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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
LUCKNOW BENCH
LUCKNOW

O.A. NO

390/

1990 (L)

T.A. NO

Date of Decision

26/8/92

A.N. Tripathi

PETITIONER.

Advocate for the Petitioner(s)

VERSUS

Union of India & Others

RESPONDENT.

Advocate for the Respondent(s)

CORAM

The Hon'ble Mr. Justice U.C.Srivastava, V.C.

The Hon'ble Mr. K. Obayya, A.M.

1. Whether Reporter of local papers may be allowed to see the Judgment?
2. To be referred to the reporter or not?
3. Whether their Lordships wish to see the fair copy of the Judgment?
4. Whether to be circulated to other benches?

LCS

Vice-Chairman/Member

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CENTRAL ADMINISTRATIVE TRIBUNAL,
CIRCUIT BENCH,

LUCKNOW.

O.A. No. 390/90 (L)

A.N. Tripathi Applicant

Vs.

Union of India & Others Respondents.

Hon. Mr. Justice U.C. Srivastava, V.C.

Hon. Mr. K. Obayya, A.M.

(By Hon. Mr. Justice U.C. Srivastava, V.C.)

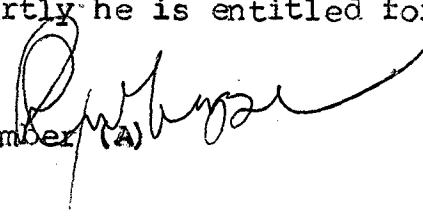
After losing the appeal under section 17 of the payment of wages Act the applicant has approached this Tribunal praying that the order passed in Review Application and in the first appeal by IInd Additional District Judge, Sultanpur and the order passed on 25-4-83 by Prescribed Authority, may be quashed. It has also been prayed that direction may be issued to the respondents to pay the wages demanded as suspension allowance between 6/8/69 to 21-10-69 and from 5-11-69 to 7-11-69 amounting to Rs.586.20 and wages demanded from 2-12-69 / 13-12-69 and from 11-12-69 to 21-12-69, from 30-12-69 to 31-12-69, from 1-1-70 to 4-1-70 and from 11-1-70 to 31-1-1970 amounting to Rs.384 and for 1-7-70 to 30-7-70 amounting to Rs.270/- may be paid and the wages claimed as annual increment for the period of 15-8-69 to 15-8-70 amounting to Rs.970/- and 10 times compensation amounting to Rs.67,954/- may also be paid. The applicant was office clerk in the Railway Training School and later on was appointed as Works Mistri. While working in the Lucknow division, the applicant was charge-sheeted in the month of January, 1964. The matter lingered on. His increment was also delayed

increments were withheld, though the notice was initially for dismissal from service. Ultimately he approached the Authority under the payment of wages Act, in respect of the amount which according to him was wrongly deducted. The Prescribed Authority rejected the claim of the applicant on the ground that the same was barred by limitation of time. The applicant filed an appeal which was also dismissed on the ground of limitation. As it was an exparte order the applicant filed a Review Application which was also dismissed after that he approached this Tribunal. During the pendency of this application the applicant moved an application for amendment which was allowed and the respondents have also filed the reply. According to the applicant the suspension order was without any condition. The applicant's claim was that he is entitled to salary for the entire period as the suspension order was not valid and without justification ~~as it was recalled~~ meaning thereby it never existed. As such the same tantamount to legal entitlement for wages for the entire period.

2. According to the respondents, the applicant was under suspension upto 5-8-69 and not up 8-11-69 and as such his claim was barred by limitation. The applicant was under suspension from 6-1-67 to 7-11-69. From the evidence it transpires that the applicant was also paid suspension allowance upto the month of November, 1969 and the definite averment of the applicant that the service of the order was effected only in the month of November 1969 also could not be controverted. From these facts it was evident that the applicant could learn of the revocation of the suspension order only on 8-11-69. The supplementary bill for suspension allowance was prepared from 15-8-69 to 14-9-69. Thus the applicant became ~~_____~~

entitled to ~~to~~ salary upto 20-11-69 and the respondents
been
wrongly held that his suspension order having/recalled
earlier he was not entitled to salary for this period.
The applicant was entitled to salary for the period upto
7-11-69 as the suspension order itself was not legal and
as such the deduction was covered by the payment of wages
Act. So far as the other claims of the applicant that
he was not allowed to sign in the register and ~~xxx~~ was
not allowed to join the duty, there is dispute between
the parties. According to the applicant, every time he
went to sign in the register he was not allowed to do
so and in some temporary register he has signed. The
respondents refuted the same. But no evidence could be
produced to prove that inspite of the applicant's
sincere efforts to sign in the register he was not allowed
to do so. It is just possible that the applicant was
attending the duty, but he did not make any serious efforts,
may be under compulsion or pressure to show that in fact
duty
that he was ready to join and was present for the same.
As the applicant could not successfully establish this claim,
he is not entitled for the salary for the said period as
it will not be covered under the payment of wages Act,
although he will be treated to be on duty during this
period as there was no refusal on his part to join the
duties and as per his allegation he did make efforts
to sign in the register. According to the applicant
he was signing in the temporary register, which was not
produced and according to the respondents no such register
was being maintained and as such this claim was also not
proved. Thus the applicant's claim for the period during
which he was under suspension has been wrongly refused
by these authorities and this application deserves to be
allowed and the orders ^{are} quashed to that extent. So far ~~xx~~

the period during which he was treated to be on unauthorised absence, the applicant failed to establish the same successfully. Accordingly the applicant is not entitled to ~~XXXXXX~~ wages for that period, though he will be deemed to be continuing in service for all other purposes during this period. The respondents will pay the amounts to the applicant which are due to him within a period of two months from the date of receipt of this order. Refusal of wages to the applicant during the period of sick leave will tantamount to illegal deduction of wages. As such the applicant is entitled to get wages for the period during which he was on sick leave, which cannot be refused in any way. Accordingly the respondents are liable to pay wages for the period during which the applicant was on sick leave. As the applicant has succeeded partly he is entitled for 2 times compensation.


Member (A)


Vice-Chairman

Dated: 26th August, 1992, Lucknow.

(tgk)

O.A.No.390/90(L)

26/8/92.

Hon. Mr. Justice U.C. Srivastava, V.C.
Hon. Mr. K. Obayya, A.M.

Judgment has been dictated in the open
Court.

A.M.

V.C.