

CENTRAL ADMINISTRATIVE TRIBUNAL PRINCIPAL BENCH  
NEW DELHI.

C.P. No. 208/95

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IN

O.A. No. 1816/93

New Delhi: dated this the 20<sup>th</sup> day of May, 1997.

HON'BLE MR. S. R. ADIGE MEMBER (A).

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

Umesh Chandra Misra, ASM, Bareilly,  
Son of Late Sri R.G. Misra,  
R/o Katghar,  
Garikhana,  
Moradabad (UP)

.....Applicant.

(In person)

Versus

Union of India through General Manager,  
Northern Railway,  
Baroda House,  
New Delhi.

2. Divisional Railway Manager,  
Moradabad Division,  
Northern Railway,  
Moradabad.

... Respondents.

(By Advocate: Shri P.S. Mahendru)

JUDGMENT

BY HON'BLE MR. S. R. ADIGE MEMBER (A).

Applicant alleges contumacious disobedience of Tribunal's order dated 27.9.94 in OA No. 1816/93 Umesh Chandra Misra Vs. UOI & another, which reads as follows

"At this stage the applicant pleaded that certain payments due to him for the period 3.10.74 to 19.11.75 have not been made to him and this the period which had not been gone into by the Hon'ble Supreme Court. There therefore this issue cannot be entertained at this stage still purely in the interest of justice the respondents are directed to check up whether the payment as due to the applicant for the said period has been made and if this has not been made arrangement should be made for payment within a period of three months

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from the date of receipt of this order.  
The OA is disposed of on the above lines.  
No costs."

2. Respondents in their reply have stated that in so far as applicant's claim for wages for the period 3.10.74 to 19.11.75 is concerned, the relevant available records(leave record) for the period indicates that applicant mostly remained on leave for the said period, and no payment is due to him for the said period. They state further that besides leave register, no other records including salary sheets are available since records were weeded out after expiring of the period allowed for their retention. They state that applicant's service book is in custody of vigilance authorities in connection with a vigilance inquiry, but the same does not contain any information regarding payment of salary of the applicant for the above period. It is stated further that after Hon'ble Supreme Court's judgment dated 14.10.92 in Civil Appeals No.4212-15/92 the present claim of applicant is not tenable and the reasonable , presumption is that he must have been paid wages for the above period, and no payment is due to him for the above period.

3. Applicant in his rejoinder has denied these assertions.

4. We had given applicant an opportunity to indicate what efforts he had made all this while to claim his alleged arrears from respondents for the period 3.10.74 to 19.11.75. The applicant's response to this query dated 10.2.97 is on record.

5. We have heard applicant who appeared in person<sup>^</sup> and Shri Mahendru for respondents. We have given the matter our careful consideration.

6. In response to the directions contained in the impugned order dated 27.9.94, respondents have stated on affidavit that they have checked up the available records and no payments are due to applicant for the period 3.10.74 to 19.11.75. Applicant may well disagree with this finding, but that constitutes a separate cause of action for which it is open to applicant to pursue his remedies separately, in accordance with law, subject to limitation, laches res-judicata and other legal constraints, but it cannot form the subject matter of a CP.

7. <sup>In alleged</sup> The CP is accordingly rejected and notices to contemnors are discharged.

A Vedavalli  
( DR.A.VEDAVALLI )  
MEMBER(3).

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

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