

(6) OPEN COURT

CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH: ALLAHABAD

ORIGINAL APPLICATION NO.138 OF 2004

ALLAHABAD THIS THE 11TH DAY OF MARCH 2005

HON'BLE MR. JUSTICE S. R. SINGH, VICE-CHAIRMAN

Suneel Kumar Sharma,
Son of Suraj Pal Sharma,
Resident of Chaujipur,
Post Balwar Ganj,
District-Jaunpur,
At present employed as Driver in the Office of
Executive Engineer Central Ground Water Board
Div. III Varanasi, U.P.

.....Applicant

(By Advocate Shri A. D. Prakash and Shri H. P. Pandey)

Versus

1. Union of India,
Thorough Chairman,
Central Ground Water Board, New C.G.O. Complex,
Faridabad, Haryana,
Ministry of Water Resources, Govt. of India.
2. The Director (Admn),
Central Ground Water Board,
N.H. IV, Faridabad.
3. The Executive Engineer,
Central Ground water Board,
Division III, Varanasi, U.P.
4. Assistant Engineer,
Central Ground Water Board,
Division III, Varanasi, U.P.

.....Respondents

(By Advocate Shri N. C. Nishad)

O R D E R

HON'BLE MR. JUSTICE S. R. SINGH, VICE-CHAIRMAN

Shri H.P. Pandey, counsel for the applicant. Shri S. Singh, Senior Standing Counsel and Shri N.C. Nishad, counsel for the respondents, who claims

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himself to continue on the panel of Standing counsel Union of India though it is objected by Shri S. Singh. According to him, Shri N.C. Nishad has ~~been~~ ^{ceased} to be Additional Standing Counsel for Union Of India.

2. The applicant, a Cleaner in the Central Ground Water Board, Division No.III, Varanasi, has instituted this Origin Application for the following reliefs: -

- "(i) Direct the respondents to treat the period from 16.12.1995 to 14.12.2000 as on administrative account caused due to arbitrary action of respondent no.4.
- (ii) Direct the respondents to grant proper fixation of salary after granting annual increments and pay arrears thereof.
- (iii) Direct the respondents to grant notional promotion to the applicant w.e.f. the date his juniors were promoted and he was not called.
- (iv) Direct the respondents not to victimize the applicant and protect his rightful interests as per rules."

3. It would appear from the record that the applicant had earlier instituted O.A. No.285/96 for issuance of a direction to the respondents to permit him to resume his duties since he was sick for the period from 28.08.1995 to 16.12.1995. The case of the applicant was that he could not attend his duty during

~~the period aforesaid due to the illness after~~
~~recovery from~~
illness and he was not allowed to join his duties.

The Original Application was disposed of vide order dated 30.11.2000 with a direction to the Executive Engineer, Central Ground Water Board, Division No.III, Patel Nagar, Varanasi to allow the applicant to join his post for which purpose the applicant was directed

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to appear before the concerned authority on 15.12.2000. It was further provided in the order that after the applicant joins his duties it would be open to the respondents to consider his case for absence from duty in accordance with law. By letter dated 13.10.2003, the Director (Admn.), Central Ground Water Board, NH IV, Faridabad was informed by the Government of India, Ministry of Water Resources that the proposal regarding regularization of the period of absence exceeding five years in respect of the applicant, by grant of Extra Ordinary Leave without M.C. (Medical Certificate) w.e.f. 24.08.1995 to 14.12.2000 has been regularized in relaxation of Rule 12 of CCS (Leave) Rules 1972. It may pertinently be observed that the applicant has filed another O.A. No.1251/02 which was disposed of by order dated 13.11.2000 with a liberty reserved to the applicant to file a detailed representation before the Executive Engineer, Central Ground Water Board, Patel Nagar, Varanasi who would consider and decide the same by a reasoned order within a period of three months. The order regularizing the absence period, by order dated 13.10.2003 has been passed thereafter.

4. A perusal of the order contained in letter dated 13.10.2003 would indicate that the period of absence from 24.08.1995 to 14.12.2000 has been treated as Extra Ordinary Leave without Medical Certificate and the applicant has not been able to make out a case for

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treating for the said period of absence due to any administrative reason.

5. The applicant, in my opinion, is not entitled for any relief. Accordingly, the Original Application fails and is dismissed. No Costs.

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Vice-Chairman

/NEELAM/