

CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD BENCH,
ALLAHABAD

DATED : ALLAHABAD THIS 8th DAY OF FEBRUARY, 1996.

CORAM : HON. MR. T. L. VERMA, MEMBER-J

Original Application No. 1512 of 1994.

Brijendra Swarup Nigam,
son of Sri Ram Swarup Nigam,
working as Fitter HS-I,
Field Gun Factory,
Kanpur,
Resident of No.G-I/572, Armapur Estate,
Kanpur. Applicant.
(BY ADVOCATE SHRI M.A.SIDDQUI)

Versus

1. The Union of India, through the Secretary, Ministry of Defence, Department of Defence, Production, New Delhi.
2. The Chairman, Ordnance Factories, Board, 10-A, Auckland Road, Calcutta-1.
3. The General Manager, Field Gun Factory, Kanpur.
4. Sri S.K.Beri, Dy.General Manager (Admin-I) Field Gun Factory, Kanpur. Respondents.

(BY ADVOCATE SHRI KM.SADHNA SRIVASTAVA)

O_R_D_E_R (Reserved)

(By Hon. Mr. T. L. Verma, Member-J)

This application under Section 19 of the Administrative Tribunals Act, 1985 has been filed for declaring order of the respondent to recover Rs. 618/- from the pay of the applicant for the month of December, 1993 payable in January, 1994 as illegal, void and without jurisdiction and for issuing a direction to refund the aforesaid amount with

interest @ 10% per annum.

2. The applicant while working as Fitter HS-I in Field Gun Factory, Kanpur was detailed for temporary duty to Heavy Vehicle Factory, Abadi for collection of Government stores vide Factory Order Pt. II No. 344 dated 28.2.1992. His stay at Heavy Vehicle Factory was for 3 days. He was granted T. A. advance of Rs. 1930/-.

3. The applicant, however, commenced his journey on 2.3.1992 and reached Heavy Vehicle Factory, Abadi on 4.3.1992. He started his return journey on 11.3.1992 and arrived at Kanpur on 14.3.1992 and has joined his duty on 16.3.1992 and submitted his deputation report dated 16.3.1992 alongwith a release order dated 11.3.1992 issued by the Heavy Vehicle Factory Abadi, Madras. The applicant claims to have submitted his T.A. bills against temporary duty on 16.3.1992, for adjustment against T.A. Advance, of Rs. 1930/-. The respondents raised objection of over stay from 7.3.1992 to 11.3.1992 without any notice to the applicant and the period from 7.3.1992 to 11.3.1992 has been treated as over-stay. He was, forced to apply for Earned Leave for the period from 7.3.1992 to 11.3.1992. He ^{claims to have} ~~has~~ submitted a representation for treating the period from 7.3.1992 to 11.3.1992 as duty and disposal of T.A. Claim bill, submitted by him. The respondents, it is alleged, ~~have~~ passed the impugned order of deduction of Rs. 618/- from his pay instead of allowing the representation filed by him for treating the period from 7.3.1992 to 11.3.1992 as duty period. Hence this application for the reliefs mentioned above.

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4. The respondents have contested the claim of the applicant. In the counter-affidavit, filed on behalf of the respondents, it has been stated that the stay of the applicant at Abadi was for 3 days. The justification given by the applicant for his over-stay from 7.3.1992 to 11.3.1992 was not accepted by the competent authority. The applicant therefore, was asked to submit leave application for the period from 7.3.1992 to 11.3.1992 for the purposes of regularisation of the aforesaid period. The applicant submitted leave application for Earned Leave which was sanctioned by order dated 26.6.1992. The further case of the respondents is that the applicant did not furnish journey details even after a lapse of one year and he was, therefore, called upon to show cause as to why he did not furnish ~~the~~ journey details within a period of one year in terms of the extant rules. He is stated to have submitted journey details on 30.3.1993. He was also called ~~by~~ upon to show cause the circumstances under which he had taken Earned Leave during temporary duty and not deposited T.A. D.A. advance in terms of S.R.194A and Ministry of Finance O.M.No. F.5(16) E-IV(B)/67 dated 18.10.1967 as he ~~has~~ ^{did} not furnished the journey details within one year. The applicant, it is stated, instead of replying the aforesaid letters preferred an appeal dated 5.11.1994 to the respondent No.2. Account Group of the Factory did not allow the return journey fare plus D.A. for four days and accordingly a sum of Rs.618/- was recovered from his wages, of month of December, 1993 payable in January, 1994.

5. I have heard the learned counsels for the parties and perused the record. The controversy as to whether the journey details were furnished within one year of

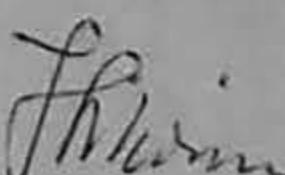
performing journey or not is not relevant for deciding the issue raised in this application. Hence, I do not propose to express any opinion on that issue. The only question that falls for consideration in this case is whether the respondents were justified in disallowing the claim of the applicant for return journey on the ground of combining with temporary duty.

6. Though the applicant has applied for Earned Leave for the period from 7.3.1992 to 11.3.1992, and the same has been sanctioned, the applicant has alleged that he applied for leave for the aforesaid period on being pressurised by the respondents. According to the applicant he could not return to Headquarter after the expiry of three days sanctioned period as he was not released by the General Manager and he was compelled to extend the stay in the interest of Government work. He was relieved in the afternoon of 11.3.1992. The Deputy General Manager Sri S. P. Gopal Krishna issued letter dated 11.3.1992 addressed to respondent No.3 wherein it has been clearly stated that he was relieved on 11.3.92. The proper course for the respondents in the aforesaid circumstances was to have obtained a clarification from the Officer under whom he worked during the period of his temporary deputation. The letter Annexure-A-5 clearly states that the applicant was released on 11.3.92 (Afternoon). The letter suggests ^{prima facie} that the applicant worked in the Factory at Abadi till the time of his release on 11.3.1992. From the letter, it is difficult to conclude that the applicant over-stayed of his own as may justify compelling the applicant to the period of alleged over-stay. The respondents, if were not satisfied, with the justification given by the applicant for his stay beyond sanctioned period, in all fairness

should have made an inquiry from the General Manager Heavy Vehicle Factory, Abadi, Madras as to whether the applicant had been detained beyond 6.3.1992 for completing the work for which he has been deputed. From the counter-affidavit, filed on behalf of the respondents, it does not appear whether any query to that effect was made from the General Manager Heavy Vehicle Factory, Abadi. In that view of the matter, compelling the applicant to apply for Earned Leave for that period in my opinion was not justified.

7. In the facts and circumstances of the case, the order disallowing return journey fare plus D.A. for 4 days from 7.3.1992 to 11.3.1992 to the applicant on the ground of joining the same with temporary duty is wholly arbitrary and as such can not be sustained.

8. In the result, this application is allowed and the order directing recovery of Rs. 618/- from the pay of the applicant is hereby quashed. The respondents are directed to refund the same to the applicant. This will, however, not preclude the respondents from making enquiry from the General Manager, Heavy Vehicle Factory, Abadi Madras as to whether the applicant had been detained from 7.3.1992 to 11.3.1992 for completing the work for which he had been detained and in case it is found that the applicant had not been detained for official purpose, the respondents may take appropriate action against the applicant in accordance with rules. There will no order as to costs.


Member-J.