

Open Court

CENTRAL ADMINISTRATIVE TRIBUNAL      ALLAHABAD BENCH  
ALLAHABAD.

Allahabad this the 3rd day of January 2000.

Original Application no. 154 of 1993.

Hon'ble Mr. Rafiq Uddin, Judicial Member  
Hon'ble Mr. M.P. Singh, Administrative Member.

Vidya Shanker Pandey, S/o Shri Mata Shander Pandey  
Assistant Craftman in the office of Development  
Commissioner ( Handicrafts ) Ministry of Textile  
Block No. 7 R.K. Puram, New Delhi.

... Applicant

C/A Shri N.L. Srivastava

Versus

1. Union of India through its Secretary  
Ministry of Textile New Delhi.

2. Development Commissioner ( Handicrafts )  
Office of the Development Commissioner  
( Handicraft ) West Block No. 7 R.K. Puram,  
New Delhi.

3. Director Central Region  
Office of the Development Commissioner  
( Handicraft ) 46/3 Gokhaley Vihar Marg,  
Lucknow.

4. Assistant Director ( A&C )  
Office of the Development Commissioner  
( Handicraft ) Service Centre Rajpura,  
Bhadoli, Varanasi.

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5. Carpet Training Office,  
Carpet Weaving Training Centre,  
Dhanapur Varanasi.

... Respondents.

C/R. Shri Amit Sthekar.

ORDER (Oral)

Hon'ble Mr. Rafiq Uddin, Member-J.

The applicant seeks direction to the respondents to allow him for doing work of Assistant Craftman/Assistant Instructor in the office of Carpet Training Office, Carpet Weaving Training Centre, Dhanapur Varanasi (Respondent no. 5) and also to pay salary of the applicant from 28.10.1991.

2. In the present case, pleadings are complete. Hence, the O.A. is disposed of at admission stage, on the request of learned counsel for the parties.

3. The applicant was appointed as Assistant Craftman by order dated 10.10.1979 by the Deputy Director, All India Handicraft Board, Varanasi (Annexure A-1). According to the applicant he fell ill on 05.07.87 and a leave application supported with medical certificate was sent by the applicant to the respondent no. 5 on 13.07.1987, in which leave was requested for a period for 05.07.1987 to 30.07.87. Further case of the applicant is that unfortunately, as a reaction of the medicine, he was unable to attend his duties ~~and~~ under advise of his doctor. An application for leave was sent on his behalf by his father on 01.09.1987 to the respondent no. 5 by

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by registered post. Therefore, the applicant reported on 28.10.1991 to the office of respondent no. 4 alongwith leave application supported by medical certificate. But he was not permitted to join his duty and was told that his application has been referred to respondent no. 2 for orders. The applicant approached respondent no. 4 several times till 28.08.1989. But every time he was not permitted to join the duties. The respondent also did not pass any order on his application. According to the applicant, no termination order has been passed by the respondent. Therefore, he can not be prevental from joining his duties. The respondents have arbitrarily and illegally refused the applicant to join his duties and to take work from him as Assistant Craftman.

4. The respondents have opposed the application mainly on the ground that the applicant was initially appointed on ad-hoc basis. Since the applicant remained absent unauthoriesly from duty for more than four years, hence, his appointment stands discontinued, in view of a long absence from duty. Consequently the question of his taking back on duty or regularisation of his service does not arise. Plea of the application being time barred is also taken. The respondents have denied, having received any application from the father of the applicant. Since the applicant does not bother to join his duties and remained absent without any intimation and the appointment being a purely on ad-hoc basis, the disengagement of the applicant is justified.

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5. We have heard Shri N.L. Srivastava learned counsel for the applicant and Shri Amit Sthelekar learned counsel for the respondents. Learned counsel for the respondents has drawn our attention to order dated 14.01.1993 passed in O.A. 509 of 1991 ~~passed~~ by the Division Bench of this Tribunal, in ~~support~~ <sup>respect</sup> of one Shri Lalmeni Pal, whose case is identical to that of applicant. In that case the Division Bench of the Tribunal has passed following order :-

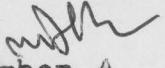
"The respondents have opposed the application and in their return it has been contended that none of the information was furnished by the applicant to the respondent no. 2 and 3. Actually the applicant was absent from his duty without any intimation and proper leave application. The respondents have denied that there was leave application what so ever of the applicant. It is stated that during the year 1990 a representation for joining has been received from the applicant which has been forwarded to the Competent Authority for further action. But at the same time it has been stated that the applicant did not turn upto his duty since 25.11.87. It is submitted that the applicant was monthly consolidated wages worker and did not turn up his duty since 25.11.87 without any intimation as such question of his termination as wages worker does not arise. It is submitted that the applicant was absent from his duty without any information and leave application and thereafter submitted false statement before the court, disciplinary action against him could have been taken. As such now the respondents are directed to allow the applicant to resume his duty without prejudice taking into consideration any disciplinary action pending against the applicant. In case the applicant is found not guilty and he is allowed to join the duties and the period is to be taken continuously. It will be opened for the respondents to decide as to whether he is entitled for the wages during this period or not taking into consideration the

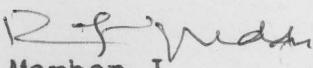
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respective faults. The application shall stand disposed off finally in this respect. No order as to costs."

6. It has, therefore, been urged that the facts of the case of the applicant being identical, the applicant also deserves the same relief. Learned counsel for the respondents has strongly opposed this contention. We find that the facts of both the cases are identical. We have no reason to differ from the view taken by the Division Bench of this Tribunal in O.A. 509 of 1991 and disposed of the present O.A. accordingly. Consequently, respondents are directed to allow the applicant to resume his duty without prejudice of any disciplinary action contemplated by the respondents against the applicant. It is further made clear that the applicant shall not be entitled for any back wages.

7. No order as to costs.

  
Member-A

  
Member-J

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