

(22)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH

* * * * *

OANo.489/89.

New Delhi, this the 17th day of March, 1994.

SHRI J.P.SHARMA, MEMBER (J).
SHRI B.K.SINGH, MEMBER (A).

R.K.Sood,
S/o Shri A.C.Sood,
Aged about 36+ years,
R/o Q.No.13, N.M.D.C. Buildings,
No.5, N.I.T.,
Faridabad,

Employed as
Junior Research Assistant,
Research and Analysis Wing,
Cabinet Secretariat,
Government of India,
Room No.8-B, South Block,
New Delhi - 110011.

...Applicant

(By advocate Shri B.B. Raval)

Versus

1. Union of India,
through Cabinet Secretary,
Government of India,
Rashtrapati Bhavan,
New Delhi.

2. Shri A.K. Verma,
Secretary,
Research and Analysis Wing,
Cabinet Secretariat,
Room No.8-B, South Block,
New Delhi-110011.

(By Advocate Shri V.S.R. Krishna)

ORDER

Mr. J.P. Sharma:

The applicant at the relevant time was employed as Jr. Research Assistant in RAW, Cabinet Secretariat, New Delhi and he had the grievance that certain working days in the month of January and February, 89 were treated as 'dies non' and he, therefore, assailed the order dated 30-1-89 and 27-2-89 issued by Under Secretary,

Cabinet Secretariat. The order dated 30-1-89 (Annexure A-12 collectively) is to the effect that there was a report received from R&D Division that Shri R.K.Sood and one Shri D.P. Badola, JRA(Technical) have not worked on certain days during January, 89. The competent authority has approved treating this period as 'dies non'. Orders in this regard are separately being issued. The salary of the applicant may not be released till the issue of the order of 'dies non' in respect of the above mentioned official. The order dated 27-2-89 is to the effect that the applicant and another Shri D.P.Badola have not worked on certain days during ^{February} January, 89. The competent authority has approved treating this period as 'dies non'. Orders in this regard are separately being issued. It is, therefore, requested that the salary of the applicant and Shri Badola, JRA (Technical) may not be released till the issue of orders regarding 'dies-non' in respect of the above noted officials.

However, the reliefs claimed by the applicant in this application are that the respondents be directed -

- (i) to stop victimisation of the applicant;
- (ii) to provide him a charter of duties;
- (iii) direct the CBI-enquiry of the embezzlement;
- (iv) afford protection to the life and person of the applicant and his family members;
- (v) direct the respondents to award the compensation as per Lawyer's notice; and
- (vi) award cost of this application.

2. The applicant also prayed for grant of the interim relief that the respondents be directed to transfer the applicant from Chemistry division to Printing Press division and direct the respondents not to treat any further period as 'diss non' pending disposal of this OA. Further,

a direction to the respondents to pay full pay and allowances for the month of January and February, 89 and sanction him an advance of Rs.5,000 for him and family's survival from the Welfare Fund of which the applicant is a regular subscriber. The application was admitted on 02-8-89 and the prayer for grant of interim relief was rejected.

3. It appears that the applicant subsequently has been dismissed from service in a departmental enquiry by the order dated 9-10-89 and he has filed O.A.2404/89. That O.A. is still pending. The applicant also moved MP 2454/89 in OA 489/89 where he prayed for subsistence allowance of Rs.1,500 per month and not to evict the applicant from the government accommodation occupied by him and allow him the benefit of health card. That MP had also been disposed of by the order dated 4-4-90 with the observation that the matter has already been dealt with on the interim relief prayed for in OA 2404/89.

4. A notice was issued to the respondents who contested the application. It is stated that the applicant along with Shri D.P. Badola filed a miscellaneous petition in OA-2327/88 for non-payment of salary for January, 89 and for providing copy of the charter of duties and also for protection against physical violence which he was apprehending. The above MP was duly considered by the Tribunal by its order dated 10-2-89 and it was directed that the salary for the days on which the applicant had worked should be paid to him immediately. The 'diss Non' was imposed upon the applicant after giving him due warning for refusal to perform official duties assigned to him and also a departmental enquiry has already been ordered. A copy of the order dated 10-2-89 has been annexed as annexure R-1 to the reply.

5. The applicant has also filed the rejoinder to the above reply reiterating the same facts alleged in the

original application.

6. When the case was taken up for hearing on 28-2-94, none appeared for the parties and the matter was adjourned. The matter remained on Board. Shri B.B.Raval appeared for the applicant on 1-3-94 and he made request that he would like the DA to be heard along with the other DA 2404/89, but the applicant has not taken any steps in that regard. ^{when} So, the matter was adjourned and finally listed for hearing on 16-3-94, the counsel for the applicant has been heard.

7. Since the applicant has already been dismissed from service and that order of dismissal has been challenged, so the relief prayed for by the applicant in this application except the relief that the applicant be provided a charter of duties, other reliefs become totally redundant. For the sake of repetition, the reliefs prayed for in the original application are again reproduced below :

- " (i) To direct the Respondents to stop victimisation;
- (ii) to provide him a charter of duties;
- (iii) Direct a CBI-enquiry into the embezzlement;
- (iv) Afford protection to the life and person of the applicant and his family members;
- (v) Direct the respondents to award the compensation as per Lawyer's notice;
- (vi) Award cost of this application. "

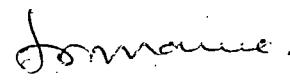
8. As regards relief at serial no.1, there is no question of victimisation of the applicant when he is no more in service. For the reliefs prayed for at serial number 3 and 4, the Tribunal cannot give any such direction and the applicant has to approach the competent authority in that regard. As regards relief no.5, no lawyer's notice

is required before filing any application and as such if the applicant has incurred any expenses on that account, he ~~cannot~~ be re-imbursed. As regards relief no.6, the applicant is not entitled to any cost as the application finally is disposed of as infructuous. As regards relief no.2 to provide him charter of duties, that can only be considered and that matter shall be open if the applicant gets success in quashing the order of dismissal dated 9-10-89 which has been assailed in OA 2404/89. If the applicant succeeds in that O.A., then only any such grievance still will survive to the applicant and in the present application, this has become totally redundant as well as pre-mature.

9. The application, therefore, is disposed of, as said above, with no order as to costs.



(B.K.SINGH)
MEMBER (A)



(J.P.SHARMA)
MEMBER (J)

/KALRA/