

CENTRAL ADMINISTRATIVE TRIBUNAL

ALLAHABAD BENCH

Registration No. 398 of 1992

Hon'ble Mr. S. Das Gupta, A.M.

Hon'ble Mr. T.L. Verma, J.M.

R.S. Mehrotra S/o Late Kedar Nath Mehrotra,
aged about 56 years, R/o 83-B Railway Colony,
Mirzapur.

..... Applicant.

By Advocate Sri A.K. Sinha

Versus

1. City Magistrate / Prescribed Authority
Under Payment of Wages Act, Kanpur City.

2. Union of India through Divisional Personnel
Officer, Northern Railway Allahabad in the
office of the Divisional Railway Manager,
Allahabad.

3. Sr. Engineer, Northern Railway, Loco Colony,
Kanpur. Respondents.

By Advocate Sri G.P. Agarwal.

O R D E R
By Hon'ble Mr. S. Das Gupta, A.M.

1. This application has been filed
Under Section 19 of the Central Administrative
Tribunal Act, 1985, mainly challenging the judgement
and order dt. 31.10.1991 passed by the respondent
no. 1 on a claim petition filed under the Payment
of Wages Act. It is also being prayed with 20%
interest on the claim amount from the date of
judgement i.e., 31.10.1991 till date of payment.
Further prayer has been made that a chargesheet
issued against the applicant (Annexure-A-6) be
quashed.

2. The facts of the case as stated by the applicant are that while he was working in the post of Permanent Works Mistry under PWI/II Northern Railway, Kanpur, he was on sanctioned leave up to 19.5.1983 and resumed his duty on 20.5.1983 and since then he has constantly ~~been~~ been on duty except from the period of 24.5.1983 to 30.5.1983, when he was on casual leave and again from 28.6.1983 to 1.8.1983 when he was on sanctioned leave on average pay. Vide his applications dt. 13.7.1983 and 2.8.1983 he applied for extension of leave and average pay up to 4.10.1983. The applicant's claim that he has not been paid any salary for the period from 20.5.1983 to 27.10.1983 by the respondents. The salary in this period works out to Rs 4337.25/- He also claimed that he was paid Rs 200/- less on account of bonus for the period from April, 1982, to March 1983 and thus he claims the total deduction was to the tune of Rs 4537.20/-

3. The applicant further claims that when he requested for extension of leave up to 4.10.1983, the respondent no. 3 vide his letter dt. 22.8.1983 (Annexure-A-I) informed the applicant that he must resume his duty immediately failing which disciplinary action shall be taken against him. On receipt of this letter the applicant claims that he immediately returned to Kanpur and reported for duty on 4.9.1983. He was, however, not allowed to resume duty, he represented to the D.H.M to intervene but yet he was not allowed to resume his duty, he made a representation to the Chief Engineer Northern Railway, Delhi bringing to his notice the harassment being caused to him but this also

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did not bring the desired result. The applicant, therefore, filed a claim petition no. 43/13 of 1985 on 15.12.1983 before the Prescribed Authority, Payment of Wages Act making a claim of Rs 4537.20/- and ten times thereof as compensation plus Rs 1000/- as fine. The claim petition was contested by the respondents and ⁱⁿ their written statement they brought it to the notice of the Prescribed Authority that the applicant was ~~an~~ unauthorisedly absent and was therefore, ~~passing~~ ^{facing} disciplinary action. Thereupon the claim of the applicant was dismissed by the Prescribed Authority by the impugned judgement and order dt. 31.10.1991.

4. Meanwhile the respondents had served a chargesheet dt. 21.10.1983 for major penalty on the applicant. One of the charges levelled against him was that he was unauthorisedly absent from 23.5.1983 till the date of the issue of the chargesheet. The applicant has claimed that he submitted his reply to the chargesheet but even after ^a lapse of seven years, nothing has been done by the respondents in pursuance of the chargesheet and even no Inquiry Officer has been appointed so far. It is in these circumstances that the applicant has filed the present applicant praying for the reliefs aforesaid.

5. In the written statement submitted by the respondents it has been stated that the applicant was unauthorisedly absent from 20.5.1983 to 27.10.1983. They have denied that there was

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any application for ~~relief~~ submitted by the applicant and as such the question of sanctioning ~~it~~ did not arise. They have contended that the period of absence was not covered by sanctioned leave, the question of payment of salary during the period did not arise and that the Prescribed Authority ~~under~~ and the Payment of Wages Act had rightly dismissed the applicant's claim petition. They have, however, made no specific comments on the delay in finalisation of the disciplinary proceedings, as alleged by the applicant.

6. We have heard the learned counsel of both the parties and gone through the records carefully.

7. As regards the claim petition of the applicant, it is quite clear that the Competent Authority ~~under~~ and the Payment of Wages Act can order payment of the wages alongwith the compensation, if it so considered necessary, only if such wages are due. Such authority is not competent to decide whether the wages ^{are} due or ~~are~~ not when the persons claiming the wages have been absent from duty and the question as to whether the period of absence is covered by leave or not is in dispute. In the present case there is admittedly ~~in~~ dispute with regard to the regularisation for the period of absence. In fact a chargesheet for major penalty was served on the applicant for unauthorised absence. The Prescribed Authority, therefore, had rightly dismissed the claim petition vide ~~the~~ impugned judgement and order dated 31.10.1991. We see no reason to interfere with this order.

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8. So far as the question of disciplinary action is concern we have not been told by either of the parties during hearing as to whether the same has since been brought to a conclusion. In fact this point was not even pressed by the learned counsel for the applicant during the course of arguments. However, if the disciplinary action is yet pending , it is manifestly unjust on the part of the respondents to keep the proceedings pending for such a long time. If, therefore, the proceedings are still pending finalisation, we direct the respondents to finalise the proceedings without any further delay and in any case within three months from the date of the communication of this order.

9. The application has otherwise no merits and the same is dismissed with the above directions.

S. Bhima
Member (J)

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Member (A)

Dated 06.10.94,
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