

CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE BENCH

Commercial Complex(BDA)
Indiranagar
Bangalore - 560 038

Dated : 6 JUN 1989

IA III IN APPLICATION NO (S) 486 /87(F)

W.P. NO (S)

Applicant (s)

Shri R. Hanuman Singh
To

Respondent (s)

V/s AOC, Institute of Aviation Medicine, Bangalore
and another

1. Shri R. Hanuman Singh
'Vanitha Vilas'
Muniramappa Compound
5th Main, 7th Cross
Gangeshalli
Bangalore - 560 032

2. Shri Suresh S. Joshi
Advocate
15, 3rd Cross
Nehru Nagar
Bangalore - 560 020

3. The Air Officer Commanding
Institute of Aviation Medicine
HAL Post
Bangalore - 560 017

4. The Senior Officer i/c Administration
HQ Training Command, IAF
Hbbal
Bangalore - 560 006

5. Shri M. Vasudeva Rao
Central Govt. Stng Counsel
High Court Building
Bangalore - 560 001

Subject : SENDING COPIES OF ORDER PASSED BY THE BENCH

Please find enclosed herewith a copy of ORDER/~~STAY~~/INTERIM ORDER
passed by this Tribunal in the above said application(s) on 31-5-89.

gssued
K.N.M.
6.6.89

o/c
P.V. Venkatesh
DEPUTY REGISTRAR
(JUDICIAL)

Sd/-
MEMBER (A)

REGISTERED

CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE BENCH
@@@@@@@@@@@@@@@@

Commercial Complex(BDA),
Indiranagar,
Bangalore - 560 038

Dated : 7/1/88

IA II IN APPLICATION NO 486 /88(F)

W.P. NO

Applicant

Respondents

Shri R. Hanuman Singh

V/s

AOC, Institute of Aviation Medicine,
Bangalore & another

To

1. Shri R. Hanuman Singh
'Vanitha Vilas'
Muniramappa Compound
5th Main, 7th Cross
Gangenhalli
Bangalore - 560 032
2. Shri Suresh S. Joshi
Advocate
15, 3rd Cross
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Bangalore - 560 020

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HQ Training Command, IAF
Hebbal
Bangalore - 560 006
5. Shri M. Vasudeva Rao
Central Govt. Stng Counsel
High Court Building
Bangalore - 560 001

Subject: SENDING COPIES OF ORDER PASSED BY THE BENCH

Please find enclosed herewith the copy of ORDER ~~STAY~~
~~INTERIM ORDER~~ passed by this Tribunal in the above said
application on 6-1-88.

Encl : as above

DEPUTY REGISTRAR
~~SECTION OFFICER~~
(JUDICIAL)

RECEIVED 2 Copies 7/1/88

Diary No. 1584/87
Date: 8.1.88

**In the Central Administrative
Tribunal Bangalore Bench,
Bangalore**


R. Hanuman Singh

Suresh S. Joshi

Appl no *v/c* 86/87
Order Sheet (contd)

ADC, Institute of Aviation Medicine
Bangalore & another

M. Vasudeva Rao

Date	Office Notes	Orders of Tribunal
		<p>KSPVC/LHARM 6.1.1988</p> <p><u>Orders on IA No.2 - Application for extension of time:</u> In this IA the Respondents have sought for another eight weeks' time from 1.1.1988 either to obtain an order of stay from the Supreme Court or to comply with the order made by us in this case. In the IA, the Respondents have asserted that in spite of their very best efforts, the Special Leave Petition (SLP) filed by them with the an application for stay, has not so far been listed for admission before the Hon'ble Supreme Court.</p> <p>IA No.2 is seriously opposed by the applicant.</p> <p>We have heard Shri M.V. Rao, learned counsel for Respondents and Shri Suresh S. Joshi, learned counsel for the applicant.</p> <p>In our order dated 4.12.1987 we have granted time till 31.12.1987 on the very ground stated by the respondents. When the respondents, state that their SLP had not so far been listed for admission, we consider it proper to grant another 15 days from this day for the same purpose finally. We, therefore, allow IA No.2 in part and grant another 15 days from this day for obtaining an order of stay from the Hon'ble Supreme Court or complying with the directions of this Tribunal in the case.</p> <div style="display: flex; justify-content: space-between; margin-top: 20px;"> <div style="text-align: center;">  <p>- True copy -</p> <p><i>Appl</i> no <i>v/c</i> 86/87 7/1/88</p> <p>SECTION OFFICER CENTRAL ADMINISTRATIVE TRIBUNAL ADDITIONAL BENCH BANGALORE</p> </div> <div style="text-align: center;"> <p><i>[Signature]</i> VICE-CHAIRMAN</p> <p><i>[Signature]</i> MEMBER (A)</p> </div> </div>

