

OPEN COURT

CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH
ALLAHABAD

Dated : This the 10th day of AUGUST 2004.

Original Application no. 632 of 2003

Hon'ble Mr. Justice S.R. Singh, Vice-Chairman
Hon'ble Mr. D.R. Tiwari, Member-A.

Vidya Shankar Pandey, S/o Sri M.S. Pandey,
R/o Vill Dhanapur (North) Post Office Gopiganj
Distt. Sant Ravi Das Nagar.

... Applicant

By Adv : Sri N.L. Srivastava

V E R S U S

1. Union of India, Ministry of Textile through its Secretary, 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 (Handicrafts) B-46 Mahanagar Extention, Lucknow.
4. Assistant Director (A & C) office of the Development Commissioner (Handicrafts) Service Centre, Ram Priya Road, Allahabad.
5. Assistant Director (A&C) Service Centre, Varanasi, D-64/151, A.M.O. Nigam Colony Sigra Varanasi, Office of the Development Commissioner (Handicrafts).

... Respondents

By Adv : Sri V.V. Mishra

O R D E R

Hon'ble Mr. Justice S.R. Singh, VC.

Heard Sri N.L. Srivastava learned counsel for the applicant and Sri V.V. Mishra learned counsel for the respondents.

2. It appears that while the applicant was working as

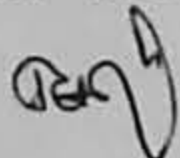


...2/-

2.

Assistant Craftman/Assistant Instructor in the office of Carpet Training Office, Carpet Weaving Training Centre, Dhanapur, Varanasi, he fell ill on 05.07.1987 and applied for leave. The leave application was sent to Carpet Training Centre Dhanapur Varanasi on 13.07.1987 alongwith medical certificate. In the application for leave, the applicant had requested for grant of leave from 05.07.1987 to 30.07.1987. It appears that no order was passed on the leave application and on the ground of ill health of the applicant his father submitted another application for leave on 01.09.1987. But no order was passed on that application too. Ultimately the applicant reported for duty on 28.10.1991 and was told that his application had been referred to Development Commissioner (Handicraft) Office of the Development Commissioner (Handicraft) West Block No. 7 R.K. Puram, New Delhi for appropriate orders. When no orders were received the applicant filed OA no. 154 of 1993 which was disposed of by this Tribunal vide order dated 03.01.2000 with direction to the respondents to allow the applicant to resume his duty without prejudice to any disciplinary action contemplated by the respondents against the applicant. It was made clear by the Tribunal that the applicant shall not be entitled for any back wages.

3. In compliance to the above order of this Tribunal, the applicant submitted his joining report on 04.02.2000. The said application was forwarded by the Assistant Director (A&C), Office of the Development Commissioner (Handicraft) Service Centre, Rajpura, Bhadohi, Varanasi to Regional Director (Handicraft) Office of the Development Commissioner (Handicraft),



....3/-

3.

Lucknow for appropriate directions. It may be observed that though a Writ Petition challenging the legality of the order of this Tribunal dated 03.01.2000 was filed before the Hon'ble High Court but no interim order was passed by the Hon'ble High Court in the Writ Petition no. 11344 of 2000, filed by the department against the order passed by this Tribunal and the Writ Petition came to be dismissed on 16.03.2002. The Deputy Director (A&E I), Office of the Development Commissioner (Handicraft), New Delhi ultimately passed order on 08.04.2002 (Ann A4) allowing the applicant to report for duty on the post of Assistant Instructor in the pay scale of Rs. 3050-4590 from the day he reports to Assistant Director, Service Centre, Allahabad with direction that the applicant shall not be entitled for any back wages. The order dated 08.04.2002 (Ann A4) is quoted below :-

"No.H 11011/50/2001 Admn.II
Government of India
Ministry of Textiles
Office of the Development Commissioner (Handicraft)

West Block No. 7 R.K. Puram
New Delhi - 110066
Dated 08.04.2002

ORDER


In compliance to the order dated 03.01.2000 of the Hon'ble Central Administrative Tribunal, Allahabad Bench, Allahabad in O.A. no. 154/93 and order dated 16.03.2002 in WP No. 11344/2000 of the Hon'ble High Court of Allahabad, Shri V.S. Pandey, is hereby allowed to report for duty to the post of Assistant Instructor in the Pay Scale of Rs. 3050-4590/- from the day he reports to Assistant Director, Service Centre, Allahabad. He is posted at RCS, Lekrajpur, Allahabad. Shri Pandey shall not be entitled for any back wage.

This issues with the approval of DC(H).

Sd/-
(S.K. Jana)
Deputy Director (A&E I)

To

Shri V.S. Pandey,
C/o Assistant Director,
Service Centre,
Varanasi.



...4/-

4.

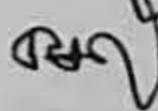
Copy to:

1. Regional Director, CRO, Lucknow
2. Assistant Director, Services Centre, Allahabad
3. Assistant Director, Services Centre, Varanasi with the request to handover the order under acknowledgement, which may be forwarded to this Office.
4. A.O. CPAO, O/o the DC(H), CRO, Lucknow
5. Personal file of Sri Pandey
6. AP to DC(H)/ADC(H)."

Consequent upon the said order the applicant joined his duty on 11.04.2002 and has been receiving his salary from the date he joined his duty pursuant to the order dated 08.04.2002. The OA has been instituted for issuance of a direction to the respondents to pay the salary of the applicant from 04.02.2000 to 08.04.2002 with interest @ 12% pa.

4. It has been submitted by the learned counsel for the applicant that despite the order of this Tribunal the applicant was precluded by the respondents from joining his duty and, therefore, he cannot ^{be} deprived of his salary for the period subsequent to the date he gave the joining report. Sri V.V. Mishra, learned counsel for the respondents on the other hand submitted that the Tribunal in its order dated 03.01.2000 had made clear that the applicant was not entitled for any back wages and, therefore, the respondents cannot be faulted for denying any back wages to the applicant.

5. Having heard the learned counsel for the parties, we are of the view that the applicant is no doubt not entitled ^{to} ~~for~~ any back wages for the period prior to the date he gave ^{at} joining report. In the instant case also he has not claimed any salary for any period preceeding the date he gave the joining report on the basis of the order passed by the Tribunal.



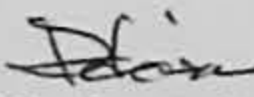
....5/-


5.

He has claimed salary from 04.02.2000 i.e. the date he submitted his joining report consequent upon the order of this Tribunal. The respondents were not justified in withholding permission allowing the applicant to join his duty consequent upon the order passed by this Tribunal. The applicant is, therefore, entitled for his salary from 04.02.2000 to 08.04.2002 as prayed for. The principle no work no pay will not apply in this case because the applicant was precluded by the respondents from joining and performing his duties. We, however, are not persuaded to grant any interest on salary for the said period.

6. Accordingly, the OA succeeds and is allowed. The respondents are directed to pay the salary to the applicant for the period from 04.02.2000 to 08.04.2002.

7. There shall be no order as to costs.


Member-A


Vice-Chairman

/pc/