

CENTRAL ADMINISTRATIVE TRIBUNAL LUCKNOW BENCH LUCKNOW

Original Application No. 1103 of 1992

Union of India & Others Applicant

Versus

Sri Kamla and others Respondents

Hon'ble Mr. Justice U.C. Srivastava, VC

Hon'ble Mr. K. Chayya, Member (A)

(By Hon'ble Mr. Justice U.C. Srivastava, VC)

By means of this application, Union of India has challenged the orders passed by prescribed Authority under payment of wages Act dated 22.6.1991 awarding a sum of Rs. 9975.50 as unpaid wages and a sum of Rs. 28/- as compensation for delaying the payment. The respondent no. 1 who was fitter was medically incapacitated for category A 3, B1 and B2, but on 7.10.88 ~~who~~ was found fit for category C1 with spectacles. He waited for alternative employment for which he was kept in waiting from 8.10.1988 to 14.6.89 but no appointment could be given to him and none could be available and his leave too was not due, he was retired from service with effect from 15.6.89. He was not paid wages for the period during which he was kept in waiting. After failing to get the wages from Railway Administration, he approached the Authority under Payment of Wages Act. The applicants opposed the application on the ground of limitation and merits stating that as no vacancy in lower grade was available job could not be provided and no leave being ^{adjustment} due was not possible and as he did not work he was not entitled to wages. The Prescribed Authority condoned the delay which was not much viz two month in the, ~~on~~ ^{the} circumstances being fit case for same and allowed the claim of respondent no. 1 whereafter this application

:: 2 ::

2. The prescribed Authority had a jurisdiction to condone the delay and the delay being of two months the discretion so carried for condoning the delay could not be said to ^{be} arbitrary or based on any reasonable ground as such this plea of the applicant fails.

3. The applicant because of some defect in eyes was declared medically unfit to the post on which he was working and for certain other categories, but was found fit for one particular category and as such became entitled for alternative job on that category, the Railway Administration made him to work and then retired him from services. There was no refusal by the respondent to work and he wanted to work during the period he was in service viz upto the date of his (now respondent) ~~voluntary~~ retirement. Applicant/continued to remain ⁱⁿ inservice till the date of his retirement. A

Government employee is ~~as~~ entitled to salary and other emoluments and benefits upto the date he remained in service to the extent he is entitled to minus to which he is to be deprived for legally. (now respondent)

After the applicant/became unfit, the respondents did not retire him but made him wait and ~~they~~ they failed to get any alternate employment for him and retired him from service. Claim of salary has been challenged on the ground that no leave was due to him. May it be so, as the Union of India the applicant is responsible for delaying the matter,

-3-

(now respondent)
the applicant/cannot be made to suffer. It may be
that rule 306 of the Railway Establishment Manual
interms may not apply, and there is no such rule
which covers such contingency. The position is very
(now respondent)
clear. If the applicant/continued in service and he
did not work and no work was allotted to him and no
leave was due to him and the period to be treated as
Extraordinary Leave...As the respondent was kept
waiting, he cannot be deprived of the salary altogether.
He, having been found fit for categories C-1 with
spectacles on 17.10.81, he will be entitled to salary
in the category -C-1 upto the date of retirement except
for the period which is to be treated towards
extraordinary leave. Let the payment to which the
respondent is entitled to be given to him with a
period of 3 months from the date of receipt of a
copy of this judgment. With these observations the
application is disposed of finally with no order as
to costs.

(Adm. Member)

Allahabad Dt. 13/11/92

Vice Chairman.