

RESERVED

CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH
ALLAHABAD.

Dated : This the 13th day of APR 2011

Original Application No.210 of 2005

Hon'ble Mr. S.N. Shukla, Member (A)
Hon'ble Mr. Sanjeev Kaushik, Member (J)

Uma Shankar Rai, Rtd. Electrician Gr.-II, S/o Late Ram Prasad Rai,
R/o Qr.No.538/G-Type II, D.L.W. Colony, Varanasi-221004.

... Applicant

By Adv : Sri A.K. Rai

V E R S U S

1. Union of India through General Manager, D.L.W., Varanasi-221004.
2. The General Manager, D.L.W., Varanasi-221004.
3. The Chief Mechanical Engr.,(P), D.L.W., Varanasi-221004.

... Respondents

By Adv: Shri Anil Kumar

O R D E R

Delivered by Hon'ble Mr. S.N. Shukla, Member (A)

1. The applicant was an employee of Railways. There was an incidence in which certain individuals allegedly entered into the chamber of Senior Stores Officer on 27.02.1982 and manhandled him. Applicant was allegedly one of them. Disciplinary measures followed and he was removed from service by an order dated 31.12.1982 under Rule 14 (ii) of Railway Servant (Discipline and Appeal) Rule 1968. In appeal the punishment was upheld. A writ was filed in the High Court and interim order passed in favour of the applicant and later the petition was transferred to Central Administrative Tribunal, Allahabad. The Tribunal after hearing the parties passed an order on 24.5.1990 and set aside the punishment order dated 31.12.1982 as also the Appellate order dated 3.3.1983 with the following remarks:-

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"In the above circumstances, we are of opinion that on technical grounds, the impugned order has to be set aside without going into the merits of the case.

In the result, the Application is allowed. The impugned order dated 31.12.1982, 3.1.1982 and the appellate order dated 3.3.1983 are set aside with opportunity to the competent authority to act in accordance with law. The parties are left to bear their own costs."

Another Inquiry followed by affording an opportunity to the applicant. However, the proceedings were dropped ostensibly on technical grounds, due to non appearance and turning hostile on the part of witnesses etc. Charges were treated as not proved and accordingly the suspension period of the applicant i.e. 31.12.1982 to 29.10.1990 was treated as duty and after regularization of suspension period he was paid salary and emoluments admissible as per rules. It also seems he was given promotion with reference to his juniors as Electrical Grade-I w.e.f. 01.01.1984 on proforma basis and given promotional benefits.

2. Subsequently, the applicant filed a few OAs before this Tribunal, the relevant one being OA No.399/2003 which was disposed of with directions to the respondents to pass a reasoned and speaking order on representation of the applicant. In the said representation as in this OA the reliefs prayed are in the nature of certain claims such as bonus etc. which were available to the serving employees and possibly would have accrued to the applicant as well had he not been out of service. The other claims are in the nature of payment of interest on arrears of salary, over time allowances, medical benefits, expenses on legal proceedings and finally in the nature of damages and compensation towards the mental, physical, financial losses, lost opportunity in the career of the applicant and distress caused to his wife, mother and children. In compliance of directions of this Tribunal the respondents passed an order dated 13.03.2004 which is reproduced verbatim for the sake of convenience:-

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“ आनरेबुल ट्रेबुलल/इलाहाबाद ने अपने पारित आदेश में आपके द्वारा दि० 12-12-02 के प्रतिवेदन में उठाए गए मुददों पर विचार कर आप को अवगत कराने का आदेश दिया है । आपने अपनेत 12-12-02 के प्रतिवेदन में कहा है कि आप के द्वारा दि० 17-08-99 के प्रतिवेदन में उठाए गए मुददे जो कम स० 1,3,4,5,6 तथा 7 पर अंकित मुददों पर विचार किया जाए । आपके द्वारा उठाए गए मुददों पर विचार किया गया तथा आप को निम्नवार सूचित किया जाता है ।

1- आपको दिनांक 3-1-83 को रेल सेवा से Remove किया गया तथा तत्पश्चात आप इलाहाबाद/कैट में एक मूकदमा 13/88 दायर किया, कोर्ट आदेश के अनुपालन करते हुए आप के विरुद्ध DAR कार्यवायी की गयी । DAR कस में कार्यवायी के बाद आपके 3-1-83 से 29-10-90 तक की अवधि को डियूटी पर मानते हुए आपको वेतन दिया गया । अतः इस सम्बन्ध में किसी प्रकार का सूद देने का कोई प्रावधान नहीं है ।

2- जहाँ *PLB Bonus, Over time, In direct Incentive* देने का प्रश्न है इस पर पहले ही विचार किया जा चुका है तथा मु०या०अ०/कार्मिक कार्यालय के पत्र सं० WP/PB/GBR/99/Pt-1 दि० 21-08-02 के द्वारा आप को अवगत कराया जा चुका है कि द्वौंकि आपने उक्त अवधि में वार्त्तव में कार्य नहीं किया है अतः इनका । दिया जाना संभव नहीं है ।

