



**CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI**

OA No. 201/2021

This the 9th Day of July, 2021

(Through Video Conferencing)

**Hon'ble Mr. Justice L. Narasimha Reddy, Chairman
Hon'ble Ms. Aradhana Johri, Member (A)**

Smt. Sonia Mehta, aged 59 years,
W/o Sh. A. K. Mehta,
Working as Chief Architect in CPWD,
Posted in Mumbai Region, Mumbai,
R/o 2004A DLH Orchid, 1st Cross Road,
Lokhandwala Complex
Andheri (West) Mumbai – 400053.

...Applicant

(By Advocate : Mr. Yogesh Sharma)

Versus

1. Union of India through the Secretary,
Ministry of Housing and Urban Affairs,
Govt. of India, Nirman Bhawan, New
Delhi.
2. The Director General,
Central Public Works Department,
Nirman Bhawan, New Delhi.
3. The Special Director General,
Project Region, Kolkata,
5th Floor, AJC Bose Road, Kolkata- 700020.

...Respondents

(By Advocate : Mr. Hanu Bhaskar and Mr. N.D. Kaushik)

O R D E R (ORAL)

Justice L. Narasimha Reddy, Chairman :

The applicant is working as Chief Architect in the Central Public Works Department (CPWD). She was transferred from Delhi to an office at Kolkata, through an order dated 22.07.2019. Feeling aggrieved by that, she filed OA No. 2171/2019. An interim order was passed on 24.07.2019. That, in turn, was challenged in WP (C) No. 10686/2019 before the Hon'ble High Court of Delhi. After the disposal of the Writ Petition, the Tribunal passed interim orders in a different context. Ultimately, the OA was disposed of on 22.10.2020, taking note of the fact that the applicant was transferred and is officiating at Mumbai.

2. The applicant is said to have remained absent for certain spells thereafter. She was issued a Show Cause Notice (SCN) dated 04.11.2020, requiring her to submit leave applications covering the various spells from 23.07.2019 onwards. The applicant states that she has already submitted applications for leave subsequent to 23.07.2019 and the period between 23.07.2019 and 11.11.2019 is covered by the proceedings that were pending before this Tribunal as well as the Hon'ble High Court and accordingly she was not under obligation to give applications for that period. It is further submitted that the



respondents have paid salary for the post in question and it will not be appropriate to insist on submission of leave for that period.

3. The respondents passed an order dated 06.01.2021, once again asking the applicant to submit the leave applications covering the entire spells commencing from 23.07.2019. This OA is filed challenging the said order, in so far as it relates to period between 23.07.2019 and 11.11.2019. She contends that at the relevant point of time, the proceedings were pending before the Tribunal and the Hon'ble High Court, interim orders were passed from time to time, and that she was discharging her duties at the office at Delhi.

4. The respondents filed a detailed counter affidavit. According to them, though an interim order was passed, that in turn was challenged before the Hon'ble High Court and the period cannot be treated as on duty. Various other contentions urged by the applicant are denied.

5. Today, we heard Mr. Yogesh Sharma, learned counsel for the applicant and Mr. Hanu Bhaskar and Mr. N. D. Kaushik, learned counsel for the respondents.

6. The issue is about the manner in which the various spells of absence of the applicant commencing from July, 2019 must be treated. The applicant does not claim any relief as

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regards the spells of absence from 22.10.2019 onwards. Her endeavor is only about the period during which the proceedings were pending before this Tribunal as well as the Hon'ble High Court.

7. From the notice issued and the orders passed by the respondents, it does not appear that they have differentiated between the period covered by the pendency of litigation, and the one, when no such proceedings were pending. If the applicant remained at a station or office at Delhi on the strength of the interim order, she cannot be treated as having remained absent. Added to that, she was also paid salary for various spells covering the period of pendency of proceedings. We are of the view that the respondents need to take into account, these and other relevant factors and to pass orders with reference to the period between 23.07.2019 and 11.11.2019.

8. We, therefore, dispose of the OA directing the respondents to pass separate and fresh order covering the period between 23.07.2019 and 11.11.2019, taking into account the factors such as (a) the pendency of the proceedings before the Tribunal as well as the Hon'ble High Court; (b) the existence of the interim orders in favour of the

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applicant; (c) and the payment of full salary to the applicant for different spells in question.

The order in this regard shall be passed within a period of 4 weeks from the date of receipt of a copy of this order. No costs.

(Aradhana Johri)
Member (A)

(Justice L. Narasimha Reddy)
Chairman

/jyoti/mbt/ankit/sd/shilpi