

OPEN COURT

CENTRAL ADMINISTRATIVE TRIBUNAL ALLAHABAD BENCH

ALIA HABAD.

Allahabad this the 03th day of July 2001.

original Application no. 675 of 1999.

Hon'ble Mr. SKI Naqvi, Judicial Member

Vishwa Nath, S/o late Shri Hazari,
R/o # 245, Chowkhandi, Kydganj,
Allahabad.

... Applicant

C/A Shri SI Ali

versus

1. Union of India, through Secretary,
Govt of India, Ministry of Defence,
DHQ, PO, New Delhi.
2. The Director General of Ordnance Services,
Master General of Ordnance,
Branch Army Head Quarter, BHQ, PO,
New Delhi.
3. The Commandant, Central Ordnance,
Depot, Chhawki, Allahabad.
4. B.A.O. (s) C.O.D. , Chhawki,
Allahabad.

... Respondents

C/Rs. Shri Satish Chaturvedi

O R D E R (Oral)

Hon'ble Mr. SKI Naqvi, Member-J.

Shri Vishwa Nath, while posted as carpenter
and joiner in Central Ordnance Depot, Chhawki,

....2/-

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Allahabad, he sustained injuries for which he could not attained his duty during period from 9.2.1996 to 10.7.1996 and remained hospitalised during this period. He was paid full pay and allowances only upto 30.6. 1996, but not for the period from 1.7.1996 to 10.7.1996 for which he preferred representation. But instead of making payment for the unpaid period the authorities deducted the amount paid for the period from 9.2.1996 to 30.6.1996 for which the applicant has come up seeking redressal.

2. The respondents have contested the case, filed counter affidavit with the specific mention that the claim of the applicant has rightly been disallowed because the injuries sustained by him was not during the course of duty which is mandatory ^{Condition} contention for grant of hospital leave in terms of article 291 of CSR.

3. Heard learned counsels for the rival contesting parties and perused the records.

4. The main controversy is whether the provisions under CSR 291 are applicable in the present matter or not and more over the provisions have been interpreted by the authorities concern in right prospective.

CSR 291 runs as under :-

"291 - An Engineer of the Marine Department, an employee in a Government Press, a subordinate employee (including a temporary or extra

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employee), in an Ordnance or Government Dockyard establishment, ^{a Syce} whether permanent or temporary incharge of a Government stallion, or public servant in a Commissariat establishment may during absence from work on account of injuries received in the course of his duty, be allowed full pay for one month, and thereafter half pay for three months : Provided that in the case of a person to whom the Workmen's Compensation Act, 1923, applies, the grant of leave under this Article, shall be subject to the condition that the leave allowance payable shall be reduced by the amount of any compensation payable under Section 4 (1) D of the said Act."

5. A bare perusal of the above provisions and considering this application and the findings in OA 966 of 1990 rendered by this Bench of the Tribunal on 14.8.1996 I do not hesitate to hold that the provision have not only been wrongly applied for, but have also been misinterpreted. The applicant is said to have been sustained the injuries and consequent thereto hospitalised when he was on his way to work place and to report for the duty and, therefore, entitled to get the benefit under head hospital leave.

6. The OA is decided accordingly with the direction as under :-

The applicant be paid his pay and allowances for the period from 9.2.1996 to 10.7.1996 within three months from the date of communication of copy of this order.

Corrected to day
The 9th day of
August 2001
S. C. S.

S. C. S.

...4/-

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as per his entitlement, and the period be treated as under head hospital leave. The applicant shall also be entitled to get interest @ 12% pa from the date when the amount paid to him for the period from 9.2.1996 to 10.6.1996 was got deducted from his entitlements till the date of payment.

7. No order as to costs.

S. S. Mehta
Member-J

/pc/

CA 675/99

CA 3347/01

OK.
MA. 3347/01
is submitted.

31/7.

8-8-01

Hon Mr Rafiq Uddin JM

None for the parties. Let the case be listed before appropriate bench for orders on ~~12-9-01~~ 9-8-01

JK
JM

JK

09/08/01

Hon Mr. S.K.P. Nagui, JM.

Shm S. I. Ali for the applicant.
Shm P. Sivadasa brief holder &
Shri Satish Chaturvedi, counsel for the
respondents. Heard on MAO 3347/01.
Allowed, in a 4th line of para-6
the word "month" has not been trans-
cribed after the word "three", which
has been corrected today. Copies to
also corrected accordingly.

JK
JM

JK

free of cost 1-py
submitted for
correction.
Corrected copy
issued to Shri S.I. Ali
today i.e. 13/08/01,
Abdul K
13/08/01
S.O (S).