

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, DELHI.

Regn. No. 985 of 1987.

Decided on 10-05-1989.

G. S. Somawat

.....Applicant.

Versus

Union of India & Others

.....Respondents

For the applicant

....Shri B.T. Kaul &
Shri B.C. Wali, Advocate

For the respondents

....Shri K.C. Mittal,
Advocate.

CORAM: Hon'ble Shri P.K. Kartha, Vice Chairman (J).
Hon'ble Shri M.M. Mathur, 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? *Yes*

(Judgement of the Bench delivered by Hon'ble
Shri M.M. Mathur, Administrative Member)

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The applicant who is a Lecturer at the
Extension Education Institute, Noida under the
Ministry of Agriculture, has filed this application
under Section 19 of the Administrative Tribunals Act, 1985
seeking the following main reliefs:-

- i) That the period of his 1½ years extended
stay in London from 22.9.84 to 18.5.86 during
which he was engaged in research work may be
treated as special leave under the Scheme for
National Overseas Scholarship for SC/ST; and
- ii) That the respondents may be restrained from
initiating disciplinary proceedings against the
applicant for his over-staying in London
during the above period.

2. The applicant has also requested for certain other connected and consequential reliefs relating to fixation of his pay and grant of increments etc.

3. The facts of the case are briefly as follows. The applicant has been working as a Lecturer at the Extension Education Institute, Nilekheri since 27.5.78. He was awarded the National Overseas Scholarship for higher studies in U.K. by Govt, under the High ^{er} Studies Programme 1976-78 for SC/ST. As stipulated in the Scheme, he was granted special leave for one year for MSc Degree Programme starting in September/October, 1980 at the London School of Economics and Political Science (vide letter dated 16.7.80). After completion of MSc Programme he was admitted to the Ph.D Course and applied for extension of special leave from 22.9.81 to 21.9.83 which was duly sanctioned by the respondents (vide letter dated 26.10.81). He had to change the subject of his research due to non-availability of adequate finance. As the new subject required more time, he requested for grant of extension of special leave for a further period of 1½ years from 22.9.83 to 21.3.85. However, the respondents granted him extension of leave only for one year upto 21.9.84 subject to the condition, interalia, that:

"He must complete his studies on or before expiry of this period and must return to India immediately thereafter. If he fails to complete his studies on or before the expiry of extended period and comes back to India without completion of his studies, he will have to refund the entire expenditure incurred on him on his studies." (vide letter dated 2.7.84).

4. As the applicant could not finalize the Ph.D

thesis due to the pre-occupation of his Supervisor, he applied for extension of special leave for 3 months in the first instance (vide letter dated 3.9.84) and then again for further six months (vide letter dated 2.1.1985). The extension applied for was, however, not sanctioned by the respondents. He, however, continued to stay in London and kept requesting for extension of further leave.

5. The applicant submitted the final draft of his Ph.D thesis in April, 1986 to his Supervisor but he advised the applicant to return to India in accordance with the rules and regulations of the London University. Consequently, he returned to India on 18.5.86 and rejoined his post as Lecturer on 29.5.1986. Since then he has been pleading for treating the period from 22.9.84 to 18.5.86 as special leave under the Scholarship Scheme but his request has not been agreed to by the respondents.

6. The main contention of the applicant is that under the National Scholarship Scheme he is entitled to special leave for the entire period of his stay in London during which he was engaged in research work. The respondents have argued that under the Scheme the maximum period of special leave is limited to the duration of the scholarship which is extendable only upto 3 years. Para X of the National Overseas Scholarship Scheme for SC/ST states as follows:-

"The duration of the award will normally be from one to three years depending upon the course of study. If the course of study is finished earlier, the period of award will be reduced correspondingly. The stipend will be payable from the date of arrival in the country of study upto the date of departure. But if it becomes necessary for

the scholars to stay in the country of study after the completion of studies for want of passage or other reason, reduced rates of stipend may be paid. If the scholar wishes to stay on for some time for reasons of his own, with permission in writing, no Stipend will be paid for such period. Scholars are required to return to India immediately on completion of the course of study for which they were sent abroad."

7. According to the respondents, the extension for the fourth year was granted to the applicant as a special case to enable him to complete his Ph.D work and he was clearly informed at that stage that no further extension would be granted and that he must return to India after the expiry of the period of extension. The applicant, however, did not return to India despite repeated reminders and overstayed in London for 1½ years. They have further stated that the question of regularisation of this period is still under consideration of the appropriate authorities but until a final decision is taken the period has to be treated as unauthorised absence under the rules. They have also pleaded that they have the right to take disciplinary action against the applicant for misconduct and they should not be restrained by the Tribunal for doing so in anticipation of its final outcome. During the hearing of the case it was stated that a formal charge-sheet has already been issued to him.

8. We have gone through the records of the case and have heard the learned counsel for both the sides. In view of the fact that the respondents have not yet taken any final decision on the request of the applicant

for grant of extension of special leave for the period of his overstay in London from 22.9.84 to 18.5.86, we are of the opinion that it will be premature for us to adjudicate in the matter at this stage. We, however, observe that the respondents have already taken unduly long time to take a final decision in the matter. We, therefore, direct that the respondents shall take a final decision on the request of the applicant for grant of special leave and communicate the same to the applicant as expeditiously as possible but in no event later than two months from the date of receipt of this order.

9. Regarding the contemplated disciplinary proceedings against the applicant, we are similarly of the opinion that the relief sought by the applicant is premature since the charge sheet has already been served on the applicant. At this stage, we do not consider it appropriate to interfere in the due process of law. The respondents, are however, directed to complete the departmental enquiry and pass their final orders within a period of 6 months ^{from} ~~of~~ the date of communication of a copy of this order. The applicant will be free to move this Tribunal if he feels aggrieved by the final decision of the Disciplinary Authority and after he has exhausted all other remedies provided under the rules.

10. The other reliefs sought by the applicant in the present proceedings are connected with or are consequential to the main reliefs dealt with above. We do not, therefore, consider it necessary to give any specific directions in this regard.

The application is disposed of on the above lines. There will be no order as to costs.

(M.M. MATHUR) 10/5/86
ADMINISTRATIVE MEMBER

Shri
10/5/86
(P.K. KARTHA)
VICE CHAIRMAN (J)