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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH
NEW DELHI.

O.A. No. 167/87.

Date of decision 30.10.91.

M.N. Dikshit

.....Applicant.

Vs.

1. Controller General of Defence Accounts
West Block V, R.K. Puram, New Delhi.

2. Controller of Defence Accounts
(Air Force) 107, Rajpur Road,
Dehradun.

.....Respondents.

For the Applicant

- None.

For the Respondents

- Mr. P.P. Khurana, Advocate.

B.S. SEKHON:

Applicant who was serving as Auditor, L.A.O.
(Air Force); (at the time of filing the instant
Application,) has filed this Application against
the order dated 19.9.1986 (Annexure-II). He has,
however, claimed the following reliefs:-

To

- i) /pass orders for payment of pay and
allowances for the periods 8.7.1982 to
10.8.82 and 1st June, 84 to 10th December, 84;
- ii) To pass orders for crediting the earned leave
and half pay leave earned by him during the
month of March, 81 to August, 82 and
June, 84 to December, 84 to Applicant's
leave account.
- iii) Applicant has also claimed the interest on
arrears of pay from 28.5.82 till the date
of final order.

2. The factual background to the filing of
the Application concisely stated is:-

Transfer order of the Applicant from
Delhi to Chandimandir, Chandigarh was issued by

the Controller General of Defence Accounts - Respondent No. 1 on 7.3.1981. Applicant was struck off the strength and relieved of his duties on the same date. Upon Applicant's filing the writ petition in the High Court of Delhi, the transfer order was stayed on 21.7.1981. The same was quashed on 28.5.1982. Applicant has averred that in disregard of the spirit of Delhi High Court judgment and with the intention to delay his pay and allowances for the period 7.3.1981, he was served with inter-command transfer order on the direction of Respondent No. 1 for reporting in the office of L.A.O. (AF) 'C', Subroto Park, New Delhi and to the office of LAO(AF) 'B', Race Course, New Delhi. Upon his representation a clarification was given, he was directed to report in the office of the LAO (AF) 'B', Race Course, New Delhi and he joined duty in the said office on 10.8.82 (F.N). His pay and allowances for the period 7.3.81 to 7.7.82 were paid in May, 1983 by the C.D.A. Headquarters, Sena Bhavan, New Delhi. Applicant is stated to have been transferred with punitive intention to LAO (AF) 'B', Chandigarh vide order communicated to him on 21.5.84. He was struck off the strength on the same date. The Ministry of Defence, however, set aside the transfer order and Applicant was taken back on the strength of LAO (AF) 'A', New Delhi on 11.12.84. According to the Applicant, his pay and allowances for 8.7.82 to 10.3.82 and 1.6.84 to 10.12.84 have still not been paid to him inspite of repeated requests and his earned leave and half pay leave earned during the month of March, 81 to August, 82 and June, 84 to December, 84 have still not been credited to his

leave account despite representation dated 8.1.86 (Annexure-III).

3. Respondents' defence is that consequent to his transfer from C.D.A. Hqrs., New Delhi to LAO (AF) 'B', New Delhi, he was struck off the strength in the office of CDA Hqrs. He was informed of his transfer vide order dated 8.7.82 which was received by him on 13.7.82. Applicant, however, reported in his new office on 10.8.82. He was asked to submit application for regularisation of his absence for the period 8.7.82 to 9.8.82 but he has not done so despite reminder. Regarding the period 1.6.84 to 10.12.84, Respondents' case is that Applicant was relieved of his duties in Delhi on 21.5.84 pursuant to his transfer to LAO(AF)'B', Chandigarh. Applicant did not report for duty at Chandigarh but requested for retention at Delhi. The said request was acceded to by the superior authorities and he rejoined duty in the same office on 11.12.84. Applicant was asked to submit application for grant of leave for the period 22.5.84 to 10.12.84 but he did not comply with and insisted that the period of his absence should be treated as duty. After the matter was referred to the higher authorities, his absence for the period from 22.5.84 to 10.12.84 has been regularised by grant of leave due to him and the leave salary due to him for the relevant period has already been drawn. The aforesaid position has been clarified to the Applicant vide Annexure-II. It is further stated that no payment was found due to the Applicant since

outstanding demands against him exceeded the amount of pay and allowances due to him. In respect of the relief claimed vide Para 9(2), Respondents' defence is that earned leave and half pay have already been credited to Applicant's leave account except for the period 8.7.82 to 9.8.82 as this period is yet to be regularised and does not qualify for earning leave.

4. As the Applicant did not put in appearance yesterday as also today, ^{Thus} there is little option but to proceed to judgment on the basis of the arguments addressed by the learned counsel for the Respondents and the records of the case.

5. After giving my earnest consideration to the pleadings, documents on record and the arguments addressed by the learned counsel for the Respondents, I find that Applicant's absence from duty for the period 22.5.84 to 10.12.84 has already been regularised as leave due to him. This is also borne out from Annexure-II. Respondents have pleaded that pay and allowances consequent upon the regularisation of leave for the aforesaid period have been drawn but no payment was found due to the Applicant since outstanding demands against him exceeded the amount of pay and allowances due to him.

6. In the rejoinder Applicant has merely stated that contents of the counter reply are denied and that those of O.A. are reaffirmed as correct.

7. There would appear to be no reason to

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doubt the correctness of the aforesaid stand taken by the respondents in the counter. Applicant's claim for payment of pay and allowances for the period 1.6.84 to 10.12.84 as also for the earned leave and half pay leave for the aforesaid period, therefore, is ^{not} sustained.

As regards the claim for pay and allowances for the period 8.7.82 to 10.8.82, the Applicant had been asked to submit application for regularisation of his absence by grant of leave. Since the Applicant has not submitted any application, absence for the aforesaid period has not yet been regularised and is being treated as unauthorised. Because of the aforesaid, no pay and allowances have been paid to the Applicant for the aforesaid period. The appropriate directions in respect of this claim are being given in the operative portion of this judgment. In so far as the claim for crediting the earned leave and half pay leave is concerned, same in respect of the aforesaid period/ have already been credited to the Applicant's leave account. That being so, this claim too is not sustainable.

8. In the premises, Applicant is hereby directed to make an application for regularisation of his absence for the period 8.7.82 to 10.8.82 within a period of one month from today. Respondents are directed to take a decision on the application to be submitted by the Applicant within a period of one month from the ^{date of} receipt of the same.

Respondents are further directed to make payment of the pay and allowances which ^{be} may/found due to the

Applicant for the aforesaid period within a further period of two months of the receipt of the application from the Applicant for regularisation of his absence.

9. Application is disposed of in the above terms. No costs.

B. S. Sekhon
(B.S. SEKHON)
VICE CHAIRMAN
80-1091