

CENTRAL ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH

ORIGINAL APPLICATION NO.: 420 of 2001.

Dated this Thursday, the 24th day of January, 2002.

CORAM : Hon'ble Shri B. N. Bahadur, Member (A).

Dashrath Anandi Prasad Yadav,
Ex-Groundsman, T.No. GM/1079,
NDA, Khadakwasala, Pune-411 023.

Residing at - House No. 38,
Kailash Nagar, Pimpri Colony,
Pune - 411 017.

... Applicant.

(By Advocate Shri R. C. Ravalani)

VERSUS

1. *Union of India through
The Secretary,
Ministry of Defence,
South Block,
New Delhi - 110 011.*

2. *The Director Military Farms,
HQ, Southern Command,
Khadki, Pune - 411 003.*

3. *The Commandant,
HQ, National Defence Academy,
NDA, Khadakwasala,
Pune - 411 023.*

... Respondents.

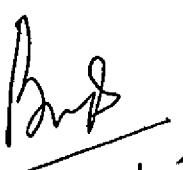
(By Advocate Shri R. K. Shetty).

O R D E R (ORAL)

PER : Shri B. N. Bahadur, Member (A).

I have heard Learned Counsel on both sides and I am surprised at the factual discrepancy in some information given by the Respondents. In the first affidavit filed by Major N.R. Kulkarni, Officer-in-Charge, Military Farm, Secunderabad, it is stated that the papers of the Applicant have now been forwarded through proper channel for consideration for sanction by the President of India. In the second affidavit filed by the same officer dated 15.12.2001 it is stated that "the competent

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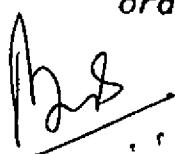
authority at his discretion in the light of existing laid down rules had suggested that a separate case is being taken up with Govt. of India through proper channel to condone break/interruption in service of the applicant for the period from 07-04-81 to 17-07-91 for pensionary benefits by condoning retrospectively the period of absence without leave as Extra Ordinary Leave." It is not clear what the actual position is and the factual information is not peripheral but important.

2. The basic facts are that an order at exhibit A-5 dated 02.12.2000 was made. The stand now is that the administrative competence in this regard is only with President of India. Although the word "recommended" is not used, it seems from the above language that the matter has now been taken up with the Ministry/Department at Delhi for reconsidering the orders, as have been passed through the order dated 02.12.2000. Be that as it may, one thing is clear that the principles of natural justice have been flouted. An order has been made giving certain benefits to the Applicant. If this was to be revised, then it was necessary that a show cause notice should have been provided to the Applicant no matter what the reason. This is amply clear from the law settled in this regard in many cases. On this ground I feel it is necessary in legal terms to quash and set aside the order dated 22.06.2001 (Annexure A-10) which has been impugned and which reads as follows :

1. Reference this H.Q. letter of even No. dated 02 Dec. 2000.

2. The break/interruption of your service for the period from 07 Apr 1981 to 17 Jul 1991 condoned vide this HQ letter under reference is hereby cancelled.

3. A separate case is being taken up with higher authorities for obtaining the sanction of the President of India for condoning the break/interruption in service as necessary for award of pensionary benefits by commuting retrospectively the period of absence without leave as extra ordinary leave."



3. It will however be open for the Union of India to take action either in approving the order dated 22.06.2001 made by the Director, Military Farms or if it is of the view that a different decision has to be taken, then an appropriate show cause notice will have to be sent to the Applicant. Reasonable opportunity will have to be provided to him and final orders made after considering his reply. In case the Applicant is aggrieved with the final order, he will be at liberty to approach this Tribunal subject to the law of limitation.

4. The O.A. is, therefore, disposed of with the following orders :

- (i) The order dated 22.06.2001 (Annexure A-10) by the Director, Military Farms, Mukhyalaya Dakshin Kaman, HQ Southern Command, Kirkee, Pune-3 is hereby quashed and set aside.
- (ii) Liberty provided to Respondents as described in para 3 above.
- (iii) In case the applicant is aggrieved by the order passed by the Respondents, he is at liberty to approach this Tribunal subject to law of limitation.
- (iv) No order as to costs.

dl 24/11/2
order/Judgement despatched
to Applicant/Respondent(s)
on 22/11/2001

B. N. Bahadur
— (B. N. BAHADUR) :
MEMBER (A).