

CENTRAL ADMINISTRATIVE TRIBUNAL

ALLAHABAD BENCH

Original Application No. 682 of 1992

Allahabad this the 2 9 day of Sept 1995

Hon'ble Dr. R.K. Saxena, Member ( J )  
Hon'ble Mr. S. Layal, Member ( A )

Jagdish Chandra Sharma, S/o Late Sri R.L. Sharma  
R/o 9-Khurbura, Dehradun-248001.

APPLICANT

By Advocate Shri A.N. Bhargava

Versus

1. Union of India, Service to be effected through Defence Secretary, New Delhi.
2. Controller General of Defence Accounts, R.K. Puram, West Block-V, New Delhi.
3. C.I.A.A. (Air Force), Dehradun, 107 Rajpur Road.

RESPONDENTS

By Advocate K.M.S. Srivastava.

O R D E R

By Hon'ble Dr. R.K. Saxena, Member ( J )

The applicant has come before the Tribunal seeking several reliefs of different periods. He wants direction to the respondents about continuity of service from 13.3.1987 to 12.10.1988 and the payment of salary alongwith allowances for the said period. He also wants direction that the payment of T.A. and D.A. for

the transfer journey which was done from Dehradun to Jodhpur in January, 1987. He further wants the quashment of the order dated 06.11.1989 and 10.10.1990.

2. The facts in brief are that the applicant was posted in the C.D.A. (Air Force) as Lower Division Clerk. He was transferred to Local Audit Office(Air Force), Jodhpur some time ~~back~~<sup>8</sup> in 1986 and was again transferred back to Dehradun in April, 1990. It is said that when the applicant was transferred to Jodhpur, his father was seriously ill and ultimately, died on 31.3.88. The applicant could not attend to his duties. He had moved the Tribunal by filing O.A .No.447 of 1986 in which the directions were given to accommodate the applicant at ~~near~~<sup>by</sup> station. It was found that he was transferred to Dehradun in May, 1990 but, the respondents adopted an attitude of harassment towards the applicant because the salary for the period from 15.3.1987 to 12.10.1988 was not paid except the fact that half pay for 60 days from 14.8.1988 to 12.10.1988 was paid . The applicant was also charge-sheeted for his absence for the said period and was ultimately penalised by the authority, which was not competent, by passing the order of stoppage of one increment of pay for one year without cumulative effect. When the appeal was preferred, it was also rejected. It is also the case of the applicant that T.A. for the journey performed by him on account

of his transfer to Jodhpur, was rejected. Therefore, this O.A. seeking so many reliefs of different periods, has been brought.

3. The respondents contested the case on several grounds. It is contended that the applicant was transferred to Jodhpur in August, 1986 and he joined his duties on 24.1.1987. The explanation for delayed joining was that his father was ill. It was not found convincing rather it was found contrary to the facts which were in record. <sup>was, &</sup> He, however, granted Extra Ordinary Leave for different periods starting from 13.3.1987 to 13.8.1988 and for this extra ordinary leave, no leave salary <sup>is</sup> was payable and no leave salary was paid. According to the respondents, the applicant had absented himself abruptly from office in an unauthorised manner. He was, therefore, declared absent without leave for the period 15.3.1988 to 24.5.1988 vide order dated 06.7.1988. Subsequently, the said period was regularised by grant of extra ordinary leave. The rules 32 and 37 of C.C.S. Leave Rules, 1972 have been quoted.

