

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH

OA 977/2000

New Delhi this the 12th day of November, 2002

Hon'ble Smt. Lakshmi Swaminathan, Vice Chairman (J)
Hon'ble Shri V.K. Majotra, Member (A)

Ms. N.M. Singh,
TV News Correspondent,
A/506, Curzon Road Apartments,
New Delhi.

..Applicant

(By Advocate Shri V.K. Shali
learned senior counsel)

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1. Union of India through
Secretary, Ministry of
Information and Broadcasting,
Shastri Bhawan, New Delhi.
2. Chief Executive Officer,
Prasar Bharti Broadcasting
Corporation of India, Prasar
Bharti, New Delhi.
3. Director General of Doordarshan
Prasar Bharti, Mandi House,
New Delhi.

..Respondents

(By Advocate Shri R.V. Sinha)

O R D E R

(Hon'ble Smt. Lakshmi Swaminathan, Vice Chairman (J)

This application has been filed in which the applicant has challenged the action of the respondents in not releasing her salary due to her for the past more than three years for no justifiable reasons. The main reliefs prayed for by the applicant are that she should be granted salary for the period from 25.7.1997 to 31.5.2000 i.e. for 35 months and interest on the arrears of salary which has been withheld by the respondents illegally at the rate of 24% per annum.

2. We have heard Shri V.K. Shali, learned senior counsel for the applicant and Shri R.V. Sinha, learned counsel

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for the respondents at length. On the last date of hearing, both the learned counsel had prayed for time to submit the written submissions which has been allowed but neither of the parties have done so.

3. In this application, a number of issues have been raised which are essentially questions of fact, namely, whether the applicant did, in fact, report for duty as TV News Correspondent (TVNC) Doordarshan on 25.7.1997 from which date she has claimed her arrears of salary. Learned senior counsel has relied on a number of documents/orders issued by the respondents giving her assignments. On the other hand, Shri R.V. Sinha, learned counsel for the respondents has submitted that the applicant did not report for duty during the relevant period and was unauthorisedly absent and, therefore, she is not entitled to get any pay. Shri V.K. Shali, learned senior counsel has submitted that if the applicant was unauthorisedly absent, the respondents were not so helpless and could have initiated disciplinary proceedings against the applicant under the relevant rules and imposed a penalty which is not the case here. He has submitted that so long as the applicant has remained a Government servant, she is entitled to her pay and she has also invoked Article 21 of the Constitution. Learned senior counsel has contended that even in the circumstances where a Govt. employee is placed under suspension and even a charge-sheet is issued for initiating Departmental proceedings against that employee, subsistence allowance is admissible under the rules, whereas the applicant who had reported for duty has been denied her salary for many years, thereby affecting her livelihood. He has submitted that even if as

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contended by the respondents, the applicant was unauthorisedly absent from duty, the remedy for the respondents lay elsewhere under the rules and not of withholding her salary from 25.5.1997 without any recourse to legal provisions or procedure. He has relied on the additional affidavit filed on behalf of respondent No.2 dated 9.10.2002. In Para 5 of this affidavit, the respondents have stated, inter alia, that the applicant had accepted employment with M/s Bennet Coleman and Co.Ltd. for the period from January to July, 1997 without the permission of the competent authority for which disciplinary proceedings have already been initiated. Further, it has been submitted by the respondents that the applicant had reported for duty only on 25.5.1997 but she did not perform her duties. Thereafter, it is submitted by the respondents that the applicant was transferred to Doordarshan (News) with immediate effect by order dated 26/29.9.1997. He has also relied on other documents filed by the respondents to this additional affidavit to the effect that the applicant has reported for duty in the office on 4.12.1997.

4. From the aforesaid documents relied upon by the learned senior counsel for the applicant, which are in the records of the respondents and referred to by them also, it is seen ~~that firstly~~ ^{that firstly} they have stated that the applicant reported for duty on 25.5.1997 and again on 4.12.1997. The contention of the learned counsel for respondents that the applicant remained on unauthorised absence from duty and, therefore, she was not entitled to any pay during the relevant period after she has reported for duty cannot be accepted. As rightly pointed out by the learned senior counsel for the

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applicant, the respondents had ample legal remedies if they so wanted to proceed against the applicant for her unauthorised absence from duty which they have not done for whatever reasons they thought fit. Having themselves accepted the fact that the applicant had reported for duty on 25.5.1997, they cannot deny her the pay in accordance with the rules for the period she was on duty, even if according to them, it was unsatisfactory or she had committed misconduct by being absent and so on. Learned senior counsel has also submitted that even later on there was no fault on the part of the applicant but it was because of the action of the respondents in not issuing the necessary PIB Card till 7.6.2002 that she could not attend office.

5. Learned senior counsel for the applicant has submitted that in pursuance of the Hon'ble Delhi High Court order, the applicant has received her salary from June to September, 2002, which has also been confirmed by the learned counsel for the respondents. However, the main issue raised in the present application is with regard to the release of the salary of the applicant for the period from 25.5.1997 to 31.5.2000. According to the learned senior counsel for the applicant, the applicant had performed or was willing to perform her duties for which she is entitled to be paid her salary. Learned counsel for the respondents has submitted that the applicant had not even furnished her correct and complete address and that every time the respondents had to contact her only through her counsel. He has further submitted that a number of documents have been annexed to show that the applicant has

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not been performing the duties assigned to her. He has also referred to the fact that Departmental proceedings have been initiated against the applicant by memorandum dated 25.2.1999 on the ground that she has remained in outside employment of M/s Bennet Coleman and Company Ltd. without prior permission and knowledge of the competent authority which is still pending. This Departmental proceeding will not be relevant to the issue raised in this O.A. where the applicant asserts that she has not been paid her salary from July, 1997 to May, 2000, which is also a matter for the respondents to verify from their records. It is relevant to note that during the period in question she has not been placed under suspension by the competent authority.

6. In view of the aforesaid averments of the parties and circumstances of the case this application is partly allowed, with the following directions:-

- (i) The respondents are directed to grant the salary for the period in question i.e. from 25.7.1997 to 31.5.2000 as admissible to the applicant in accordance with the relevant rules and instructions. The applicant to submit a detail representation **within two weeks** duly supported by relevant documents/ to facilitate the respondents to take the decision in the matter. She may also be granted a personal hearing, if so requested, before a final decision is taken in the matter by the competent authority;
- (ii) Necessary action shall be taken by the respondents within a period of two months from the date of receipt of the aforesaid representation;

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(iii) Interest on the arrears of salary due to the applicant shall be paid in accordance with the relevant rules from the due dates till the actual payment, which shall also be paid within the aforesaid period.

No order as to costs.

V.K. Majotra

(V.K. Majotra)
Member (A)

Smt. Lakshmi Swaminathan

(Smt. Lakshmi Swaminathan)
Vice Chairman (J)

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