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CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD

D.A. No. 704/87

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Captain Brijesh Chandra Awasthi

Applicant

versus

Union of India & others

Respondents.

Hon. Mr. Justice U.C. Srivastava, V.C.

Hon. Mr. K. Obayya, Adm. Member.

(Hon. Mr. Justice U.C. Srivastava, V.C.)

The applicant was granted Emergency Commission as Second Lieutenant with effect from 1.11.1964, after completion of training in the Indian Military Academy Dehradun. When Emergency was over, a policy decision was taken and a large number of officers from army were released in a phased programme, consequently the applicant was also released from army w.e.f.

15.8.70. The applicant was selected and granted N.C.C. Commission and posted as lieutenant on 10.1.1972 in a substantive capacity.

The applicant continued to remain in N.C.C. and his services were governed by the rules known as N.C.C. Rules. Under the N.C.C. Rules, there is provision for extension for three years, but it appears that the extension was not granted to the applicant. The non-grant of extension to the applicant was challenged in the High Court by way of writ petition No. 192/77 connected with writ petition No. 1162/77 and the High Court vide

its order dated 22.5.85 allowed the writ petitions and the order dated 23.12.76 was quashed and it was directed that the applicant shall be entitled to the costs. In pursuance of the order of the High Court the applicant was granted extension upto 31.3.88 vide order dated 9.4.87. Thus, thereafter, no

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extension was granted. The applicant is still agitating the matter.

The grievance of the applicant is that he is entitled to full service benefits of that period not given and entire period may ^{not} be taken as Extra ordinary leave, as he never refused to continue to remain in service. The applicant, under the compelling circumstances, created by the respondents, did not actually work. But so far as leave is concerned, he is entitled to leave i.e. leave with pay, leave without pay, Earned Leave and Half pay leave and the respondents without advertizing to the rule, treated the entire period as Extraordinary leave. The said decision of the respondents is not in conformity with the rule's and has no legs to stand. The order dated 9.4.87(Annexure V) is quashed and the respondents are directed to decide the question of leave and emoluments etc within a period of two months of communication of this order. No order as to costs.

Rubens

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V.C.

Allahabad Dt. 30.10.91
Shakeel/