

OPEN COURT

CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH
ALLAHABAD

DATED : This the 13th day of JULY 2005

ORIGINAL APPLICATION No. 798 OF 2004.

Hon'ble Mr. Justice S.R. Singh, Vice-Chairman
Hon'ble Mr. M.K. Misra, Member (A)

Jitendra Nath Mishra, S/O Pt. Ramesh Chandra,
R/o B-5, Circuit House,
Kanpur Cantt (UP).
Presently working as Special Secretary,
In Govt. of U.P. Non Concessional Energy Department,
U.P. Lucknow.

.....Applicant

By Adv : Sri R.C. Srivastava & Sri R.K. Singh

V E R S U S

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1. Union of India through Secretary,
Ministry of Conventional Energy Sources Department
NEW DELHI
2. State of U.P. through Principal Secretary,
Niyukti Vibhag, U.P. Govt.
LUCKNOW.

.....Respondents

By Adv : Sri S. Singh & Sri K.P. Singh

O R D E R

By Justice S.R. Singh, VC

This O.A. has been instituted under Section 19 of the A.T.
Act, 1985 for the following reliefs :

"a. The Hon'ble Tribunal may be pleased to issue a direction directing the respondents to provide Super Time Scale to the applicant w.e.f. January, 2004, ignoring the disciplinary proceedings, when all I.A.Ss Officers of the applicant's batch of the year 1988 have been awarded.

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b. The Hon'ble Tribunal may be pleased to issue a direction directing the respondents to conclude the disciplinary proceeding initiated against the applicant in pursuance of letter/order dated 21.08.2003, forthwith.

c. The Hon'ble Tribunal may be pleased to grant such other suitable relief in favour of the applicant, which the Hon'ble Tribunal may deem fit and proper under the facts and circumstances existing in the present case.

d. Award cost of this application to the applicant."

3. It would appear from the averments made in the counter affidavit filed on behalf of the State that the Disciplinary Proceeding was initiated against the applicant under Rule 8 of All India Service (Discipline and Appeal) Rules, 1969. A charge sheet was issued against him through appointment department vide letter No. 2851/two-5-2002-22 dated 07.07.2003. The charge sheet against the applicant was regarding transfer of Class I & II Medical Officers by the applicant, who was at the relevant time, Director Administration (Medical and Health). According to the charge sheet these transfers were not within the power of the applicant. However, the fact of the matter is that the Enquiry Officer submitted Enquiry Report on 27.01.2002 to the Government (Annexure 3 to the OA). A copy of the Enquiry Report was sent to the applicant through letter dated 25.05.2004 who submitted his explanation in respect of the findings recorded by the Enquiry Officer. In para 11 of the counter affidavit, it is averred that the record of the Enquiry

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Report was submitted to the Union Public Service Commission (UPSC), New Delhi. On 27.12.2004 for their advice as per Rule 8 of All India Service (Discipline and Appeal) Rules 1969. It is further averred that further action will be taken after getting the advice from the UPSC, New Delhi. In para 12 of the counter affidavit, it is stated that as far as demand of super time scale of applicant is concerned the same would be considered only after finalization of the Disciplinary Proceedings.

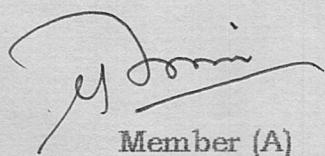
4. No Rejoinder Affidavit has been filed by the applicant, who is present in person and states that UPSC has since sent their advice to the State Govt. in February 2005. The applicant who has since retired on superannuation w.e.f. 31.07.2004, has been re-employed under Government of India w.e.f. 16.08.2004. However, he has not been paid his salary because of pendency of the Disciplinary Enquiry. Post retiral benefits have also not been settled due to the pendency of the Disciplinary Proceedings. Not only that the applicant has been paid his G.P.F. only to the extent of 90%.

5. Having regards to the facts and circumstances of the case we are of the view that the OA needs to be disposed of with direction to State Government to take the Disciplinary Proceedings to its logical conclusion after taking into consideration the advice, if any, given by the UPSC and the reply submitted by the applicant within a period of two months from the date of communication of this order. It goes without saying that the Govt. will take appropriate decision in respect of

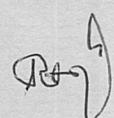
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applicant's claim regarding Super Time Scale depending upon the fate of the Disciplinary Proceedings.

6. The OA is finally disposed of with the above direction. Parties to bear their own costs.



Member (A)



Vice-Chairman

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