

CENTRAL ADMINISTRATIVE TRIBUNAL ALLAHABAD BENCH
ALLAHABAD.

Original Application No. 695/89
Transfer Application No.:

Date of Decision 16/3/99

Bahadur Singh, S/o. Sri Ram Singh

Applicant(s)

Counsel for the Applicant Sri R.C.Sinha, Advocate Counsel for the
Applicant(s)

V E R S U S

Union of India, & others.

Respondent(s)

Shri Ashok Mohiley, Advocate.

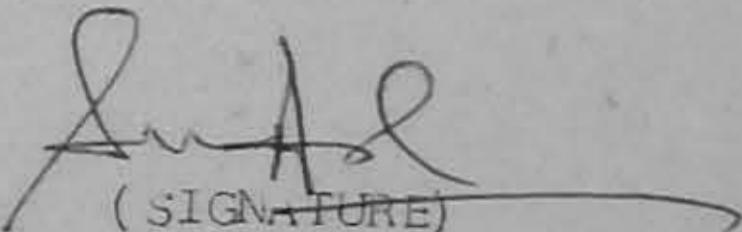
Counsel for the
Respondent(s)

C O R A M

Hon'ble Mr. S.K.Agrawal, Member (J)

Hon'ble Mr. G.Ramakrishnan, Member (A)

1. Whether Reporters of local papers may be allowed to see the judgment ? No
2. To be referred to the Reporters or not ? Yes
3. Whether their Lordship wish to see the fair copy of Yes the judgment ?
6. Whether to be circulated to all Benches ? No


(SIGNATURE)

PIYUSH/

(Reserved)

CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH, ALLAHABAD

O.A. No.695 of 1989

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Allahabad, this the 16th day of March 1999.

CORAM : Hon'ble Mr.S.K.Agrawal, Member(J)
Hon'ble Mr.G.Ramakrishnan, Member(A)

Bahadur Singh, S/o. Sri Ram Singh,
Resident of 394/3, Labour Colony,
Shastri Nagar,
Kanpur.Applicant

(By Shri R.C.Sinha, Advocate)

Versus

The General Manager,
Ordnance Equipment Factory,
Kanpur.Respondent

(By Shri A.Mohiley, Advocate)

O R D E R

(By Hon'ble Mr.S.K.Agrawal, Member (J))

In this Original Application the applicant makes a prayer to quash the order dated 17-9-88 and to release four annual increments @ Rs.4/- per year w.e.f. 26-8-76 and production profit @ 75% from 9-1-80 to 28-4-88.

2. In brief facts of the case as stated by the applicant are that the applicant is permanent employee of the Ministry of Defence and working as General Fitter in Ordnance Factory, Kanpur. It is stated by the applicant that by an illegal order dated 17-9-88 four increments of the applicant were stopped. It is further stated that his pay was reduced w.e.f. 26-8-76 illegally and against

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the rules of service. It is also stated that from 12-12-73 to 27-8-74 applicant remained under suspension but he was not paid the pay and allowances and as per Factory order dated 19-5-87 the applicant is also entitled to 75% as Production Profit w.e.f. 9-1-80 to 28-4-88 for which applicant served a notice to the respondent through his counsel, but with no result. Applicant therefore by this Original Application prayed for the relief sought for as mentioned above.

3. Counter was filed. In the counter it is stated by the respondent that the applicant has been declared as quasi-permanent employee of the Ordnance Factory, Kanpur and not the permanent Employee. It is also stated that pay of the applicant was wrongly fixed as on 1-1-86, as by way of disciplinary measure increments for a period of two years were withheld without cumulative effect vide order dated 11-7-85, but this fact escaped notice of the respondents while fixing the pay of the applicant in revised pay scale and his pay was fixed at Rs.990/- in the revised pay scale. Subsequently the same was rectified by fixing his pay on Rs.970/- per month. It is stated that the order dated 17-9-88 is only a modification of the earlier Factory Order dated 28-4-88. It is also stated in the counter that withheld increments have already been released after the expiry of penalty period and pay of the applicant was raised accordingly. In the counter it is stated that a penalty of reduction of pay was imposed upon the applicant w.e.f. 26-8-76 after following CCS(CCA) Rules, but the applicant did not challenge that order in appeal before the departmental authority and for the first time

