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Reserved

Central Administrative Tribunal, Allahabad.

Registration T .A.No. 15 of 1987

Aditya Prasad

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Applicant

Vs.

Union of India and others

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Respondents.

Hon.K.J.Raman, AM
Hon. D.K.Agrawal, JM

(By Hon.D.K.Agrawal, JM)

S.C.C Suit No. 18 of 1983 instituted in the Court of Munsif Gonda, on transfer to this Tribunal under the provisions of S.29 of the Administrative Tribunals Act XIII of 1985, was registered as T.A.No. 15 of 1987, as indicated above.

2. The above Suit was filed by the Plaintiff-Applicant for recovery of Rs.300 on account of wages for the period 15.12.1982 to 25.12.1982 and 27.12.1982 to 30.12.1982. It may be mentioned that the Plaintiff did not disclose as to how wages for the aforesaid period amounted to Rs.300. All the same, the quantum of wages has not been disputed by the Defendants. Therefore, we presume that the wages for the said period amounted to Rs.300. The contention of the Plaintiff is that he was not allowed to sign the attendance register. The Opposite Parties have denied the presence of the Plaintiff during the aforesaid period, i.e. 15.12.82 to 25.12.82 and 27.12.82 to 30.12.82. In support, the Opposite Parties have filed the muster roll to show that the Plaintiff was absent from duty in the aforesaid period.

3. In these circumstances, it can at once be said that the Plaintiff was not entitled to wages for the aforesaid period.

4. The Plaintiff, however, raised another controversy

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by means of an application filed in the year 1987. He has alleged in the said application that he was spared on 12.7.1983 for the purpose of departmental inquiry. The allegation in the application is that he was informed by means of registered letter to be spared from 12.7.83. Therefore, without amending the plaint, he has claimed arrears of salary w.e.f. 12.7.1983 also. The said application has not been disposed of. On the other hand, orders were passed on 30.11.1989 listing the application for disposal on 4.1.1990. No orders were passed on 4.1.90. Therefore, the application is pending. The prayer in the application is that either wages be paid to him for the period 13.7.1982 onwards or he may be retired from service. We are of opinion that if the plaintiff was entitled to wages and payment thereof was refused, he had to seek legal remedy by filing an application before us. As regards prayer for retirement, it is for the competent Authority to pass order. He has to apply for the same in accordance with law. The jurisdiction of the Tribunal can only be invoked for adjudication of a dispute if the competent authority refuses to pass an order in accordance with rules. We are constrained to say that no relief can be granted to the Applicant on the basis of the aforesaid application. However, we consider it proper to direct the competent authority to pass a speaking order as to whether the Applicant was entitled to wages from 13.7.1982 and if not, why he was not entitled to the same.

5. The suit is dismissed without any order as to costs with a direction to Divisional Railway Manager, NE Railway to pass a speaking order within 3 months from the date of receipt of the copy of this judgment as to why the plaintiff-Applicant was not paid wages from 13.7.1982 onwards; whether he was entitled to the same; if not, why? The applicant will have a right to approach this Tribunal if he still remains dissatisfied with the order so passed by the competent authority. There will be no order as to costs.

MEMBER (J)

MEMBER (A)

Dated: May 29th 1990.
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