

3

12

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

PRINCIPAL BENCH: NEW DELHI

OA No. 1975/89

DATE OF DECISION: 26.11.1991

SHRI MANOHAR SINGH

APPLICANT

VERSUS

UNION OF INDIA & ANOTHER

RESPONDENTS

CORAM:

HON'BLE SHRI I.K. RASGOTRA, MEMBER (A)

FOR THE APPLICANT

SHRI S.C. LUTHRA, COUNSEL

FOR THE RESPONDENTS

SHRI K.C. MITTAL, COUNSEL

JUDGEMENT

Shri Manohar Singh, Ex-JIO-I(Tech) has filed this original application under Section 19 of the Administrative Tribunals Act, 1985 challenging the order No. 205/Est/80 dated 9.10.1980 relieving the applicant from Bilaspur for reporting to SIB, Kohima.

The case of the applicant in brief is that while working in CIO's Bhopal's Office at Bilaspur, he was transferred to Kohima on 19.9.1980. He applied for transfer T.A. and Pay advance on 20.9.1980. However without making the payment of advances applied for, the applicant was relieved from his office w.e.f. 30.10.1980. He, therefore, could not proceed to Kohima. Consequent to his representations the respondents desired that he should make a fresh application for the advance which he did on 25.10.1980. Ultimately, he was paid Transfer and Pay Advance on 24.11.1980 and he joined his office at Kohima on 24.12.1980.

The short question raised in this application is regarding as to how the period from 1.11.1980 to 8.12.1980 (9.12.1980 to 23.12.80 having been treated as joining time) should be regularised.

2

The respondents have unilaterally issued an order treating the said period as under:

- |                         |                         |         |
|-------------------------|-------------------------|---------|
| (a) Half-pay leave      | 1.11.1980 to 7.11.1980  | 7 days  |
| (b) Extraordinary Leave | 8.11.1980 to 8.12.1980  | 31 days |
| (c) Joining Time        | 9.12.1980 to 23.12.1980 | 14 days |

The applicant is aggrieved by the treatment of period from 1.11.80 to 8.12.80 as half-pay leave and leave without pay.

The respondents in their counter affidavit have submitted that the representation of the applicant requesting change in the date of his relief was examined in the light of the rules but it was not found possible to do so. The intervening period from the date of relief to the date of joining, therefore, had to be treated only as 'leave' as due.

Shri T.K. Sinha, learned proxy counsel for Shri K.C. Mittal, counsel for the respondents raised a preliminary objection that the case was time barred as the applicant was challenging the order which was issued in 1980 through this application filed in September, 1989.

The learned counsel for the applicant, however, countered the objection by referring to MP No. 2806/89 filed on 4.12.1990 praying for condonation of delay. The grounds taken in the MP for condonation of delay are that the applicant has been representing to the respondents from time to time culminating in the ultimate rejection of his request on 19.9.1988 by the respondents. He, therefore, prayed that the delay in filing the Original Application, in the circumstances, of the case may be condoned.

The learned counsel for the respondents submitted that the applicant asked for advance of T.A. only on 20.10.1980

2

and not on 20th September, 1980. As soon as he applied for the advance it was sanctioned, and payment was actually made on 24.11.1980. On a pointed query whether the respondents can substantiate the submission with the application of the applicant dt. 20.10.1990, the learned counsel for the respondents submitted that it was not possible to produce the same.

I have heard the learned counsel for the parties and considered the matter carefully. Keeping in view the circumstances of the case as explained in MP 2806/89 I am inclined to condone the delay. Regarding the treatment of the period, Rule 5(5) of the Central Civil Service (Joining Time) Rules provides that the extension of joining time beyond the limits indicated in Rule 5(4) can be granted upto the maximum limit of 30 days by the Head of the Department and beyond 30 days by the Department of Government of India. In this case the applicant applied for travel advance immediately after his transfer orders were issued but the respondents paid him the advance only on 24.11.1980. Further he was transferred from Bilaspur in Madhya Pradesh to Kohima in Nagaland, located in a remote area.

In view of the above fact and extenuating circumstances as brought out by the applicant, this seems to be a fit case where the respondents should be directed to treat the period from 1.11.1980 to 8.12.1980 as extended joining time as they have not found it possible to amend the date of relief in the impugned order as represented by the applicant. I order accordingly. I further direct that the applicant shall be paid his dues by way of salary etc. for the said period within 8 weeks from the date of communication of this order.

The OA is disposed of as above with no order as to costs.

  
(I.K. Rasgotra)

26/11/91 Member(A)