**In the Central Administrative
Tribunal Bangalore Bench,
Bangalore**

CC No.1/88

R. Hanuman Singh
Suresh S. Joshi

V/s
Order Sheet (contd)

The AOC, IAM, Bangalore & another
M. Vasudeva Rao

Date	Office Notes	Orders of Tribunal
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TRUE COPY

KSPVC/PSM

ORDER

Case called. Petitioner and his learned counsel are absent. Contemnners by Shri MV Rao. Shri Rao submits that on the Hon'ble Supreme Court declining to interfere with the order made by this Tribunal, the Contemnners had reinstated the petitioner to service from today and that in pursuance of the same he had also reported for duty. In view of this, this Contempt of Court petition no longer survives for consideration. We, therefore, drop these COC proceedings as having become infructuous. But in the circumstances of the case we direct the parties to bear their own costs.

[Signature]
DEPUTY REGISTRAR (JULY 1988)
CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE

[Signature]
(K.S. PUTTASWAMY)
VICE CHAIRMAN
8.2.1988

[Signature]
(B. SRINIVASAN)
MEMBER (A)
8.2.1988

REGISTERED

CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE BENCH
.....

Commercial Complex(BDA),
Indiranagar,
Bangalore- 560 038.

Dated: 12 Nov 87

APPLICATION NO 486 /87 (F)

W.P.No. 1

APPLICANT

Vs

RESPONDENTS

R. Hanuman Singh
To

Doc, Institute of Aviation
Medicine, Bangalore and Air.

1. Sri R. Hanuman Singh,
'Vanitha Vilas',
Munizramappa Compound,
5th Main, 7th Cross,
Ganganahalli, Bangalore-32.

5. Smt. Vandana Rao,
Advocate (CGSC),
High Court Building,
Bangalore-1.

2. Sri Suresh. S. Joshi, Advocate,
15, 3rd Cross,
Nehru Nagar, Bangalore-20.

3. Air Commodore,
Air Officer Commanding,
Institute of Aviation Medicine,
H.A.L. Post, Bangalore.

4. Air Vice Marshal,
Senior Officer In-charge/Administration,
HQ Training Command, IAF,
Hebbal, Bangalore.

Subject: SENDING COPIES OF ORDER PASSED BY THE BENCH

Please find enclosed herewith the copy of ORDER/STAY/
INTERIM ORDER passed by this Tribunal in the above said application
on 28-10-87.

RECEIVED

Diary No. 1108/CR/87

Date: 11-11-87

Encl: as above.

DEPUTY REGISTRAR
(JUDICIAL)

(R. HANUMAN SINGH)
Applicant

CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE

DATED THIS THE 28TH DAY OF OCTOBER, 1987

Present: Hon'ble Shri Justice K.S. Puttaswamy, Vice-Chairman
and
Hon'ble Shri L.H.A. Rego, Member (A)

APPLICATION NO. 486/1987

Shri R. Hanuman Singh,
S/o Shri L. Rathan Singh,
Ex-Civilian M.T.D.
"Vanitha Vilas",
Muniramappa Compound,
5th Main, 7th Cross,
Langenahalli,
Bangalore.

