

CENTRAL ADMINISTRATIVE TRIBUNAL

LUCKNOW BENCH

LUCKNOW

ORIGINAL APPLICATION NO. 4 of 1991

versus

Union of India & ors. Respondents

HON. MR. JUSTICE U.C. SRIVASTAVA, V.C.

HON. MR. V.K. SETH, ADMN. MEMBER.

(HON. MR. JUSTICE U.C. SRIVASTAVA, V.C)

The applicant, in this application has prayed for a mandamus to be issued to the respondents to allow him to join the duty and sign the attendance register and for payment of salary for the months of November to December, 1990 onwards to the applicant. It has been pointed out that the applicant has now joined the duty, with the result that the relief No. 1 has become infructuous and so far as relief No. 2 is concerned, the same is being decided.

2. The applicant was Sepoy in the Customs department having been appointed in the year 1976. The applicant lodged complaint against the Inspector Shri Rajendra Kumar to the effect that he was encouraging the smugglers instead of preventing them for which he was threatened for removal of the applicant from service. According to the applicant he signed the attendance register till 16.11.90, and 17.11.90 and 18.11.90 were Saturday and Sunday, but when he reported for duty on 19.11.90 he was not allowed to sign the attendance register and he was not

allowed to work but no order in writing was given to him. The applicant made certain representations to the authorities but his grievance was not redressed and he was compelled to stay at his native place.

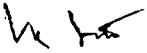
3. In the counter it has been stated that he surreptitiously managed to get the attendance register and put his signature for all working days from 26.10.90 to 16.11.90(17.11.90 and 18.11.90 being Saturday and Sunday), the period on which actually he absented himself without leave and he was unauthorisedly absent and he signed the register from back date and as such the matter was referred to the higher authorities.

4. As to the applicant was unauthorisedly absent or not and he is entitled to salary for this period, is the matter to be decided and can only be decided and enquired into by the departmental authorities and accordingly the respondents are directed to make enquiry associating the applicant in the same and after that they may pass order and incase it is found that the applicant was not entitled to any salary, the same may not be paid to him and salary to be paid from the date he reported for duty and if otherwise the case of the applicant may be differently decided i.e. in case it is found that he was not allowed to sign the attendance register, obviously he will be entitled to salary and the respondents will decide the matter within 3 months from the date

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of this order to the respondents. This direction is given after taking into consideration Annexure C-6 filed by the respondents, which shall be taken into account.

5. Application stands disposed of as above with no order as to costs.


ADMN. MEMBER


VICE CHAIRMAN

LUCKNOW DATED: 21.4.93

Shakeel/