

RESERVED

CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD
BENCH : ALLAHABAD

(This the 9 day of July, 2009)

Present

Hon'ble Mr. A.K. Gaur, Member-J

Original Application No.1317 of 2003

K.D.Sah, aged about 50 years,
S/o Late Shri D.Lal Sah,
Resident of House No. P8/2,
C.O.D. Estate Area, Naini,
Allahabad,

..Applicant.

By Advocate : Shri Rakesh Verma.

VERSUS

1. Union of India, through the Secretary, Ministry of Defence, (production), New Delhi.
 2. Union of India through the Secretary, Ministry of Labour, Govt. of India, New Delhi.
 3. Director General, Ordinance Factory Board, 10-A, Shaheed Khdiram Bose Road, Kolkata.
 4. General Manager, Ordnance Clothing Factory, Shahjahanpur
- ...Respondents

By Advocate : Shri S.C.Mishra.

ORDER

(B'y : Hon'ble Mr. A.K. Gaur, Member-J

By means of the aforesaid Original Application the Applicant has claimed following main reliefs (s): -

- (i) *To issue a writ, order or direction in the nature of Mandamus directing the respondent No. 4 to pay interest @ 18% per annum on the*

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principle amount of LTC bill finally passed i.e. Rs. 7,868/- for the period from 10.8.1998 till 30.6.2003 as well as amount of Rs. 734 which was recovered from the salary of the petitioner as penal interest against the LTC advance drawn by him together with interest thereon @ 18% from the month of March, 1999 when the aforesaid recovery was made till the payment is now made, within a period as may be stipulated by this Hon'ble Tribunal by this Hon'ble Tribunal.

(ii) To issue any other suitable writ, order or direction in the facts and circumstances of the case which this Hon'ble Tribunal may deem fit and proper."

2. The Applicant has claimed Rs. 734/- which was recovered from his salary as a penal interest on the amount of Rs. 9360/- drawn by him as advance against LTC, plus 18% interest on amount of Rs. 7868/-. According to the applicant the LTC claim was illegally denied by the Respondents and the payment was withheld from 10.08.1998. The LTC claimed by the Applicant has illegally been rejected vide order dated 29.06.1999.

3. The grievance of the Applicant is that there was no justification on the part of Respondent No. 4 for rejecting the LTC claim of the Applicant on the ground that same was not preferred by him within the prescribed time limit. The Applicant has already filed OA No. 763 of 2002 (K.D. Shah Vs. Union of India and Others). The said O.A. was allowed vide order dated 13.12.2002 holding the action of Respondent No. 4 as illegal, and order dated 29.06.1999 was quashed with a direction to the Respondent No. 4 to examine the claim of the Applicant.

4. In the Counter Affidavit filed by the Respondents, it is submitted that after availing LTC advance, the Applicant did not submit the journey details within 30 days as required under rules. Accordingly, he was advised to deposit the amount of advance with penal interest.

5. It is also alleged that the OA No. 763 of 2002 filed by the Applicant was decided by this Tribunal on 13.12.2002 with the direction to Respondent No. 4 to examine the claim under the first category as if no advance was drawn and decide the same in accordance with rule within 3 months. The order was complied with and the payment of LTC worth Rs. 7868/- was made to the Applicant by Demand Draft No. 835627 dated 30.6.2003. It was forwarded by speed post. The payment of Rs. 734/- was recovered as penal interest from the Applicant through Demand Draft dated 31.07.2003 (Annexure CA -I). The Contempt Petition filed by the applicant was also dismissed by the Tribunal vide its order dated 29.08.2003.

6. I have carefully seen the record of the case and heard parties counsel at length. Learned Counsel for the Respondents raised a preliminary objection that the O.A. is barred by the principle of resjudicata. Having given my anxious thought to the pleas advanced by the parties counsel, I am fully convinced that this OA is barred by

principle of resjudicata in as much as that similar controversy was already ^{agitated} ~~affiliated~~ in O.A. No. 763 of 2002 and the Respondent No. 4 has already examined the claim of Applicant in pursuance to the order dated 29.08.2003 passed in Contempt Petition No. 84/2003.

The Tribunal has clearly held as follows: -

"The claim of the Applicant was regarding the payment of Rs. 7918/-. The claim of the applicant has been accepted and amount has been paid. However, counsel for the applicant says that it was paid after considerable delay. However, for delay alone, we do not think that the respondent should be punished for contempt. In the circumstances no contempt has been made out. Notices are discharged." It is evident from the above operative portion of Hon'ble Central Administrative Tribunal Allahabad order dated 29.8.2003 that nothing is to be paid further to the applicant hence the claim of 18% interest is unfounded and denied."

7. In my considered view the instant OA is clearly barred by the Principle of resjudicata and liable to be dismissed as such. The objection raised by the learned counsel for the Respondents is sustained.

8. With the above observations, O.A. is dismissed. No costs.


Member - J

/Shashi/