.... Applicant

(Shri Suresh S. Joshi, Advocate)

v.

1. Air Commodore,
Air Officer Commanding,
Institute of Aviation Medicine,
H.A.L. Post,
Bangalore.
2. Air Vice Marshal,
Senior Officer i/c Administration,
HQ Training Command, IAF
Hebbal, Bangalore.

.... Respondents.

(Shri M. Vasudeva Rao, CGASC)

This application having come up for hearing to-day,
Vice- Chairman made the following:

ORDER

This is an application made by the applicant under
Section 19 of the Administrative Tribunals Act, 1935
('the Act').

2. R. Hanuman Singh, the applicant before us, born
on 19.9.1932 initially joined service on 15.5.1957 as a
dis
'Sepoy Driver' in the Indian Army. He was discharged from
the Army from 24th December, 1962.



3. On 22.4.1963, the applicant was appointed as a Civilian Mechanical Transport Driver Grade-II ('Driver') in the Institute of Aviation Medicine, Bangalore ('Institute'). He was promoted as Driver (Grade-I) from 9.5.1973.

4. From May, 1967 and onwards there were certain incidents in the discharge of official duties by the applicant. On those incidents, the Air Commandore, Air Officer Commanding of the Institute as the Disciplinary Authority ('DA') initiated disciplinary proceedings against the applicant under the Central Civil Services (Classification, Control and Appeal) Rules, 1965 ('Rules') and by his charge memos dated 9.7.1977 and 10.10.1977 framed as many as 15 charges, against him, which he denied. In this view, the DA constituted a 'Board of Inquiry' (Board) consisting of three officers to inquire into the truth or otherwise of the charges levelled against the applicant.

5. The Board held a regular inquiry into the charges and submitted its report on 17.1.1978 to the DA in which it held, that the applicant was guilty of 7 charges in full and one charge in part. In his order No. IAM-1203/12/20636/PC dated 30.6.1978 concurring with the report of the Board, the DA imposed the penalty of dismissal from service against the applicant.

6. Against the said order of the DA, without availing of the remedy of an appeal under the Rules, the applicant



approached the High Court of Karnataka in Writ Petition No.98 of 1980 challenging the same on diverse grounds. On 23.9.1985 Doddakalegowda, J. dismissed the same.

7. Against the order of Doddakalegowda, J. the applicant filed Writ Appeal No.2226 of 1985 before a Division Bench of the High Court, which on 15.4.1986 disposed of the same reserving him liberty to challenge the order of the DA in an appeal within 30 days from that day, before the Appellate Authority ('AA') under the Rules.

8. With the liberty so granted by the High Court, the applicant filed an appeal against the order of the DA before the AA within 30 days, who by his order dated 15.9.1986 dismissed the same, which was challenged by him before this Tribunal in Application No.1762 of 1986. On 3.1.1987 this Tribunal set aside the order of the AA and directed him to restore the appeal to its original file and re-determine the same. In pursuance of the said order, the AA restored the appeal to its original file and by his order dated 2.5.1987 again **dismissed** the same. Hence, this application challenging the orders of the AA and the DA.



9. In justification of the orders made, the respondents have filed their reply and have produced the records.

10. Sri Suresh S. Joshi, learned Advocate appeared for the applicant. Sri. M. Vasudeva Rao, learned Additional Central Government Standing Counsel appeared for the respondents.

11. Sri Joshi contends that the Board at all stages of the inquiry had denied a reasonable opportunity to the applicant to defend himself and prove his innocence and that being so, the orders of the AA and the DA were illegal.

12. Sri Rao refuting the contention of Sri Joshi contends that the inquiry held by the Board was in substantial compliance of the Rules and the principles of natural justice and should not therefore, be interfered with by us.

