been awarded punishment of removal from service.

3. Counsel for the respondents placed before this Bench at the time of earlier hearing an order dated 21.12.1993 thereby the competent authority passed an order for removal from service in the Army Ordnance Corps Record Office w.e.f. the date this order is served on the applicant.

4. The respondents in this case filed their reply on 12th Nov. 1994 and in para 1 of the counter, it has been stated that the applicant has been awarded punishment of removal from service. In the rejoinder, the applicant has not stated any particular fact about the aforesaid order of removal from service. The only thing he did state in para 1 is "wrong and denied."

5. We heard Shri Hari Shankar for the applicant and he has submitted that he wants to withdraw this application and will file a fresh application after exhausting all remedies. We also find that the relief prayed for by the applicant is only to the effect that the respondents be directed to allow the applicant to join the service at CVD Delhi by virtue of the order of

2

cancellation of transfer on promotion on 17th Aug. 1991 and by the subsequent order of January 1994.

6. In view of this, without expressing an opinion on merits regarding disciplinary proceedings, we permit the application to be withdrawn with liberty to the applicant to assail his grievances after exhausting departmental remedies, if so advised, according to law.

7. Learned counsel for the applicant also stated that the applicant has filed an appeal against the order of removal dated 21.12.1993, adding further that this order has not been served on the applicant, and the applicant has come to know about the order for the first time only when it was filed before the Bench on 9th Dec. 1994. In any case, if the appeal has been filed by the applicant, the same should be disposed of by the respondents on merits, condoning the delay in filing the appeal, in the interest of justice and seeing the long service put in by the applicant with them and further the order of transfer dated 17th Aug. 1991, subsequently cancelled by the order of January 1994.

8. In view of this, the application is disposed of accordingly with liberty to the applicant to assail his grievances, if so advised, according to law, after exhausting all available remedies.

Adige
(S.R. ADIGE)
MEMBER (A)

Sharma
(J.P. SHARMA)
MEMBER (J)

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