3- पास और चिकित्सीय सहायता जिन अवधि में आप निलम्बित रहे हैं नियमानुकूल आप पाते रहे हैं किन्तु Removal अवधि में इन सुविधाओं का पाना नियमानुसार नहीं है अतः इन सुविधाओं का क्षतिपूर्ति करने का कोई प्रश्न ही नहीं है ।

4- आपने कोर्ट केस में किये गये खर्च का दावा किया है जब कि कैट/इलाहाबाद ने अपने 15-02-90 में पारित आदेश में कहा है कि “*The parties are left to bear their own costs.*” अतः इस विषय पर कुछ भी देय नहीं है ।

5- रेल कर्मचारी के नियमों के अन्तर्गत ऐसा कोई प्रावधान नहीं है कि ऐसे मामले में मानसिक, शारिरिक एवं वित्तीय क्षती हेतु पत्नी, माँ, बेटे, एवं पुत्री को मुआवजा दिया जाए या बेटे को क्षतिपूर्ति कोटे के तहत नौकरी दी जाए ।

6- आपने 1-2-73 से स्टेपिंग अप हेतु प्रार्थना पत्र ०५-६-९८ को दिया । हाँलाकि यह एक बहुत पुराना मामला था किन्तु सहानुभूतिपूर्वक विचार किया गया तथा आपको स्टेपिंगअप का लाभ दिया गया । इस प्रशासन के पास अक्टूबर-९२ से जो वात्तर उपलब्ध थे उस के आधार पर आप को भुगतान कर दिया गया है । ०१-२-७३ से ३०-०९-९२ तक का वात्तर इस प्रशासन के पास उपलब्ध नहीं है अतः इस स्टेपिंग अप से सम्बंधित आप को रु० १७०९/- के भुगतान हेतु रेलवे बोर्ड की अनुमति प्राप्तों हेतु लिखा गया है अनुमति मिलते ही आपको भुगतान कर दिया जाएगा ।

3. Heard counsel for the parties on their respective stands, perused pleadings on record including written submissions of the applicant. Learned counsel for the respondents seeks to rely upon the counter affidavit available on record.

4. The counsel for the respondents has relied upon the following decisions of respective Hon'ble High Courts and Supreme Courts as the case may be:-

1. Smt. Iqbal Kaur Vs. Chief of Army Staff AIR 1978 Allahabad 417.
2. Union of India Vs. Mins Savita Sharma AIR 1979 J and K6.
3. Smt. Kumari Vs. State of Tamil Nadu AIR 1992 SC 2009.

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4. Mods. Amin Vs. Jogendra Kumar Banjce AIR (34) 1974 Privy Council 108.
5. Bhim Singh Vs. State of J and K AIR 1986 SC 494.
6. The National Small Industries Vs Bishambhar Nath AIR 1974 ALL 35.
7. Kumari Alka Vs. Union of India AIR 1992 Delhi 267.
8. Collector Ganjam Vs. Chandrama Das AIR 1975 Orissa 205.
9. Municipal Corporation of Delhi Vs. Subhagwanti and Others AIR 1966 SC 1750.
10. Rudul Sam Vs State of Bihar AIR 1983 SC 1086.
11. P. Erajam Vs. Dy. I.G. Police Tirunelveli [2005(107) FLR535].
12. State of U.P. Versus Miss Nokhat Parveen 2005 All.C.J.991.

5. We have carefully perused the rulings relied upon by the counsel for the applicant and note that all the rulings related to liability of State under the law of torts and mostly relate to incidences of death, injury or other damages caused to the petitioner in those cases on account of an act of negligence, Commission/omissions with intent malafide or otherwise. We did not come across any ruling which relates damages awarded in service matter.
6. This Tribunal derives its jurisdiction, powers and authority under section 14 of the Administrative Tribunals Act 1985. The relevant extract reproduced below:-

14.....

(a)recruitment, and matters concerning recruitment, to any All-India Service or to any civil service of the Union or a civil post under the Union or to a Post connected with defence or in the defence services, being, in either case, a post filled by a civilian,.....

We are not able to stretch our imagination to include payment of compensation in the nature of damages caused due to the acts of state in

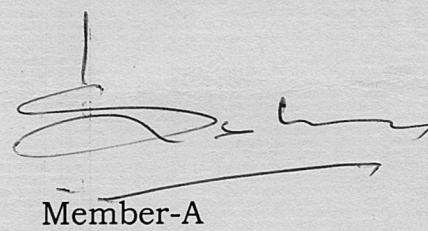
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service matters much less bona fide actions of State even when the charged employee may have been let off for reasons technical or otherwise. On being specifically questioned the learned counsel for the applicant was unable to enlighten us on this subject any further.

7. Having carefully considered the impugned order reproduced above (Annexure A-1) we have not been able to find any infirmity in the said order to warrant any interference of this Tribunal. OA stands dismissed. No Costs.



Member-J



Member-A

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