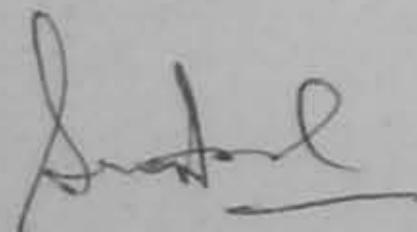
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he is challenging the same in this Original Application. It is mentioned in the counter that applicant was charge-sheeted for gambling during working hours alongwith others and a penalty of 'Censure' was imposed upon him. Therefore applicant was not entitle to arrears of pay and allowances during the suspension period. It is further submitted that the judgement of Tribunal has been implemented and the applicant has also been given all the consequential benefits. Therefore, applicant is not entitle to any relief sought for.

4. Supplementary Counter Affidavit have also been filed which are on record. A Rejoinder Affidavit was also filed which is on record. A Supplementary Affidavit of Shri B. B. Sharma was also filed on 1-2-99 which is placed on record.

5. Heard the learned lawyer for the parties and perused the whole record.

6. As regards quashing the order dated 17-9-88 passed by respondents is concerned, it appears from perusal of the counter that the order dated 17-9-88 is only a modification of the order dated 28-4-88 and while fixing the pay of the applicant on 1-1-86 in the revised pay scale an order dated 11-7-85 escaped notice of the respondents. Vide order dated 11-7-85 increments of the applicant for the period of two years without cumulative effect were withheld as disciplinary measure on account of absence from duty, when this fact came into the notice of the departmental authorities the mistake was rectified. Therefore impugned order dated 17-9-88 is only a



modification of the order dated 28-4-88. It is wrong to say that the ~~the~~ impugned order is illegal and arbitrary in any way.

7. It is also made clear in the Counter Affidavit filed by the respondents that the withheld increments have already been released to the applicant after the penalty period was over and his pay was restored accordingly. It is also made clear in the counter that penalty of reduction of pay w.e.f. 26-8-76 was imposed upon the applicant after following CCS(CCA) Rules and applicant did not challenged the same by way of appeal nor agitated this matter except in this Original Application which is grossly barred by limitation.

8. On the perusal of the pleadings of the parties it also becomes abundantly clear that the applicant was suspended from 12-12-73 to 11-9-74 on the ground that he was found gambling during the working hours and a penalty of 'Censure' was imposed upon him. Applicant did not challenge this penalty of 'Censure' anywhere. Therefore, prayer of the applicant at this belated stage regarding arrears of pay and allowances is also grossly barred by limitation and he is not entitle to the relief sought for.

9. As regards claim of the applicant for Production Profit is concerned, according to Factory rules it is paid only to those workers who take part in the production. Admitedly during this period the applicant had worked as Labourer 'B', therefore he is not entitle to any production profit as per Factory rules for the period 9-7-80 to 28-4-88.

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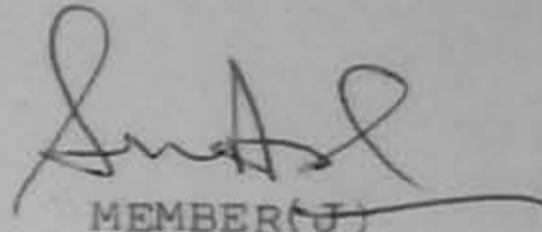
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10. In view of the aforesaid discussion, we are
of the considered opinion that applicant is not entitle
to any relief sought for.

11. We, therefore dismiss this Original Application
with no order as to cost.



MEMBER(A)



MEMBER(J)

/satya/