

Central Administrative Tribunal  
Principal Bench, New Delhi

O.A.No.892/91

New Delhi this the 3rd day of August, 1995.

Hon'ble Shri S.R. Adige, Member (A)  
Hon'ble Dr A. Vedavalli, Member (J)

Shri S.K. Dey,  
R/o H-IV/258, Kali Bari Marg,  
New Delhi-110 001 .... Applicant

(By Advocate : Shri M.M. Sudan )

VERSUS

1. Lt Governor (Delhi)  
Raj Niwas, Delhi.
2. Delhi Administration, through  
Secretary, Education  
Old Secretariat,  
Delhi
3. Director of Education,  
Old Secretariat,  
Delhi Administration,  
Delhi. .... Respondents

(By advocate : Shri O.N. Trisal )

ORDER (ORAL)

( Hon'ble Shri S.R. Adige, Member (A) )

After hearing the learned counsel for both the parties as well as perusing the material on record we are satisfied that there are no infirmities in the Appellate order dated 26.3.90 per se, reducing the penalty of removal from service, <sup>to</sup> one of reinstatement together with withholding three increments with cumulative effect and treating of unauthorised absence from duty as dies non.

2. The applicant was absent from duty, from 19.4.84 to 14.9.85 and again from 17.11.86 to 25.3.90.

3. The applicant rejoined duty on 26.3.90 and admittedly the only question that now survives for determination is the manner in which the applicants" pay should be fixed on rejoining. Applicant's counsel Shri Sudan states that the applicant has put in the minimum of the pay scale of UDC i.e. Rs.1200/- in the pay scale of Rs.1200-2040, and has not been allowed to draw a single increment, although over 5 years have passed since the date the applicant rejoined duty.

4. In the background of the applicants order, which nowhere directs that the aapplicant be placed in the minimum of the U.D.C.s scale on his rejoining, the following principles would govern his pay fixation.

(i) The applicants pay as on 18.4.84 would have to be fixed at the point which he would have drawn had he not unauthorisedly absented himself.

(ii) The period of absence <sup>from</sup> 19.4.84 to 14.9.85 would have to be treated as dies non and the applicants pay on 15.9.85 would have to be fixed treating the above period as dies non.

(iii) After rejoining on 15.9.85 the applicant worked till 16.11.86, i.e. approx 14 months, during which period he would normally have earned one increment, which should be paid to him, unless he is otherwise debarred from <sup>earning</sup> ~~earning~~ the same by any other order.

(iv) The period of absence from 17.11.86 to 20.3.90 would have to be treated as dies non and the applicants pay on 21.3.90 would have to be fixed, treating the above period as dies non.

(v) The withholding of the applicants three increments with cumulative effect would take effect from the date of the order i.e. 26.3.90 and would have prospective effect.

5. The applicant has also claimed that he has not been paid salary for the period 1.11.82 to 18.4.84 during which period he claims to have been on duty. This contention should be examined most expeditiously, and salary for the whole or part of this period, if admissible under rules and instructions should be paid to him. If not admissible, a Speaking detailed and reasoned order should be passed under intimation to the applicant.

(11)

(4)

6. The directions contained in paragraphs 4 and 5 above should be implemented within 60 days from the date of receipt of the copy of this judgement. No costs.

A. Vedavalli

(Dr A. Vedavalli)  
Member (J)

S. R. Adige

(S. R. Adige)  
Member (A)

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