

CENTRAL ADMINISTRATIVE TRIBUNAL
CALCUTTA BENCH

T.A. No. 5 of 1996
(CR.9906-W/84)

Present : Hon'ble Mr. Justice A.K. Chatterjee, Vice-Chairman
Hon'ble Mr. M.S. Mukherjee, Administrative Member

Tarak Mukherjee, s/o Late Aswani Kumar
Mukherjee of village Chakmanik, P.O. Bowali,
P.S. Budge Budge, Dist. 24-Parganas.

..... Applicant

-Versus-

1. Union of India, represented by the Secretary, Defence, Govt. of India, having his office at New Delhi ;
2. The Director General, Ordnance Factories, Govt. of India, having his office at 6, Esplanade East, Calcutta ;
3. The General Manager, Gun & Shell Factory, Cossipore, having his office at Cossipore, P.O. Cossipore, Dist. 24-Parganas ;
4. The General Manager, Ordnance Factory, Dum Dum, having his office at Dum Dum, P.S. Dum Dum, Dist. 24-Parganas ;
5. Sri S.Ghosh, Enquiry Officer, under the purported enquiry, purportedly held under order No.442/4/Vig/GM, dated 19.11.83 ;
6. Sri K.M.Chatterjee, Charge Man Training Presenting Officer of the purported enquiry held under the purported order No.442/4/Vig/GM. dt.19.11.83 - Respondent Nos. 5 and 6 working for gain under the control of General Manager, Gun & Shell Factory, Cossipore, 24-Parganas.

..... Respondents

Counsel for the applicant - Mr. Tarakeshwar Pal
Mr. D.Bhattacharjee

Counsel for the respondents - Mr. B.K. Chatterjee


Heard on : 31.3.97 & 3.4.97 - Order on : /4, -5-1997

O R D E R

A.K. Chatterjee, VC

The petitioner Tarak Mukherjee was a unskilled labourer of Gun & Shell Factory, Cossipore and he was served with a major

penalty charge-sheet dt.28.8.83 for unauthorised absence from 24.5.83. He made a writ application before the Hon'ble High Court being C.O. No.5470-W/83 to quash the disciplinary proceeding and also for arrear of salary for the period from Jan., 1971 to December, 1977 and from April, 1978 till date, which, according to him, was not paid for certain reasons stated by him, which are not relevant for the present purpose which will be shown later. During the pendency of the writ application, he was removed from service w.e.f. 22.2.84 and he filed another writ application being C.R. 9906(W) of 1984. In this writ application, an interim order was made on 22.6.84 directing the respondents to pay to the petitioner all arrears of salary, which he is entitled to in terms of the rules covering his condition of service as expeditious as possible and not later than six weeks from the said date. It may also be noted, though not quite relevant for the present purpose, that the petitioner filed one application on 8.3.85 in CR 9906(W) of 1984 alleging contempt of court for validating the interim order passed on 22.6.84. This application was disposed of by D.K. Sen, J (as his lordship then was) on 3.4.85, when the petitioner did not appear and the respondents submitted on instruction that a cheque for the amount of arrear salary was ready for payment to the petitioner, who, however, did not collect the same. In view of this submission, the application for contempt was disposed of without any order except that the petitioner, if he chooses, may collect the cheque from the respondents. Thereafter, the first writ petition i.e. C.O. 5470-W/83 was transferred to this Bench and registered as T.A. 1559/86. Since the disciplinary proceeding had been finalised in the meantime, the prayer made in this writ application for quashing the disciplinary proceeding was held to have become infructuous and regarding the prayer for arrear salary,



it was submitted on behalf of the respondents that the cheque for the same was sent to the petitioner by registered post on 23.6.87 and on accepting the same, he destroyed it. In such situation, T.A. 1559/86 was disposed of on 27.4.93 with a direction upon the respondents to deposit the cheque for the arrear pay drawn in the name of the petitioner with the Joint Registrar accompanied by a statement of accounts and when the cheque was received by the Joint Registrar, the applicant should be paid the same through his counsel. When the matter remained in this stage, the second writ application filed by the petitioner viz. CR.9906(W) of 1994 was also transferred to this Tribunal by an order of the Hon'ble Court on September -.6; 1995. In this writ application also, the petitioner while praying for quashing the order of removal has also prayed for payment of arrear salary to him for the period already noted.

2. We have heard the Ld.Counsel for both the parties and perused the records before us.

3. So far as the claim for arrear salary is concerned, it is amply clear from what has been stated above that a cheque was directed to be deposited with the Joint Registrar of this Bench drawn in favour of the petitioner which was to be handed over to his counsel. The respondents have produced relevant documents to show that as a matter of fact, the cheque together with the statement of accounts has been sent to the Joint Registrar on 8.7.93. It was, however, not clarified during the hearing whether the Ld. Counsel for the petitioner had received the cheque from the Registry for handing over the same to the petitioner. Nothing was submitted before us disputing the accuracy of the statement of accounts and in such circumstances, we are disposed to the view that the cheque, if not yet delivered to the Ld.Counsel for the petitioner,

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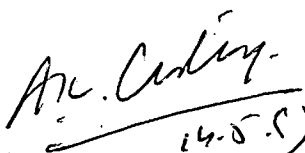
should be delivered as early as practicable after its revalidation, if necessary.

4. Regarding removal from service, it appears that the petitioner had raised a dispute before the Regional Labour Commissioner, Calcutta and on failure of conciliation proceeding, the dispute was referred to the Central Govt. Industrial Tribunal being Ref. No.133 of 1988, which was disposed of by Mr. Justice Manas Nath Ray by an award dt.5.2.92. Justice Ray found on consideration of relevant matters that the dismissal of the petitioner was justified. In view of this award, it is no longer proper to canvas the matter over again and no relief in this regard can be granted to the petitioner.

5. For the reasons stated above, we dispose of this application with the order that the cheque for the arrear salary, if not yet delivered by ^{the} registry to the petitioner through his Counsel, should be delivered as early as practicable after revalidation of the cheque, if necessary. No further order is called for.

6. No order is made as to costs.


(M.S. Mukherjee)
Member(A)


(A.K. Chatterjee)
Vice-Chairman