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CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH

...

OA NO. 1221/2004

New Delhi, this the 6th day of May, 2005

HON'BLE MR. M.K. MISRA, MEMBER (A)

Shri T.L. Gupta,
S/o Shri Mangat Rai Aggarwal,
Asstt. Engineer, C.P.W.D.,
R/o AG-I/117-B, Vikas Puri,
New Delhi.

...Applicant

(By Advocate: Shri B.S. Mainee)

-versus-

1. Union of India through
Secretary,
Ministry of Urban Development &
Poverty Alleviation,
Nirman Bhawan, New Delhi – 11.
2. The Director General of Works,
C.P.W.D., Nirman Bhawan,
New Delhi – 110 011.
3. The Additional Director General,
Northern Region,
C.P.W.D., Sewa Bhawan,
R.K.Puram, New Delhi.
4. The Executive Engineer,
P.W.D. Division No. VI,
Govt. of NCT of Delhi,
Rest House, Nangloi,
Delhi.Respondents

(By Advocate: Shri K.R. Sachdeva)

ORDER

Applicant (Shri T.L. Gupta), Assistant Engineer, C.P.W.D., by virtue of the present Original Application, seeks regularization of the period as on duty from 1.5.2001 to 2.8.2001 with all consequential benefits. The applicant retired on 31.08.2004.

2. Briefly, the facts of the case are that the applicant was transferred from Kota to Delhi in the capacity of Assistant Engineer vide order dated 19.12.2000. He was relieved from Kota, Central Division, CPWD, on 30.04.2001 and was asked to join in Parliamentary Library Project under CPWD. The applicant was again transferred to TLQA vide order dated 30.04.2001. The applicant did not join the post in TLQA as there was no vacancy available. Ultimately, he joined in Delhi on 3.8.2001. The applicant submitted many representations for regularization of the period from 1.5.2001 to 2.8.2001 treating the same as spent on duty.

3. Respondents treated the interregnum period as absence from duty and for which no wages were paid to the applicant. The applicant by filing OA No. 191/2003 made his first journey to the Tribunal and the Tribunal, vide its order dated 23.06.2003, quashed the transfer orders dated 26.12.2002 and 19.12.2000 of the respondents. The averment of the applicant is that he could not join duty between 1.5.2001 to 2.8.2001 because in between six orders of transfer were passed and when the applicant reported for joining duty in Parliamentary Library Project, he was not allowed to join the same on the ground that there was no vacancy existed therein. Subsequently, he went for joining the duty in TLQA but he got the same reply from the Superintending Engineer, TLQA. The representation of the applicant was also disposed of in a summary manner without assigning any reasons for denial of wages for the period from 1.5.2001 to 2.8.2001.

4. Learned counsel for the respondents submitted that the period of absence from 1.5.2001 to 2.8.2001 can only be regularized as per the Rules under CCS (Leave) Rules, 1972. The earlier decision of the Tribunal relates to other issues and does not cover the present issue under
(M/s)

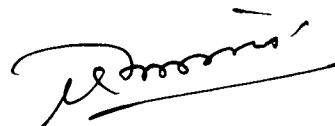
consideration. The applicant was transferred from Kota to Delhi vide order dated 19.12.2000. He was granted retension at Kota upto 30.04.2001 in compliance of the directions of this Tribunal. Transfer orders, made between 1.5.2001 and 2.8.2001, have not been challenged by the applicant before the Hon'ble Tribunal. The earlier order transferring the applicant from Kota to Delhi under Parliamentary Library Project was modified vide order dated 24.4.2001 inasmuch as he was posted to TLQA (NR). It appears that a copy of the modified order might have not been received by the Executive Engineer, Ajmer by 30.4.2001 (Kota comes under Ajmer). The applicant was, therefore, directed to report for duty in Parliamentary Library Project and accordingly the modified order was again revised to that extent. Since both the orders of transfer relate to Delhi posting, therefore, the applicant should not have any grievance relating to his transfer. Moreover, he did not report for duty by submitting a joining report rather he requested the concerned Superintending Engineer to take him on roll only after 1.8.2001. Till that date, he did not submit his joining report at all. After the receipt of the request of the applicant, he was posted to Delhi Aviation Division vide order dated 2.8.2001 and the applicant immediately joined on 3.8.2001. The respondents further submitted that no efforts were made by the applicant to furnish the joining report as per transfer orders, therefore, the period from 1.5.2001 to 2.8.2001 cannot be considered as being on duty.

5. It was also averred on behalf of the respondents that there was no documentary evidence on record to prove that the applicant had ever reported for duty after his being relieved from Kota, Central Sub Division in the afternoon of 30.4.2001.

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6. I have considered the arguments advanced by the learned counsel for both the parties. It is observed from the material available on record that the applicant did not submit any joining report to the concerned authority as per transfer orders and when, as alleged by the applicant, he was not allowed to join his duty in Parliamentary Library Project, he did not care to bring the said fact to the notice of the superior authority. Similarly in TLQA the applicant did not submit his joining report. Therefore, both the orders remained un-complied with by the applicant. Since, there is no documentary proof with regard to his submission of joining report either with the immediate superior authority or to higher authority and also there is no documentary proof with the applicant regarding denial of his joining as per transfer orders, the applicant has no case for regularization of the period of his absence and accordingly the respondents have rightly applied the principle of 'no work no pay' in his case.

7. In the light of the above discussions, the Original Application has no merit and it is accordingly dismissed with no order as to costs.



(M.K. Misra)
Member (A)

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