

(V2)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI.

Regn. No (1) TA 679/1985
(CW No. 18/1981)
(2) OA 310/1986

Date of decision: 07.08.1992.

Shri Subedar Singh

...Applicant

Vs.

Union of India through the
Secretary, Min. of Home Affairs
& Others

...Respondents

For the Applicant

...In person with
Shri B.B. Raval,
Counsel

For the Respondents

...Shri K.C. Mittal, Counsel
and Shri S.P. Punj, Asst.
Director and
Sh. N.N. Anand,
ACIO, representing
the respondents.

CORAM:

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

The Hon'ble Mr. B.N. Dhoundiyal, Administrative Member

1. Whether Reporters of local papers may be allowed to see the Judgment? *Yes*
2. To be referred to the Reporters or not? *Yes*

JUDGMENT

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

The applicant who has worked as Assistant Central Intelligence Officer Grade-II (ACIO for short) from January, 1966 to December, 1974 and thereafter as Assistant Central Intelligence Officer, Grade-I (ACIO Grade-I for short) in the Directorate of Intelligence Bureau under the Ministry of Home Affairs has a catalogue of grievances capsuled in the two applications before us and he has been battling in the Delhi High Court and this Tribunal for over a decade. In Civil Writ No. 18/1981 filed in the Delhi High Court on 5.1.1981, he has prayed for quashing the

impugned transfer order dated 15.1.1980 whereby he was

transferred from Delhi to Bombay and the impugned order

dated 15.12.1980 whereby the penalty of withholding of

his increment for one year without cumulative effect,

which was imposed on him after holding an enquiry under the

CCS(CCA) Rules, 1965. CW 18/1981 stood transferred to

this Tribunal under Section 29 of the Administrative

Tribunals Act, 1985. In OA 310/1986, he has prayed

inter alia for treating him on duty during the period of

his suspension and for payment of full pay and allowances

for the said period.

The applicant has worked at Delhi, Shimla, Tripura

and Lucknow before he was posted to Bombay. He met with

a bad case of a major vehicular accident on 23.3.1978 and another

road accident on 25.3.1983, the former resulting in

serious head injury and the latter requiring major

operation. He states that he is suffering from hyper

tension and heart ailments requiring constant medical

attention. On 22.5.1981, the Delhi High Court passed

an order directing that he may be posted to Chandigarh

instead of Bombay. He joined there on 27.8.1981 but did

not remain there for long. He had to be brought to All

India Institute of Medical Sciences, New Delhi, for

medical treatment.

Applicant was accordingly issued with increments, allowances

etc. and increments were also issued to him for the period

from 27.8.1981 to 15.12.1980. The impugned order dated 15.12.1980

3. In the meanwhile, on 21.6.1987, the respondents had issued to him a memorandum proposing to take action against him under Rule 16 of the CCS(CCA) Rules, 1965.

The allegation against him was that while serving as ACIO-I at Lucknow between 1971 and 1976, he used to meet the then Chief Minister, senior officers and others unauthorisedly. By order dated 15.12.1980, the respondents imposed on him the penalty of withholding of his increment for one year without cumulative effect.

4. On 12.07.1982, the respondents passed an order placing the applicant under suspension on the ground that a case against him in respect of a criminal offence was under investigation/enquiry/trial and his headquarter was fixed at Chandigarh. The charge against him was that he allegedly impersonated himself as DSP of the CBI and had taken money from various people on the pretext of helping them and thereby cheated them. By judgment dated 4.1.1984, the Metropolitan Magistrate, Delhi, acquitted him on the ground that there was no evidence against him. In view of this, on 9.3.1984, the respondents passed an order revoking the order of suspension and directing the applicant to join duty at Chandigarh.

5. The respondents passed an order on 4.9.1984 whereby they treated the period of suspension from 12.07.1982 to 3.1.1984, as leave of kind due. On 20.09.1984, they sanctioned extraordinary leave (without pay) for 541 days from 12.07.1982 to 3.1.1984 and directed the Accounts Branch to effect recoveries of the subsistence allowance

to the tune of Rs.23,641.55 from him.

During the pendency of these applications before us, the applicant had submitted a notice to the respondents seeking voluntary retirement. The respondents had asked the applicant to give an unconditional notice afresh for their consideration. The stand of the applicant is that he stood retired with effect from 31.10.1989 whereas the stand of the respondents is that he was on authorised absence. When the case came up for hearing on 25.7.1989, we heard the learned counsel of parties at length and passed an order and a detailed order thereafter on 4.8.1989 on the question of voluntary hearing the matter "in camera" in view of the sensitive nature of the organisation to which the applicant belonged and the disclosures he would have to make in support of his contentions. While rejecting the prayer for hearing the case in camera, the respondents were directed to produce only those documents subject to the claim of privilege. Further hearing of the case was adjourned to 20.11.1989. Having regard to the peculiarities of the case and existing difficulties, we suggested to both parties to explore the possibility of resolving the matter in an equitable manner. The learned counsel of both parties on instructions from their clients agreed with our suggestion to submit an affidavit and to give time for this purpose. On 20.11.1989, the parties submitted affidavits and the case was adjourned to 20.12.1989.

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26.07.1992, both parties appeared before us with their

counsel and submitted that appropriate orders be passed so as to put a quietus to the long pending litigation.

We commend this approach of both parties. This would

help advancement of the cause of justice and could be viewed as showing compassion to an employee who had

been the victim of two major accidents while in service and who is not keeping in good health and composure.

9. In the above background and with a view to put a quietus to this long pending litigation, we dispose of the applications with the following orders and directions:-

(1) The applicant should be deemed to have voluntarily retired from the post of Assistant Central Intelligence Officer, Grade-I (ACIO-I) with effect from 31.10.1989.

The period of service from 5.1.1966 when he entered Government service as Assistant Central Intelligence Officer Grade-II (ACIO-II) shall be reckoned as qualifying

service for the purpose of calculating the proportionate pension, gratuity and other retirement benefits admissible to him. The respondents shall issue the necessary orders

on the said basis and release to the applicant his

provident fund, proportionate pension, gratuity and all other retirement benefits as expeditiously as possible

and preferably within three months from the date of receipt of this order. The respondents should furnish

to the applicant the necessary forms and other particulars

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required for the purpose as expeditiously as possible and preferably within a period of one month from the date of receipt of this order and the applicant shall complete the requisite formalities thereafter within one month thereafter.

(2) The respondents shall not give effect to their decision to recover a sum of Rs.23,641.55 or any other sum paid to the applicant towards subsistence allowance

during the period of his suspension from 12.7.1982 to

3.1.1984. The applicant would also not be entitled to

payment of full pay and allowances during the said period

in view of his acquittal by the criminal court by judgment

dated 4.1.1984. Both parties should forego their

respective claims in this regard.

(3) The respondents shall consider the case of the

applicant for further promotion to the post of Deputy

Central Intelligence Officer from the date his immediate

junior was so promoted. This shall be done as expeditiously

as possible and preferably within a period of four months

from the date of receipt of this order. In case his case

had already been considered by the Departmental Promotion

Committee during the period from 12.7.1982 to 3.1.1984 and

the assessment of the DPC had been placed in a sealed cover,

the respondents shall open the sealed cover within a period

of one month from the date of receipt of this order and

give effect to the recommendations of the DPC without

undue delay. If found fit, he shall be promoted on

