

CENTRAL ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH

Dated this Friday the 7th day of December, 2001

Coram: Hon'ble Mr.B.N.Bahadur - Member (A)

ORIGINAL APPLICATION NO.552 OF 2001

S.V.Amle Latt/29,
Pmt.Lab.Attendant,
Department of Chemistry,
National Defence Academy,
Khadakwasla, Pune 411 023.
(By Advocate Shri R.S.Samant)

- Applicant

Versus

1. Secretary,
Ministry of Defence, North Block,
New Delhi - 110 001.

2. Commandant,
National Defence Academy,
PO NDA, Khadaskwasla,
Pune 411 023.

3. CGO,
Establishment Officer,
NDA, Khadakwasla,
Pune 411 023.

(By Advocate Shri R.K.Shetty)

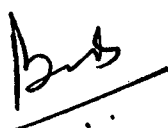
- Respondents

ORAL ORDER

By Hon'ble Mr.B.N.Bahadur - Member (A) -

This is an application made by Shri S.V.Amale where the facts and the issue to be decided lies in a very short compass. I have heard the learned counsel for applicant Shri R.S.Samant and also heard learned counsel Shri R.K.Shetty for the Respondents. Papers in the case are perused. Shri Shetty depended firstly on the written statement of Respondents.

2. The short point is that there is a system in the NDA, whereby the employees like the applicant are paid their salary for the vacation period for Summer and Winter, if they are actually allowed to do work during this period. If the employees

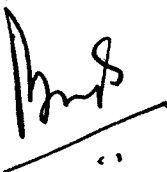


choose to avail the vacation then they are not paid for the period of vacation. This is an admitted position, as brought out during the arguments today.

3. Now the short point of controversy raised is that the Applicant's learned counsel Shri Samant alleges that when a circular was issued on this subject in April - May, 2001, the applicant had indicated on the very circular, that he will not be able to work during vacations. In fact on 30th May i.e. one day prior to the vacation he had only made a reminder to the effect that he had not received any reply, it was contended.

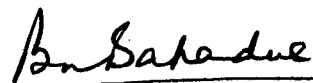
4. On the other hand, the respondents state in their written statement that even though the applicant had expressed a desire not to work during the vacation, his request was rejected and he had been asked to work. In support of this contention, the applicant relies on the document at Exhibit R-4 through which the period of duty during Summer vacations in respect of various categories of staff has been listed out.

5. A reading of Exhibit-R-4 which is indeed an important document, shows that the applicant Shri Amale is listed at serial no. (j) and his duty is shown for the period between 1st June and 28th June, which admittedly was the period of vacation. The main ground taken by the learned counsel for the applicant before me is that this circular was never shown to him and there is no signature or record to show its service on him. He stressed this point.



6. I have considered papers in the case as also considered the arguments made before me by the learned counsel of both sides. Shri Shetty relies totally on the written statement. It is difficult to take a stand that in fact where written duties were circulated (R - 4) the applicant was unaware of what was happening in the Institution, for the period of over a month in April/May 2001. the applicant's counsel states that the applicant was working in the NDA for about 22 years. This lends further credence to the fact that the respondents had taken due care to inform everyone. Taking a purely technical view in service law like in criminal or civil law is not a tenable stand given the facts and circumstances of the present case. The applicant on his own admission has worked for 22 years in the NDA and is now claiming reliefs by citing purely technical reasons i.e. proof of service of R-4 on him. This cannot be accepted.

7. Under the circumstances, the applicant has not made out a case for relief sought. In the consequence, this OA is dismissed with no order as to costs.



(B.N. Bahadur)
Member (A)