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CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD

LUCKNOW CIRCUIT BENCH

Review Application No.646 of 1990 (L)

In

Registration O.A. No.135 of 1990

Union of India & Others Applicants/Opposite
Parties.

Versus

Pratap Opposite Party/Applicant

Hon.Mr.Justice K.Nath, V.C.

Hon.Mr. M.M. Singh, Member (A)

(By Hon.Mr.Justice K.Nath, V.C.)

This is an application to review our judgement dated 13.9.90 in the original application described above whereby we had quashed the order dated 17.9.89 of removal of Pratap from service. It was held that Pratap would be deemed to have continued in service and would be paid back wages as admissible under the rules. The Union of India and Others were also given an opportunity to institute a fresh enquiry against Pratap under the applicable rules.

2. There is an application for condonation of delay in making this delay. Sufficient ground is shown and therefore the delay is condoned.

3. The review has been filed on the ground that in large number of similar cases while quashing orders of termination, this Tribunal did not grant back wages. It is stated that, according to the present applicants, the petitioner-opposite party did not work with effect from 6.1.89 and therefore he should not have been awarded

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back wages on the principle of 'no work no pay'.

4. We have carefully gone through the Review Application and our judgement. The point raised is dealt with in paras 8 and 9 of our judgement. It was noticed that while according to the present applicants, the petitioner-opposite party had been absconding ever since 1989, according to the latter the opposite party had mentioned in his reply dated 3.2.89 to the show cause notice dated 6.1.89 that although he was reporting for duty he was wrongly marked absent and was not being paid salary. It was observed that the best course for the respondents was to institute a fresh enquiry against the applicant about his collusion with the concerned staff in continuing in service. It was further observed that even if on the one hand the opposite party may not have the approval of the Department and on the other hand the Department itself acted with reckless negligence about his case. It was held that the Department having chosen to act in an arbitrary manner in flagrant violation of the applicable rules, there was no reason to deny salary to the applicant from the date of removal from service i.e. from 17.9.89. These are speaking orders of this Bench and there had not been any error apparent on the face of the record or other ground for interference. No precedent has been cited before us to show that in exactly similar circumstances this Tribunal while quashing an order of termination had also refused back wages.

5. The Review petition has no force and is dismissed.

M. M. Singh
Member (A)


Vice Chairman

Dated the 21st Nov 1990