

Central Administrative Tribunal, Lucknow Bench, Lucknow

Original Application No. 479/2005

This the ^{24th} day of December, 2008

Hon'ble Mr. M. Kanthaiah, Member (J)

Hon'ble Dr. A. K. Mishra, Member (A)

Arjun Deo son of Sri Jagdeo, resident of Village Mahua Pathak, Post Office Gaura Bazar, District- Sidharthnagar.

Applicant

By Advocate: Sri D.Sinha for Sri S.S.L. Srivastava

Versus

1. Union of India, through the Secretary, Ministry of Defence, Govt. of India, New Delhi.
2. The Dy. Director General, Military Farm, Army Headquarters, Q.M.G. Branch, R.K.Puram, New Delhi.
3. The Director, Military Farm, Headquarters Central Command, Lucknow.
4. The Dy. Director, Military Farm, Headquarters Central Command, Lucknow.
5. The Officer- in charge, Military Farm, Pithauragarh.

Respondents

By Advocate: Sri S.P.Singh for Sri K.K.Shukla.

ORDER

HON'BLE DR. A.K. MISHRA, MEMBER (A)

The applicant has challenged the order dated 5.2.2004 of respondent No. 3 passed in pursuance of the judgment dated 23.10.2002 of the Allahabad Bench of this Tribunal. The applicant was a Farm Hand employee belonging to Military Farm, Pithauragarh. But he was attached for duty at Military Farm Depot, Lehra Camp under the control of Military Farm Allahabad. He was directed on 4.4.91 to go back and report to his parent unit at Military Farm, Pithauragarh. The applicant instead of obeying the direction, did not move out on



the ground that some of his dues relating to arrear of pay and other allowances had not been paid. He filed O.A. No. 1277 of 1992 with a prayer for a direction to the respondents to release his dues. Ultimately, an amount of Rs. 24,754/- was paid to the counsel of the applicant by way of a cheque and the applicant at last joined at Pithauragarh On 21.12.1993. Since the details relating to the items for which this cheque had been paid were not available at the time of payment nor was supplied even subsequently in spite of his representation in the matter, he filed O.A.No. 35/98 making a further request that he should be paid full salary for the period 4.4.91 to 20./12.93 after treating the period as on duty and other reliefs which have been claimed in the present O.A. also. The Tribunal directed the respondent No. 3 to pass a reasoned order. Accordingly, the impugned order has been passed in which it has been stated that the applicant did not submit any leave application even in spite of many requests, therefore, he could not be paid any salary for the period, when he was unauthorizedly absent from duty.

2. In the present application, he is also seeking similar relief for :

- i) Payment of salary for this period and for getting consequential benefits;
- ii) Fixation of his pay on account of regularization of this period;
- iii) Furnishing of details in respect of payment already made.

3. The respondents have raised the preliminary objection on account of limitation. Since the applicant has not filed OA. within the limitation period, it should be dismissed as non-maintainable.

4. The applicant has filed a separate application for condonation of delay. He has stated that the delay was on account of his making representation to the respondents for recalling their order. He tried to file O.A. before the Allahabad Bench. But subsequently, he was advised to file OA. before this Bench. Accordingly, he took necessary steps in the matter. He has not explained why he did not file the



application before the Allahabad Bench when he is an employee in Pithauragarh Farm of the respondents. Territorially, Pithauragarh comes within the jurisdiction of Allahabad and his place of birth located in Siddarth Nagar district also comes within the jurisdiction of Allahabad Bench. There was no legal hurdle standing in the way of the applicant filing the O.A. in Allahabad Bench. As a matter of fact the parties in the O.A. and in the previous O.A. filed by him in Allahabad bench are almost the same. Therefore, this ground furnished by him does not appear to be a satisfactory one.

5. There is a delay involved of 7 months and 16 days. Since he submitted a representation against the impugned order to respondent No.4, he can avail of another six months towards limitation. Thus, the delay gets reduced to one month and 16 days. In the interest of justice, delay of this period is condoned and the application is taken up for consideration on merit.


6. The respondents have submitted that the payment made to him was on account of arrear of salary due to him prior to 4.4.91. Since he belonged to Pithauragarh Farm, there was no occasion for them to pay advance transfer allowance since it was not a case of transfer, but termination of the temporary arrangement of attaching him to Allahabad Farm and he was asked to report to his parent station. Further, the period of 4.4.91 to 20.12.93 could not be regularized, as the applicant did not file necessary application for sanction of leave for the period. It is a fact that he did not obey the order for reporting at his parent station. He did not perform any duty during this period. Claiming salary for it without doing any work is clearly not justified. However, the respondents have not complied with the directions given earlier about giving break up of details of Rs. 24,754/- paid to him through his counsel.

7. In our opinion, justice in this case would be fully met if the following directions are made :-



- i) Respondent No.3 will give full details about this amount paid to the applicant through his counsel;
- ii) The applicant should submit an application for sanction of leave due to him for the period of absence from 4.4.91 to 20.12.93 and on receipt of such an application, leave due to him should be sanctioned as per rules and the period of absence should be regularized accordingly.
- iii) On regularization of this period, his pay may be appropriately fixed and other consequential benefits as may be due to him should be allowed.

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


(DR. A.K. MISHRA)
MEMBER (A)

HLS/-


(M. KANTHAIAH)
MEMBER (J)
24.12.08