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CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD

O:A 114/87

Tara Chandra Dwivedi

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.)

By means of this application the applicant agitated the matter of his transfer and has prayed that the decree for payment of salary from 1st May, 1982 to 29th July, 1983, as per orders of Hon'ble Supreme Court in the interim order dated 29.11.82 and final order dated 22.4.83 be granted in his favour and he be declared as regular U.D.C. from 1982 and be treated as on duty while attending the criminal cases, pay decreed for the days when he was treated as absent when attends Court.

The applicant who was working in the office of Director, Small Industries Services Institute, Allahabad was not allowed to join duty and mark attendance, though he regularly came to the office and he was orally informed by Chowkidar on 19.5.82 that he had been transferred to Meerut. Vide office order No. Part I 28/82 the respondents banned the entry of the applicant in the office. In the meantime the applicant was served with the transfer order. He filed writ petition in the Hon'ble High Court against the same which was dismissed by the High Court against which the applicant filed Special Leave Petition in Supreme Court. The Supreme Court on 29.11.82 issued notices

returnable within 2 weeks and interim stay of order of transfer on the condition that the petitioner shall continue to remain on leave and further stay in terms of prayer(b) of the stay application pending notice. Ultimately the matter came up for consideration on 22.4.83, although the petition was dismissed but with the following observations made by the Supreme Court.

"The Special Leave Petition is dismissed with the direction that the respondents may on humanitarian grounds, consider the feasibility of posting the petitioner in any of their establishments preferably at Allahabad failing which at Varanasi, Counsel for the Petitioner makes a grievance that the petitioner has not been paid arrears of his salary. The respondents may may look into the matter and do the needful."

The applicant's grievance is that after making representations, the salary of this period was not paid and he was not promoted on the post of U.D.C. for which he had been making approaches and representations. So far as the promotion is concerned, it is for the respondents to consider the same. It is strange that despite the observations made by the Supreme Court the case of the applicant was not considered in respect of payment of salary etc. In view of the observations of Supreme Court, it will be no longer open for the respondents to reject the leave that no formal leave application was moved by the applicant. From one of the letters of the respondents, which has been placed on record by the applicant (letter No. 103(11)/76/VIIA/12966-67 dated 22nd/24 Jan., 83) by the Asstt. Director which has been addressed to the Development Commissioner, Small Scale Industries, New Delhi in which the Asstt. Director pointed out that incumbent has got 9 days E.L., 80 days H.P.L. at his credit as on date. It appears that all this was ignored. Applicant was to be treated as on leave.

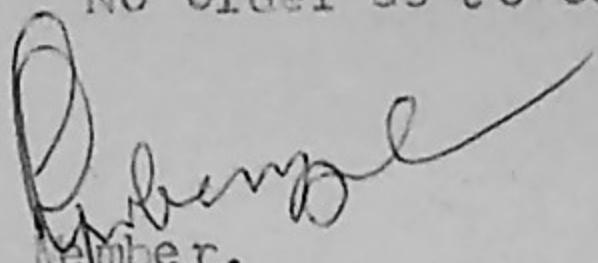
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leave during that period, as his leave was due and he was entitled for the leave for that period but ~~xxxx~~ the respondents avoided it.

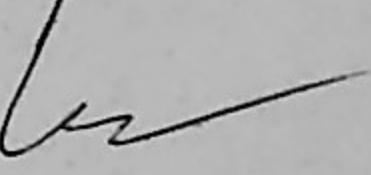
The respondents are directed to treat the entire period as leave period and grant him pay and allowances in accordance with rules taking into consideration the letter of Assistant Director dated 22nd/24th January, 83 referred to above and the payment shall be made to the applicant within a period of two months from the date of communication of this order.

No order as to costs.


Adm. Member.

Allahabad Dt. 30.10.91.

Shakeel


Vice Chairman.