13. We have carefully examined the proceedings of the Board.

14. In holding the inquiry, the Board had no doubt adopted some rather unusual procedure. But, by reason of that only, it would be wrong to hold, that the Board had not afforded a reasonable opportunity to the applicant to defend himself on the charges levelled against him. On an examination of the proceedings, we are satisfied that the Board had substantially complied with the Rules and the principles of natural justice in



holding its inquiry and had afforded all reasonable opportunity to the applicant to defend himself on the charges levelled against him. If that is so, then we should be loathe to interfere with the same merely on technical violations.

15. Even otherwise, at this very belated stage, we should be reluctant to annul the inquiry merely on technical grounds, and direct a fresh inquiry into the charges by the Board or by another Inquiry Officer.

16. On the foregoing discussion, we hold that there is no merit in this contention of Sri Joshi and we reject the same.

17. Sri Joshi next contends that the penalty of dismissal was solely based on Additional Charge No.1 or Charge No.10 of the proved charges and that having regard to all other punishments on other charges, the punishment of dismissal was illegal and even unjustified.

18. Sri Rao contends that the penalty of dismissal was rightly imposed on a cumulative consideration of all the charges and that all other penalties imposed against the applicant should only be ignored or treated as inconsequential.

19. We have carefully examined the nature of the punishments imposed by the DA and upheld by the AA.



20. When the DA came to the conclusion that the punishment of dismissal, being the extreme penalty imposable under the Rules, should be leveid on the applicant, then the question of his inflicting any other punishments like 'censure' and 'withholding of increments' chargewise does not at all arise. Even otherwise, when more than one charge is framed against a delinquent official the DA should take all of them into consideration and impose one or the other penalties as may be decided by him under Rule 11 of the Rules. The imposition of penalties chargewise and then one of dismissal at the end is wholly inapt, very queer and illegal. Unfortunately, the AA had not examined this aspect and had not suitably modified the punishment on a cumulative consideration of all proved charges.

21. We have carefully examined all the charges framed, the findings recorded by the authorities, the orders made by the DA and the AA and the records.

22. We find that the charges levelled against the applicant and proved, which alone should be the basis for imposition of punishment did not charge him with any 'moral turpitude'. The charges levelled and proved were all relating to dereliction of duty or violation of discipline. His previous record was however good.

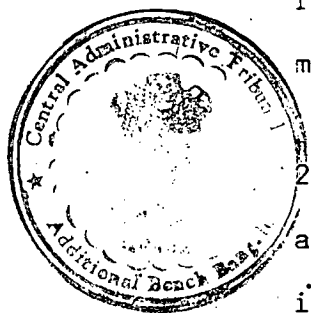


23. We notice that in imposing the punishment of dismissal, AA and the DA have not taken into consideration all relevant factors, some of which, we have noticed earlier. On a careful examination of all the relevant factors we are clearly of the view, that the extreme punishment of dismissal imposed on the applicant was too severe and disproportionate to the gravity of the charges proved against him. When all facts and circumstances touching on punishment are carefully examined, we are of the view, that the imposition of the punishment of reduction of pay of the applicant by two stages viz. from 342/- per mensem which he was drawing as on 30.6.1978 (in the relevant time-scale of pay) to Rs.326/- per mensem for a period of 2 years from that date, without cumulative effect would meet the ends of justice which necessarily implies that he should be reinstated to service on such terms and conditions as are found legal just and equitable.

24. Sri Joshi naturally urges for a direction to the respondents to make available all consequential and monetary benefits due to the applicant on his reinstatement.

25. Sri Rao urges denial of all arrears due to the applicant and for time at least upto 1.12.1987 to reinstate the applicant.

26. Admittedly, the applicant had not rendered public service from the date of his removal. There has been



considerable delay on his part in approaching the court for redress. In these circumstances there seems to be force in the submission of Sri Rao. We, therefore, consider it proper to deny all arrears of salary due to the applicant from 30.6.1973 till he is reinstated in service, with a direction however that the period for which these arrears are denied shall not be treated as break in service. We consider it proper to grant time to the respondents upto 1.12.1987 for reinstatement of the applicant in service.

