

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
N E W D E L H I

O.A. No. 1099/89
T.A. No.

199

DATE OF DECISION 4 - 1 - 91

Shri Babu Lal Nagar Petitioner
Shri D.S. Chaudhary Advocate for the Petitioner(s)

Versus

Lt. Governor through Chief Secretary, Respondent
Delhi Administration & Others
Shri M.M. Sudan Advocate for the Respondent(s)

CORAM

The Hon'ble Mr. P.K. KARTHA, VICE CHAIRMAN(J)

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

JUDGMENT

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

The applicant, who is working as Upper Division Clerk in the Delhi Administration has had a chequered career. His grievance pertains to non-payment of his salary and increments for certain periods of his service. It will be convenient to recapitulate the relevant dates and events as under:-

<u>"Dates</u>	<u>Events</u>
13.8.1975	Was appointed as Clerk in Delhi Administration and posted under Directorate of Civil Defence & Home Guards.
17.2.1981	Was promoted as UDC in the Directorate of Education, Delhi Administration and posted in Government Boys Sr. Secondary School, Rani Bagh, Delhi.
22.12.1986	Was transferred on his own request to

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Government Co-Education Secondary School,
Dallupura, Delhi.

19.5.1987, 30.5.87 Representations submitted by him regarding
15.7.1987 the withholding of his LPC, Service
Book, PF Pass Book and other documents.

7.7.87 & 24.8.87 Respondents released the LPC on 7.7.1987
giving incorrect particulars which were
sought to be corrected on 24.8.1987.

4.4.87, 18.5.87, Representations were sent to various
24.6.87, 15.7.87, authorities regarding non-payment of
18.8.87, 29.12.87, salary and other service benefits.
6.8.88, 10.10.88,
24.2.89 & 10.4.89

9.12.1988 He was relieved from the School at
Dhallupura and transferred to G.B.S.
School Trilokpuri. His Service Book
was not sent to Trilokpuri School on
the plea that the same had been lost.

8.3.89 & 20.3.89 He was on medical leave.

23.3.1989 He submitted joining report along with
medical certificate and fitness
certificate (21.3.89-22.3.89 were
holidays). He was not allowed to join
the School at Trilokpuri.

27.3.1989 He reported the matter to Deputy Director
of Education, District East Delhi.

2.2.1989 He was transferred from Trilokpuri School
to School at New Seelampur.

8.3.89 to 20.8.89 He did not join the New Seelampur School
on the plea that he did not receive
the order of transfer. Respondents
treat him as unauthorisedly absent during
this period.

21.08.1989 He was transferred to the Budget Branch
of the Directorate of Education.

30.10.1989 A show cause notice was issued to him
and after considering his representation
dated 15.11.1989, the respondents treated
the period from 8.3.1989 to 20.8.1989
as unauthorised absence in accordance
with the provisions of FR 17A and that
this period was ordered to be treated
as "dies non."

2. The case of the applicant in short is that the respondents
have harassed him by ordering frequent transfers from School to School

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and by non-payment of his salary and other service benefits on the plea of loss of Service Book.

3. The case of the respondents is that the Service Book of the applicant had been lost and had to be reconstructed. A Class-IV employee who was responsible for the loss of the Service Book had been penalised for his negligence. As regards the transfer of the applicant to various places, the respondents have stated that the same has been made for reasons of administrative convenience.

4. We have carefully gone through the records of the case and have considered the rival contentions. The respondents have stated in their counter-affidavit that the salary of the applicant from January, 1987 to September, 1987 has since been paid, that he has already been allowed annual increments falling on 1st February, 1987, 1988 and 1989 and orders for payment of arrears of increments have been passed by order dated 1.2.1990 and that he has been paid the salary since 1988 and he is being paid regularly, despite the loss of Service Book, on initial basic pay. As regards the period from 8.3.1989 to 20.8.1980 which the respondents have treated as unauthorised absence in accordance with the provisions of FR 17A, the respondents have stated in their counter-affidavit that they have no objection to reconsider the full facts and circumstances and take a sympathetic decision in the case "if the Hon'ble Central Administrative Tribunal so directs" [vide counter-affidavit, page 65 of the paper book].

5. In our opinion, the facts and circumstances of the instant case are such that the respondents ought to have taken a sympathetic decision in regard to the grievances of the applicant pertaining to non-payment of salary, increments etc. In the interest of justice and fair play, the application is, therefore, disposed of with the

following orders and directions:-

(i) The respondents shall pay to the applicant the arrears of salary for the period from December, 1988 to date over and above the initial basic pay which has been released to him. They shall also release the annual increments which had fallen due on 1st February, 1987, 1988, 1989 and 1990. The arrears in this behalf should also be released to him.

(ii) The respondents shall release the aforesaid amounts together with simple interest at the rate of 12% per annum from the due date till the date of payment. The respondents are directed to regulate the period of absence from 8.3.1989 to 20.8.1989 by granting him leave of any kind due in accordance with the relevant rules. The said period shall thus be treated as duty for all purposes and would not constitute any break in service.

(iii) The respondents shall comply with the above directions within a period of two months from the date of receipt of this order.

There will be no order as to costs.

Duchanji -
(D.K. CHAKRAVORTY)

ADMINISTRATIVE MEMBER

4-1-1991

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4/11/91
(P.K. KARTHA)
VICE CHAIRMAN(J)