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CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH
NEW DELHI

CCP 78/90 in
OA 715/88

Date of decision: 5.5.1993.

Dharam Pal.

... Petitioner.

Versus

Shri V.B. Patel,
Chairman,
Central Water Commission,
New Delhi & Ors.

... Respondents.

CORAM:

THE HON'BLE MR. JUSTICE V.S. MALIMATH, CHAIRMAN.
THE HON'BLE MR. B.N. DHOUNDIYAL, MEMBER(A).

For the Petitioner.

Shri V.K. Rao, Counsel.

For the Respondents.

Shri K.L. Bhandula, Counsel.

JUDGEMENT (ORAL)

(By Hon'ble Mr. Justice V.S. Malimath,
Chairman)

This Contempt of Court petition is for enforcing the judgement of the Tribunal rendered in O.A. 715/88 on 31.1.1989. Earlier Contempt of Court proceedings having been disposed of in the absence of the petitioner, the Supreme Court set aside the judgement and remitted the case back to the Tribunal for consideration on merits. Hence, the matter was heard today when both the counsel ~~have~~ appeared and presented the respective cases.

2. The direction which was required to be complied with by the respondents is that they shall treat the period of absence from 1.7.1987 till the date the petitioner actually joined at Shillong as 'duty' and make all payments accordingly. It is not disputed that the petitioner joined duty at Shillong on 26.12.1988. The clear effect of the direction is that the period from 1.7.1987 to 25.12.1988 should be treated as on duty. The complaint is that no formal order has been made treating the said period as on duty. As the Tribunal has itself

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declared the said period as on duty, it has full effect irrespective of the question as to whether the respondents passed a final order in that behalf or not. Having regard to the practical problem the petitioner may face, it would be just and proper that the respondents pass a formal order declaring the period from 1.7.1987 to 25.12.1988 as on duty.

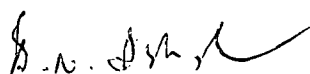
2. As regards the actual payment for the said period is concerned, the stand taken by the respondents is that they have paid the amount due to the petitioner after deducting the advance taken by the petitioner when he was required to obey the order of transfer. There are two grievances of the petitioner in this behalf, first is that the respondents are not entitled to calculate the emoluments to be paid to the petitioner for the aforesaid period as if he continued on duty at Delhi from which place he was transferred to Shillong. Obviously, there is a difference in the emoluments payable at the two places. Higher amounts are required to be paid at Shillong. Having regard to the difficulties the employees are required to face at that place. There is no specific direction of the Tribunal to grant emoluments to the petitioner either at Delhi rates or at Shillong rates. But having regard to the fact that the higher emoluments at Shillong are paid on the assumption that a person may have to incur higher expenditure, it is obvious that the petitioner would not be entitled to have the higher emoluments attached to the post until he assumed office at that place. Hence, we are inclined to understand the direction in the judgement of the Tribunal saying that the petitioner must be paid the emoluments at the Delhi rates and not the Shillong rates. The other


grievance, as already stated, is that the deductions are unreasonable and excessive. On the materials placed before us, it is not possible to record any satisfactory decision in this behalf. Hence, justice requires that an opportunity should be given to the petitioner to make a representation in regard to his claim whereupon the respondents shall examine the same and grant proper relief to which the petitioner may be entitled to without prejudice to the right of the petitioner to question the correctness of the same if such an occasion arises.

3. In the circumstances, we dispose of this Contempt of Court petition with the following directions:

- (1) The respondents shall pass a formal order declaring the period from 1.7.1987 to 25.12.1988 as on duty.
- (2) If the petitioner makes a representation in regard to the deductions made out of the emoluments payable to the petitioner for the period from 1.7.1987 to 25.12.1988 within a period of one month from this date, the same shall be examined by the respondents objectively and a considered order passed within a period of three months from the date of receipt of the application. If the petitioner is found entitled to reimbursement of higher amount, the same shall be promptly paid.
- (3) In the event of petitioner ^{having} ~~any~~ grievance in this behalf, the petitioner is entitled to agitate the same in fresh appropriate proceedings.

4. With these directions, this CCP stands disposed of.


(B.N. DHOUNDIYAL)
MEMBER(A)


(V.S. MAEIMATH)
CHAIRMAN

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