27. In the light of our above discussion, we make the following orders and directions:

- (a) We uphold the orders of the AA and the DA to the extent they hold that the applicant was guilty of the charges proved either in whole or in part and dismiss this application to that extent.
- (b) We allow this application in part, and modify the orders of the AA and the DA to the extent they relate to punishment imposed by them, to that of reduction of pay of the applicant by two stages from Rs.342 per mensem which he was drawing as on 30.6.1973, to Rs.326/- per mensem in the then time ~~xxx~~ scale of pay of Rs.320-6-326-8-390-10-400 to which he was



entitled for a period of two years,
without cumulative effect.

- (c) We direct the respondents to re-instate the applicant to service with all such expedition as is possible in the circumstances of the case and in any event not later than 1.12.1987 denying him all arrears of salary due to him from 1.7.1978 till he is actually reinstated to service. But, notwithstanding the same, the afore-said period shall not be treated as a break in service of the applicant for all other purposes.

28. Application is disposed of in the above terms. But, in the circumstances of the case, we direct the parties to bear their own costs.

29. Let this order be communicated to all the parties forthwith.



np/Mrv.

Sd---

Vice-Chairman

28/12/87

Sd---

Member (A) 28.12.87

- True copy -

[Signature]
DEPUTY REGISTRAR
CENTRAL ADMINISTRATIVE TRIBUNAL
ADDITIONAL BENCH
BANGALORE

REGISTERED

CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE BENCH
.....

Commercial Complex(BDA),
Indiranagar,
Bangalore- 560 038.

Dated: 11/12/87

IA I IN APPLICATION NO 486 /87 (F)
W.P.No. _____

APPLICANT

Vs

RESPONDENTS

Shri R. Hanuman Singh

AOC, Institute of Aviation Medicine,
Bangalore & another

To

1. Shri R. Hanuman Singh
'Vanitha Vilas'
Muniramappa Compound
5th Main, 7th Cross
Gangalahalli
Bangalore - 560 032
2. Shri Suresh S. Joshi
Advocate
15, 3rd Cross
Nehru Nagar
Bangalore - 560 020
3. The Air Officer Commanding
Institute of Aviation Medicine
HAL Post
Bangalore- 560 017
4. The Senior Officer i/c Administration
HQ Training Command, IAF
Habbal
Bangalore - 560 006
5. Shri M. Vasudeva Rao
Central Govt. Stng Counsel
High Court Building
Bangalore - 560 001

Subject: SENDING COPIES OF ORDER PASSED BY THE BENCH

Please find enclosed herewith the copy of ORDER/~~STAY~~

~~INTERIM ORDER~~ passed by this Tribunal in the above said application
on 4-12-87.

RECEIVED 2 copies 11/12/87

Diary No. 1517/12/87

Date: 11.12.87

for DEPUTY REGISTRAR
(JUDICIAL)

Encl: as above.

**In the Central Administrative
Tribunal Bangalore Bench,
Bangalore**

ORDER SHEET

Application No. 486 of 1987 (F)

Applicant

R. Hanuman Singh

Advocate for Applicant

Suresh S. Joshi

v/s

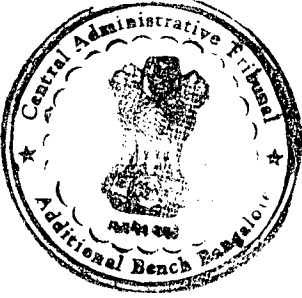
AOC, Institute of Aviation Medicine,
Bangalore & another

