

(3)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

NEW BOMBAY BENCH

O.A. No. 348/89

198

T.A. No.

DATE OF DECISION 13/6/91

Krishnaji Parshuram Mahajan Petitioner

Mr. S.P. Saxena Advocate for the Petitioner (s)

Versus

Union of India and ors. Respondent

R.K. Shetty Advocate for the Respondent (s)

CORAM

The Hon'ble Mr. Justice U.C. Srivastava, Vice-Chairman

The Hon'ble Mr. M.Y. Priolkar, Member (A)

1. Whether Reporters of local papers may be allowed to see the Judgement ? JS
2. To be referred to the Reporter or not ? No
3. Whether their Lordships wish to see the fair copy of the Judgement ? No
4. Whether it needs to be circulated to other Benches of the Tribunal ? No


(U.C. SRIVASTAVA)

(8)

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
NEW BOMBAY BENCH

O.A.348/89

Krishnaji Parshuram Mahajan,
576, Shanwar Peth,
Pune - 411 030.

.. Applicant

vs.

1. Union of India
through
Secretary,
Govt. of India,
Ministry of Defence,
New Delhi - 110 011-

2. Engineer in Chief,
Army Headquarters,
Kashmir House, DHQ PO
New Delhi - 110 011.

3. Chief Engineer,
Pune Zone,
Maniji Mehta Road,
Pune - 411 001.

.. Respondents

Coram: Hon'ble Shri Justice U.C.Srivastava, Vice-Chairman

Hon'ble Shri M.Y.Priolkar, Member(A)

Appearances:

1. Mr.S.P.Saxena
Advocate for the
Applicant.

2. Mr.R.K.Shetty
Counsel for the
Respondents.

JUDGMENT:

(Per U.C.Srivastava, Vice-Chairman)

Date: 13/6/91

The applicant has approached this Tribunal praying that the respondents may be directed to pay Charge Allowance admissible and recommended by audit ~~be paid~~ with interest at 12% from the date amount is due roughly Rs.2,500/-, respondents may be directed to pay the amount within a period of three months and a token amount of Rs.300/- also be paid to him as it was spent on correspondence, typing, postage etc.

2. The applicant who was working as Upper Division Clerk in the office of the Chief Engineer, Pune Zone has retired on 31st March, 1980^{sw} attaining the age of superannuation. His grievance is that he was

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officiating in the higher post of Office Superintendent under the direction of Chief Engineer, Pune Zone in addition to his own duties and in anticipation of sanction of charge allowance. The applicant worked as such for the following period:

- (a) 01 Feb 74 to 30 Apr 74
- (b) 03 May 74 to 30 Jul 74
- (c) 03 Aug 74 to 31 Oct 74
- (d) 04 Nov 74 to 31 Jan 75
- (e) 03 Feb 75 to 02 May 75
- (f) 05 May 75 to 01 Aug 75
- (g) 04 Aug 75 to 31 Oct 75
- (h) 05 Nov 75 to 31 Jan 76


for two spells viz.
But sanction for payment of Charge Allowance from and the last one from 5-11-75 to 31-1-76
1st February, 1974 to 30th April, 1974 was accorded


and the payment was made but regarding the other periods no payment was made, and the applicant ~~was~~ ^{was} ~~while~~ ^{while} in service and even after retirement in the year 1980 he has approached the higher authorities one after another and made numerous representations against the same and only ~~in~~ on 10th May, 1988 he was informed by the Engineer-in-Chief that the Ministry is not inclined to accord Ex-post-facto sanction and his case cannot be considered as no prior approval was sought. The applicant has given the names of four such employees to whom the Ministry of Defence has accorded Ex-post-facto sanction vide letter dtd. 8th April, 1980 and payment was made to them.

3. The respondents have resisted the claim of the applicant on the ground that no sanction for working on the post was accorded by the Ministry and as such he is not entitled to charge allowance for the said period. So far as the other four persons are concerned there is no denial of according ex-post-facto sanction to them.

4. From the above facts it is quite clear that the applicant was directed to work as Office Superintendent and he worked in addition to his own duties and payment was made for the first and last spell only. It was the duty of the department to take work from him; Obviously it cannot be said that the department is not aware that it was the applicant who was working and no other person during this period and received the salary. When the work was taken from him it was the duty of the department to accord sanction. It is well settled now that no one should suffer for the flaws and mistakes on the part of the Government. If work was taken by the government he cannot be denied some remuneration as it would be violation of article 223 of the Constitution of India. In this case additional work has taken from the applicant. When ex post facto sanction was accorded to other persons named by the applicant we find no reason why the same could not be given for the applicant also. Non accordance of sanction is thus discriminatory.

5. Accordingly this application deserves to be allowed and it is allowed ~~accordingly~~ with a direction to the respondents to give the applicant Charge allowance for the remaining ~~xxx~~ spells within a period of three months from the date of receipt of a copy of this order if no payment has been made. In case the payment is not made within this period the applicant will be entitled to payment of 12% interest from the date of retirement upto the date of payment. There will be no order as to costs.


(M.Y. PRIOLKAR)
Member(A)


(U.C. SRIVASTAVA)
Vice-Chairman