

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI

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O.A. NO. 91/87

DATE OF DECISION : 14.07.92

Shri Sunil Kumar

...Applicant

Vs.

Union of India & Ors.

...Respondents

CORAM

Hon'ble Shri J.P. Sharma, Member (J)

For the Applicant

...Shri Umesh Mishra

For the Respondents

...Shri I.C. Sudhir

1. Whether Reporters of local papers may be allowed to see the Judgement?

2. To be referred to the Reporter or not?

JUDGEMENT (ORAL)

The applicant is Class-IV employee under Inspector of Works, Northern Railway governed by General Manager, Northern Railway and he was appointed w.e.f. 24.3.1978. The applicant continuously worked till 14.9.1982. The applicant was not allowed to work w.e.f. 15.9.1982 to 10.6.1984.

2. In this application, the applicant has claimed the relief that the respondents be directed to give him the benefits of two increments along with all benefits.

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3. The facts of the case are that the applicant, when according to him was not allowed to work, filed a Writ Petition No.682/83 before Delhi High Court for his reinstatement with full back wages and continuity of service. However, before Delhi High Court, the respondents appeared and withdrew the order passed against the applicant and that the applicant is free to report for duty. The applicant joined the duty on 10.6.1984. The applicant was also not given the benefit of past service and in 1984 he was given the initial pay scale of Rs.196-232. In 1982 also the applicant was getting the scale of Rs.196-232. The case of the applicant is that he has been deprived of two increments. The applicant has represented that the period for which he was not allowed to work should be treated as period spent on duty and he should be given all the benefits. However, as is evident, the applicant did not claim any such relief in this application. In the representation preferred by the applicant on 20.1.1986, i.e., two years after his reinstatement vide Annexure-A to the application, he demanded payment of wages w.e.f. 15.9.1982 to 10.6.1984. That representation was made through a lawyer. The applicant himself has approached quite late. In any case, the only prayer in this application is the grant of two increments to the applicant.

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4. The respondents contested the application and stated that the applicant has withdrawn his Writ Petition filed before the High Court which was dismissed as withdrawn. The applicant was not granted any back wages by virtue of the order passed in the said Writ Petition, a copy of the order has been annexed to the application. The applicant in that Writ Petition also claimed back wages, but the applicant did not press the Writ Petition for an order from the High Court that he be also granted the back wages for the period for which he was not allowed to work. Thus the applicant cannot raise this issue. As alleged by the applicant himself in the application, he has filed the Writ Petition for his reinstatement and full back wages and continuity of service and the same reliefs having not been granted by the High Court, then the applicant cannot raise that issue again in the present proceedings. The increments claimed cannot be paid to the applicant as the applicant has not worked nor he was in continuous engagement with the respondents.

5. I have heard the learned counsel for both the parties at length. Going through the reliefs claimed by the applicant, i.e., only for grant of two increments to the applicant as when he was discharged from the service, he was in the scale of Rs.182-396 and when he was reinstated, he was given the same scale of pay of Rs.196-232. The applicant has a cause of action in 1984, i.e., before the Administrative Tribunals Act, 1985 came

into force. The applicant has also gone to the High Court by way of a Writ Petition No.682/83, but the applicant himself did not press the reliefs claimed in the Writ Petition and was contended by a re-engagement by the respondents and resumed the duty in June, 1984. Thus the applicant cannot now raise the same issue which by implication stands disallowed by the order passed by the High Court in the aforesaid Writ Petition on 20.2.1984. This order clearly shows that in view of the statement of the counsel for the respondents in that Writ Petition, the Writ Petition was dismissed as infructuous, so also the CM No.1207/83.

6. Further in this application also, the applicant has not prayed for any relief for the grant of back wages for the period from 1982 to 1984 and the relief which is not claimed, cannot be allowed to the applicant and unless he is paid wages for the period, he cannot claim as of right or under law the annual increments granted by working on a particular grade of pay.

7. In view of the above facts, the present application is devoid of merit and is dismissed leaving the parties to bear their own costs.

J. P. Sharma

(J.P. SHARMA)
MEMBER (J)
14.07.1992