4. As regards the orders of punishment, it is contended that the proceedings were initiated <sup>under</sup> Rule 14 of CCS(CCA) Rules, 1965 and charge-sheet dated 07.11.1988 was given. The charges were denied accordingly. The departmental inquiry started. The applicant was given full opportunity to represent his case. The Inquiry Officer submitted report dated 26.7.1989. The copy of which was also furnished

to the applicant. On the consideration of the facts and circumstances of the case, the Disciplinary Authority awarded minor penalty of stoppage of one increment of pay for one year without cumulative effect on 06.11.1989. The fact that the Controller of Defence Accounts(Air Force) is the competent authority to impose minor penalty in respect of Group 'C' and 'D' employees, has been reported. The plea of the respondents that the Controller of Defence Accounts(Air Force) was delegated with the powers and, therefore, there was no illegality in the order passed against the applicant. The appeal was also decided and rejected on valid grounds. It is reiterated that the applicant was not entitled to pay and allowances for the period for which Extra-Ordinary-Leave had been granted. Whatever other allowances were payable on Extra-Ordinary-Leave being granted, they were paid to him. It is also the case of the respondents that the applicant had joined at Jodhpur on 24.1.1987 but, the T.A. bill was submitted on 07.11.1988 i.e. after a lapse of 1 year and 10 months. His right to claim T.A.D.A. was deemed to have been relinquished under the provision of S.R.194-A. It is contended that the application is not maintainable and is liable to be rejected.

5, The applicant has filed rejoinder contending that other 3 persons who were transferred to Jodhpur, were sent back but a different attitude was adopted in his case. So

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far as the ~~penalty~~<sup>factum</sup> of non payment of T.A./D.A. bill is concerned, the same points which were taken up in the main O.A. were reasserted.

6. We have heard the learned counsel for the parties and have perused the record.

7. It is clear from the pleadings that the applicant has joined several issues of different dates in this case. He has also claimed T.A./D.A. of his transfer journey from Dehradun to Jodhpur, which was performed on a different date. He has also challenged of his being declared absent and ultimately he challenged the order of punishment. These different issues gave cause of action on different dates. Therefore, they cannot be brought through one O.A. The arguments of the learned counsel for the applicant was mainly towards the penalty order and appellate order which were passed in the case. We, therefore, treat this O.A. as directed against the orders of punishment.

8. It is not in dispute that the applicant had absented himself. The reason assigned by him is that his father had fallen ill and ultimately died on 31.3.1988. It appears from the record that he had also informed about his own sickness. The ~~stands~~<sup>circumstances</sup> of the case revealed that the applicant was not happy with his transfer

from Lehradun to Jodhpur and for that reason, the transfer which had taken place in August, 1986, he joined his post on 24.1.1987. The plea that his father was ill and ultimately died on 31.3.88 does not fully explain the cause of absence because the death of his father, as is alleged, by him, took place after about 19 months from the date of transfer. The respondents have come with clear case that the applicant had abruptly absent himself from the office and for the treason, the disciplinary action was started against him. The charge of his unauthorised absence was established. He was also directed to appear before Chief-Medical-Officer, Saharanpur for medical checkup about his own illness on different dates i.e. 26.9.87, 15.12.1987 and 04.2.1988 but, he failed. The Disciplinary Authority, therefore, found him guilty. It may be made clear that learned counsel for the applicant could not point out any illegality in the procedure or any ground to suggest that the principles of Natural justice were violated. Thus, it remains not a case of judicial review. It has no doubt been contended that the order of punishment has been passed by an authority, which was not competent. In order to controvert this fact, the respondents have filed copy of the order about delegation of powers (Annexure-5). This order was called Appointing Authority, Disciplinary Authority and Appellate Authority for Group 'C' and 'D' post in the Defence Accounts department

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Order 1986." By this order, the Controller of Defence Account is empowered to pass the order of penalty. Thus, it is not a case in which the order of punishment was not passed by a competent authority. The appellate authority also found no reason to interfere with the order of punishment. We also do not see any ground for judicial review of the case.

9. On the consideration of the facts and circumstances of the case, we come to the conclusion that there is no merit in the case of the applicant and it is, therefore, dismissed. The L.A. is decided accordingly. No order as to costs.

  
( S. Nayal )  
Member 'A'

  
( Dr. R.K. Saxena )  
Member 'J'

/M.M./