

CENTRAL ADMINISTRATIVE TRIBUNAL
CALCUTTA BENCH

OA 452/97

Present : Hon'ble Mr.B.V. Rao, Member(J)
Hon'ble Dr.A.R. Basu, Member(A)

Naresh Prasad Yadav

-Vs-

1) Union of India, service through the General Manager, CLW,
Chittaranjan

For the applicant : Mr.B. Chatterjee, Counsel

For the respondents : Ms. U. Bhattacharjee, Counsel

Date of Order : 15.9.2006

ORDER

Mr.B.V. Rao, JM

Shri Naresh Prasad Yadav has filed this OA seeking the following reliefs :

- a) To make payment of full pay for the period from 14-12-87 to 9-4-94 which period was forced idleness upon the applicant depriving him of his lawful dues illegally, arbitrarily, vindictively against the laws and rules prescribed and in violation of the laws established by the Hon'ble Supreme Court in such cases of reinstatement.
- b) A direction upon the respondent to deduct any amount paid as per the respondent's own illegal calculation as per Annexure 'A' from the amount of full back wages for the above period.
- c) A direction upon the respondent that the period from 4-10-93 to 4-9-94 was the exclusive negligence and act of vindictiveness to keep the applicant further out of employment on false pretexts and he was to be paid in full for that period as well with cost for harassment.

2. The brief matrix of the case according to the applicant are that he was in employment of the respondent as Bungalow Peon from 16-5-1987 and he was illegally removed from service from 14-12-87 and being aggrieved by the termination order he filed OA bearing No.409/88 which was decided on 4-10-93. He further states that although the order was passed on 4-10-93, the respondent authorities deliberately delayed in implementing the order till 5-5-94 for which he filed the contempt petition bearing



No.3/94 which was decided on 13-1-94. Even after that there was no effect. Thus another MA 344/94 was filed and the same was decided on 1-12-94. He further states that ultimately the respondent authorities took back the applicant to duty from 5-5-94 as Khalasi in the Horticulture Department, but illegally treated the period of forced idleness from 14-12-87 to 4-5-94 as not spent on duty against which he made several representations and ultimately the CPO passed the order of reinstatement in service vide order dated 27-9-95/2-11-95 but did not follow the dictum of the Hon'ble Supreme Court as reported in **AIR 1988 SC 344** in the case of **Union of India and another v. Sri Babu Ram Lalla** wherein it has been held that after reinstatement if no pay is granted it is cruelty in modest term. He further states that the Railway Board acted illegally in this matter when they have no jurisdiction to do so being only policy as decided by the Hon'ble Supreme Court in the case of **Union of India v. Santi Swarup and Ors** reported in **AIR 1979 SC 1548**. Since the applicant's grievance has not been settled, he approached this Tribunal to ventilate his grievance.

3. The respondents contested the matter by filing reply stating that the issue cannot be agitated again as it has been adjudicated by this Tribunal in CPC 33/96 in OA 409/88 and the same will be barred by the principles of res judicata. The respondents further contended that as per the Judgement and Order dated 4-10-93 passed in OA 409/88 the applicant has been reinstated in service w.e.f. 5-5-94 after being declared medically fit. Hence, the point raised by the applicant is not sustainable. This Bench vide Order dated 3-3-97 dismissed the CPC on the ground that the respondents have taken correct steps to comply with the order in OA 409/88. They further contend that the applicant was unauthorisedly absenting from duty from 14-12-87 and he was taken under DAR for such unauthorized absence. The punishment imposed on the applicant was challenged by him before this Bench in OA 409/88 and the Tribunal passed the Judgement on 4-10-93 and the Administration has taken all steps to comply with the Judgement of the Bench and the applicant has been allowed to join duty w.e.f. 5-5-94 on production of medical certificate from the concerned Medical Authority. They further contend that the applicant's absence from 14-12-87 to the date of his rejoining had been regularized by order dated 12-7-97. The respondents contended that there is nothing left to reagitate the same issue again. Further an amount of Rs25,553.80 was paid to the applicant as his arrear pay and DA



based on the orders received from the Railway Board towards regularization of the period of absence and action was taken as per rules and no injustice has been made to the applicant. In view of the facts stated in the reply, the respondents prayed to dismiss the OA with costs.

4. Heard both the parties.

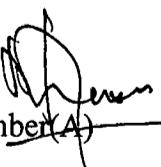
5. The learned counsel for the applicant reiterated the facts and circumstances of the case and he repeatedly canvassed before us that the applicant is entitled to get the arrears of pay and allowances for the period from 14-12-87 to 4-5-94.

6. Per contra the learned counsel for the respondents vehemently argued and opposed the submissions made by the learned counsel for the applicant. He stated before us that the applicant earlier filed OA No.409/88 before this Bench and the respondent authorities further complied with the order passed by this Tribunal on 4-10-93 and the CPC filed by the applicant was also dismissed by the Tribunal. Hence, the applicant has no right to reagitate the same issue which was already decided and adjudicated by this Bench. In view of the facts and circumstances of the case the learned counsel for the respondents prays to dismiss the OA with costs.

7. We have considered the submissions and arguments of both the parties and we have gone through the pleadings and materials on record.

8. After a careful consideration of the submissions and arguments of both the parties and after hearing the contentions of both the parties, we are of opinion that the respondents fully complied with the Judgement and order in OA 409/88 and the same cannot be reagitated which was already adjudicated by this Bench.

9. In the result for the foregoing reasons and discussions made above, we do not see legal right or ground of allowing the claim of the applicant. Accordingly, the OA is dismissed being devoid of merit. No order as to costs.


Member(A)


Member(J)