

LIBRARY

O.A.350/1126/2016

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

CALCUTTA BENCH

Sri Nilambar Naik, son of Kartick

Naik, holding the post of Fitter

(Highly Skilled Gr. I), Ticket

No. Barrel 1286, Rifle Factory,

Ichapur ~~Manmadhwaranpur~~, residing

at Village - Gaudabarei, P.O. Ukhura-

nda, P.S. Baria, District -

Keonjhar, Odisha - 758 032.

... Applicant.

-versus-

1. Union of India through the
Secretary to the Government of
India, Ministry of Defence, South
Block, New Delhi, Pin - 110 001.

2. The Director General,
Ordnance Factories / Chairman,
Ordnance Factory Board,
10/A, S. K. Bose Road,
Kolkata - 700 001.

3. The General Manager,
Rifle Factory, Ichapur, P.O. Ichapur
Nawabgung, District-North 24 - Parga-
nas, pin - 743144.

4. The Joint General Manager/Admin.,
Rifle Factory, Ichapur,
P.O. Ichapur Nawabgung, District -
North 24 - Parganas, pin - 743144

... Respondents.

CENTRAL ADMINISTRATIVE TRIBUNAL
KOLKATA BENCH
KOLKATA

No.O.A.350/1126/2016

Date of order : 18.3.2021

**Coram : Hon'ble Mrs. Bidisha Banerjee, Judicial Member
Hon'ble Dr. Nandita Chatterjee, Administrative Member**

**NILAMBAR NAIK
VS.
UNION OF INDIA & OTHERS
(M/O DEFENCE)**

For the applicant : Mr. T.K. Biswas, counsel

For the Respondents : Mr. S. Paul, counsel

ORDER

Bidisha Banerjee, Judicial Member

This O.A. has been preferred to seek the following reliefs:-

- "a) For an order quashing and/or setting aside the impugned order dated 14.06.2016 made Annexure-“A-12” to this application and further directing the respondents to treat the period of suspension of the applicant from 08.10.2011 to 02.12.2012 as regular service and give him all such service benefits which he would have got had he not been placed under suspension with effect from 08.10.2011;
- b) For any other or further order or orders as to this Hon'ble Tribunal may deem fit and proper;
- c) For costs of and incidentals to this application."

2. The show cause notice dated 05.04.2016 whereby and whereunder the Joint General Manager, Administration proposed that

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the suspension from 08.10.2011 to 02.12.2012 would not be treated as period spent on duty and shall be treated as **DIES NON**, is extracted hereunder for clarity:-



No. 45(11)/DLC
Government of India,
Ministry of Defence,
Indian Ordnance Factories,
Rifle Factory, Ishapore,
P.O.: Ishapore-Nawabganj,
Dist.: North 24 Parganas.
Dated: 04-04-2016

SHOW CAUSE NOTICE

WHEREAS you were detained under police/jail custody in connection with Baria P.S. Case No. 64 dated 06.10.2011 under Section 498 A/506/34 I.P.C./4 of D.P. Act on 08.10.2011.

(02) AND WHEREAS you were deemed to have been suspended w.e.f. 08.10.2011 vide GM's order No. 45(11)/DLC, dated 24.10.2011.

(03) AND WHEREAS on consideration of your appeal dated 02.04.2012 preferred before the Appellate Authority at Ordnance Factory Board, Kolkata, who has in turn, revoked your suspension order with immediate effect without prejudice to any further action/disciplinary action, including renewed suspension, if considered necessary, flowing out of the judgment of the Hon'ble Court in the pending criminal case vide OFB's Order No.17368(708)/A/Disc, dated 03.12.2012 notified under R.F. Order Part-II No.3736 dated 05.12.2012 and you were permitted to join your duties immediately vide R.F. letter of even No. dated 05.12.2012

(04) AND WHEREAS you were under suspension w.e.f. 08.10.2011 to 02.12.2012. Because of your own involvement in criminal case as stated above, you were kept under deemed suspension for the above period. So, the above suspension was wholly justified and valid;

(05) AND WHEREAS you did not render any work and was absent by reason of your own involvement in criminal case and the department was in no way responsible for keeping you away from your duties. Hence, the principle of "no work no pay" would apply;

(06) AND WHEREAS in view of above perspective, it is proposed that the period of suspension from 08.10.2011 to 02.12.2012 would not be treated as period spent on duty and considered by the competent authority that the aforesaid period of suspension should be treated as **DIES-NON**.

NOW THEREFORE, you are hereby given an opportunity of making representation on this proposal on the basis of the facts and circumstances relating the subject proceedings and any representation which you wish to make on the proposal will be considered by the competent authority and such representation, if any, should be made in writing and submitted so as to reach the Officer-In-Charge not later than 15 days from the date of receipt.

Receipt of this notice should be acknowledged.

12/4/16

(Arun Kumar)
R. General Manager/Admin.
for Officer -In-Charge

3. The respondents have failed to produce any authority to show that a suspension period during which the applicant has earned Subsistence Allowance, can be treated as **DIES NON**.

4. Therefore, the order dated 14.06.2016 is quashed and the matter is remanded back to the Disciplinary Authority to pass appropriate orders in accordance with law justifying imposition of ***dies non*** against the applicant for the period of his suspension. In the event, the authority finds that imposition of ***dies non*** was improperly done and there is no supporting rules or instructions, the ***dies non*** order shall be revoked and the dues shall be released in favour of the applicant within a period of three months.

5. Accordingly the O.A. stands disposed of. No order as to costs.



(Dr. Nandita Chatterjee)
Administrative Member
sb

(Bidisha Banerjee)
Judicial Member