

CENTRAL ADMINISTRATIVE TRIBUNAL

ALLAHABAD BENCH

THIS THE 24TH DAY OF APRIL, 2001

Original Application No.1120 of 2000

CORAM

HON.MR.JUSTICE R.R.K.TRIVEDI,V.C.

HON.MAJ.GEN.K.K.SRIVASTAVA,A.M

Girraj Singh son of Shri Pratap Singh
Resident of Q.No.38/8 Type T
OE Fy.estate Hazratpur(Tundla)

... Applicant

(By Adv: Shri R.K.Shukla)

Versus

1. Union of India through the
Secretary, Ministry of Defence
Department of Defence Production
Govt. of India, New Delhi.-11
2. The Addl.Director General
of Ordnance Factories, O.E.F Group
Factories Headquarters
G.T.Road, Kanpur.
3. The General Manager,
Ordnance Equipment Factory, Hazratpur
District Firozabad(UP)

... Respondents

(By Adv: Shri R.C.Joshi)

O R D E R(Oral)

JUSTICE R.R.K.TRIVEDI,V.C.

By this OA the applicant has prayed that the respondents may be directed to pay him the salary and other allowances for the period from 5.2.1993 to 10.1.1995. The facts of the case are that applicant was subjected to disciplinary proceedings and he was dismissed from service by order dated 5.2.1993. Against the said order applicant filed appeal. Appellate Authority vide order dated 11.11.1993 reduced the penalty of dismissal from service and imposed punishment of stoppage of four increments when next due with cumulative effect. The Appellate Authority further provided

that the intervening period from the date of reinstatement in service will be treated as diesnon i.e. it will neither constitute any break in service nor will ^{Counted &} ~~count~~ for pension, leave increment etc. In pursuance of the appellate order applicant was reinstated in service w.e.f. 10.1.1995 against the order of the appellate authority applicant filed a review under rule 29 which was decided on 3.4.1998. The relevant para 5 of the order is being reproduced below:-

"Now, therefore, the President in exercise of powers conferred on him vide rule 29 of CCS(CCA) Rules 1965, hereby further moderates the penalty from 'stoppage of four increments when next due with cumulative effect' to that of 'Censure' on Shri Girraj Singh, Line Mistry(S), Ordnance Equipment Factory, Hazratpur."

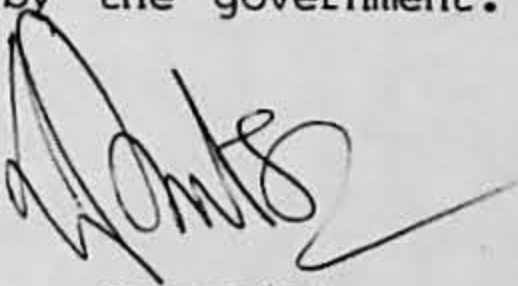
The learned counsel for the applicant has submitted that as the order passed by the Appellate Authority was further moderated, the applicant is entitled for the salary and allowances for the entire period from the date of dismissal till he joined. Learned counsel for the applicant has also submitted that though the Appellate Authority passed the order on 11.11.1993 it was communicated to him on 10.1.1995, the applicant should not be allowed to suffer for this long delay. The applicant has also placed reliance on Rule 29(A) of CCS(CCA) Rules.

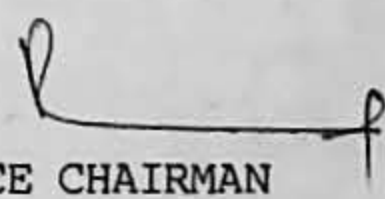
Shri V.B.Mishra learned counsel for the respondents on the other hand submitted that applicant has not worked during the period 5.2.1993 to 10.1.1995 he is not entitled for the salary and allowances for this period.

We have carefully considered the submissions of counsel for the parties. In our opinion the substantial question for determination in this OA is as to whether the applicant can



be held responsible^u and can be treated absent from duty during the period 11.11.1993 when the order was passed by the Appellate Authority directing his reinstatement and 10.1.1995 when the order was communicated to him. There is nothing on record that ^uapplicant^u ~~respondents~~ avoided the service of the order in spite of the bonafide efforts made ^ufor that^u his whereabouts could not be known and the order could not be served. Contrary to it, he joined on the same date i.e. on 10.1.1995 as soon the order was served on him. In counter affidavit we do not find any explanation for this culpable delay on the part of the respondents in conveying the appellate order to the applicant. In our opinion, the applicant cannot be allowed to suffer ^ufor^u this culpable delay on the part of the respondents in communicating the order. The OA is accordingly partly allowed to the extent that applicant shall be deemed to have joined the service on 1.1.1994, as, had the reasonable care ^uhas^u been taken the order could have been served within six weeks./ The respondents are accordingly directed to pay salary and allowances to the applicant for the period 1.1.1994 to 10.1.1995. We further give liberty to the respondents to inquire into and fix responsibility for the delay in communicating the appellate order to the applicant and take suitable legal action including realisation ^uloss^u of the ^ufinancial^u loss suffered by the government. No order as to costs.

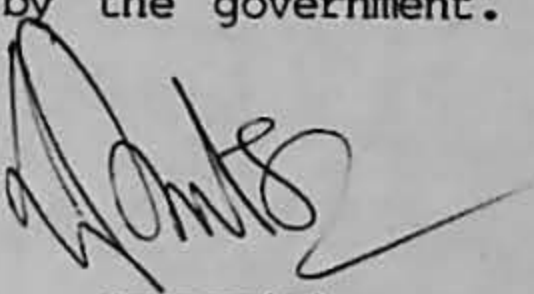

MEMBER(A)



VICE CHAIRMAN

Dated: 24.4.2001

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Dated: 24.4.2001

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