

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

NEW DELHI

O.A. No. 2050/89
T.A. No.

199

DATE OF DECISION 5.3.1991.

Shri Lalit Mohan Talwar

~~Petitioner~~ Applicant

Shri B.B. Raval

Advocate for the ~~Petitioner(s)~~ Applicant

Versus
Union of India through the

~~Secy., Min. of Labour & Others~~

Respondent

Shri P.P. Khurana

Advocate for the Respondent(s)

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The Hon'ble Mr. P.K. Kartha, Vice-Chairman (Judl.)

The Hon'ble Mr. D.K. Chakravorty, Administrative Member.

1. Whether Reporters of local papers may be allowed to see the Judgement? *Yes*
2. To be referred to the Reporter or not? *No*
3. Whether their Lordships wish to see the fair copy of the Judgement? *No*
4. Whether it needs to be circulated to other Benches of the Tribunal? *No*

(Judgement of the Bench delivered by Hon'ble
Mr. P.K. Kartha, Vice-Chairman)

The applicant, who is working as a Senior Technical Assistant (Painting and Designing) in the Central Institute of Research & Training, Ministry of Labour, has a catalogue of grievances against the respondents. In this application filed by him under Section 19 of the Administrative Tribunals Act, 1985, he has sought the following reliefs:-

- (i) To direct the respondents to forward his application to the Ministry of Human Resources with a special request to consider it even though time barred;

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- (ii) to quash as illegal and arbitrary the order dated 6.1.1989 declaring December 1 and 2, 1988 as E.O.L. and also rejection of his representation by a non-speaking memorandum dated 25.1.1989 against the same;
- (iii) to direct the respondents to withdraw the memorandum asking his explanation on 2.3.89 and 27.7.1989 with a letter of apology for their effort to cause mental torture and adverse records against him;
- (iv) to direct the respondents to pass his tour claim dated 23.6.1989;
- (v) to direct the respondents to execute a written undertaking before this Tribunal for their good conduct and ensure protection to his life while in office and outside;
- (vi) to direct respondent No.1 to conduct an inquiry against respondent Nos.2,3 and 4; and
- (vii) to award exemplary costs and damage for material hardship and mental torture and also the shock of mother's death by awarding a damage of Rs.5 lakh chargeable to the personal accounts and superannuation benefits of respondent Nos.2, 3 and 4.

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2. The pleadings in this case are complete. The application has not been admitted. We feel that it can be disposed of at the admission stage itself and we proceed to do so.

3. At the outset, it may be stated that the Tribunal has no jurisdiction to award damages for causing hardship and mental torture to the applicant, as prayed for by him. Similarly, the Tribunal also cannot issue a direction to the respondents to execute any written undertaking for their good conduct and behaviour or to conduct an inquiry against some of the respondents, as prayed for by the applicant. These do not properly belong to the sphere of service matters to be adjudicated by this Tribunal.

4. We, therefore, confine the adjudication to the three grievances of the applicant, namely, (i) not forwarding of his application; (ii) not giving an advance from the G.P.F. account of the applicant; and (iii) treating the period of leave for two days as extraordinary leave without pay.

5. The applicant joined the Government service in 1963 as an Artist. He has worked in the Ministry of Defence and Ministry of Information & Broadcasting before he joined as Senior Technical Assistant in the

Central Institute for Research & Training under the Ministry of Labour in 1981.

6. The Ministry of Human Resources Development and Education, Bureau of Promotion of Urdu, advertised the post of Artist Group 'B' on deputation basis in October, 1988. He submitted an application for the same through proper channel, but it was not forwarded by the respondents. The respondents asked him to submit proof of his knowledge of Urdu. He submitted a representation giving proof of the same. Yet, the respondents did not forward his application.

7. The applicant could not attend the office on 1st and 2nd December, 1988 due to unavoidable reasons on account of his father's illness. He tried to contact his senior officers on telephone on 1.12.1988, but could not do so and, therefore, he sent an application of leave for two days under certificate of posting. However, the respondents regulated these two days as E.O.L. without pay. The applicant has stated that in the office order dated 6.1.1989, issued by the respondents, the balance of leave at the credit of the applicant has been shown as 223 days. Despite this, the respondents have granted leave to the applicant for 1.12.1988 and 2.12.1988 as extraordinary leave without pay. Though

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the applicant requested the respondents to treat these two days as Earned Leave, they did not do so.

8. The applicant applied for an advance from his G.P.F. account for the treatment of his ailing mother in February, 1988. The respondents asked him to produce a medical certificate from his doctor regarding his mother's ailment as well as the total expenditure required for the medical treatment. Though the applicant submitted the relevant particulars, the respondents rejected his request on the ground that as a Central Government employee, he could always have her treated through C.G.H.S. The applicant stated that during this process, his mother breathed her last on 30.7.1988 for want of adequate medical treatment.

9. The respondents have stated in their counter-affidavit that the application submitted by the applicant for the post of Artist in the Bureau of Promotion of Urdu was not forwarded by them as he was not eligible. They have sought to justify the order passed by them treating his period of absence on 1st and 2nd December, 1988 as extraordinary leave on the ground that no Earned Leave would be granted without prior permission. They have also stated that he had been absenting himself from duty frequently. With regard to the non-payment of advance from the G.P.F. account of the applicant, the

respondents have sought to justify the same on the ground that he did not complete the requisite formalities for making the payment.

10. We have carefully gone through the records of the case and have heard the learned counsel for both the parties. We feel that the reliefs sought by the applicant have become infructuous by now. He had sought for forwarding his application to the Ministry of Human Resource Development & Education in 1988. Even if we were to issue any directions in this regard to the respondents at this stage, it would not serve any useful purpose as the Ministry of Human Resource Development and Education would have already appointed a person on deputation. Similarly, there is no point to give any direction to the respondents on his request for granting him an advance from his G.P.F. account at this stage. After going through the pleadings, it would appear that the respondents did not deal with the case of the applicant in a fair and just manner. They could have very well forwarded the application submitted by the applicant with their own observations or remarks. The respondents also should have dealt with the application for advance from the G.P.F. account with more humaneness.

Or

11. As regards treating the period of leave for two days as extraordinary leave without pay, we feel that the action taken by the respondents is unsustainable in law. It is clear from the records that at the time of regulating the period of two days' absence as extraordinary leave without pay, the applicant had to his credit 223 days' E.L. In case, they wanted to treat the two days of absence as extraordinary leave, they should have issued a show-cause notice to him, giving him an opportunity to explain his conduct. There is nothing on record to indicate that the respondents gave any such show-cause notice to him.


12. In the facts and circumstances of the case, we partly allow the application and set aside and quash the impugned order dated 6.1.1989, whereby the period of absence of the applicant on 1.12.1988 and 2.12.1988 has been regulated as extraordinary leave without pay. We further direct that the two days' absence of the applicant should be debited to the Earned Leave standing to the credit of the applicant. The respondents shall pass necessary orders in this regard within a period of one month from the date of receipt of this order.

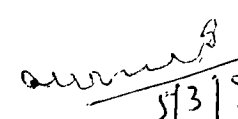
13. With regard to the other prayers made in the application relating to the non-forwarding of the

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application and the non-grant of advance from his G.P.F., no direction can be issued at this stage. We hope that the respondents would consider such requests received from the employees in future, in a more humane and just manner than was done in the instant case.

There will be no order as to costs.


(D.K. Chakravorty) 5/3/89
Administrative Member


(P.K. Kartha) 5/3/89
Vice-Chairman (Judl.)