Advocate for Respondent

M. Vasudeva Rao

Respondent

- 4 -

Date	Office Notes	Orders of Tribunal
4.12.1987		<p>KSPVC/LHARM</p> <p><u>Orders on IA No.1 - Application for Extension of time:</u> In this IA the Respondents have sought for extension of time by three months to obtain an order of stay from the Supreme Court or to comply with the orders made by us. In IA No.1 Respondents have stated that they have already moved the Hon'ble Supreme Court with an application for stay and till that application is taken up for consideration it is necessary to extend the stipulated time for compliance with the directions contained in clause (c) of para 27 of our order. Shri M.V.Rao, learned counsel for the Respondents seeks extension of time on the grounds stated in IA No.1.</p> <p>Shri Suresh S. Joshi, learned counsel for the applicant vehemently opposes IA No.1.</p> <p>When the Respondents state that they have already moved the Supreme Court with a Special Leave Petition with an application for stay, we consider it proper to grant them reasonable time to either obtain the stay or to comply with sub-para (c) of para 27 of our directions. We are of the view that it would be reasonable to grant further time till 31.12.1987.</p> <p>In the light of our above discussion we allow IA No.1 and extend the time for compliance with our directions till 31.12.1987.</p> <div style="display: flex; justify-content: space-between; align-items: flex-end;"> <div style="text-align: center;">  <p>VICE CHAIRMAN</p> </div> <div style="text-align: center;"> <p>MEMBER (A)</p> </div> </div> <p style="text-align: center;">- True copy -</p> <div style="text-align: right; margin-top: 20px;"> <p>SECTION OFFICER</p> <p>CENTRAL ADMINISTRATIVE TRIBUNAL</p> <p>ADDITIONAL BENCH</p> <p>BANGALORE</p> </div>

CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE BENCH
* * * * *

Commercial Complex (BDA)
Indiranagar
Bangalore - 560 038

Dated : **14 JAN 1992**

CONTEMPT PETITION
(CIVIL) NO. 93/90
IN

APPLICATION NO (B) 486 / 87(F)

W.P. NO (S)

Applicant (%)

Shri R. Hanuman Singh

To

Respondent (s)

V/s Air Cmde Surjit Singh, Air Officer
Commanding, Institute of Aviation Medicine
Bangalore & enr

1. Shri R. Hanuman Singh
'Vanitha Vilas'
Muniramappa Compound
5th Main, 7th Cross
Gangenhalli
Bangalore - 560 032
2. Shri M. Raghavendra Achar
Advocate
1074-1075, 4th Cross, 2nd Main
Sreenivasanagar II Phase
Bangalore - 560 050
3. Air Commodore Surjit Singh
Air Officer Commanding
Institute of Aviation Medicine
H.A.L. Post
Bangalore - 560 017
4. Shri M.S. Padmarajaiah
Central Govt. Sng Counsel
High Court Building
Bangalore - 560 001

Subject : FORWARDING COPIES OF THE ORDER PASSED BY THE BENCH

Please find enclosed herewith a copy of the ORDER ~~STAY~~ /
~~INTERIM ORDER~~ passed by this Tribunal in the above said C.P.
~~application~~ (X) on 17-12-91.

[Signature]
DEPUTY REGISTRAR
(JUDICIAL)

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE BENC-H, BANGALORE

DATED THIS THE 17TH DAY OF DECEMBER, 1991

Present: Hon'ble Shri P.S. Habeeb Mohamed Member(A)

Hon'ble Shri Syed Fazlulla Razvi Member(J)

CONTEMPT PETITION NO.93/90

Shri R. Hanumen Singh,
S/o Shri L. Rathan Singh,
Ex-Civilian M.T.D.,
'Vanitha Vilas',
Muniramappa Compound,
5th Main, 7th Cross,
Gangenahalli,
Bangalore

Petitioner

(Shri M.R. Achar - Advocate)

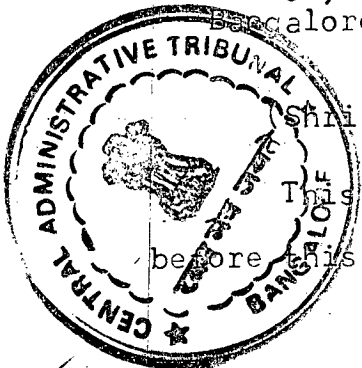
v.

1. Surjit Singh,
Air Commodore,
Air Officer Commanding,
Institute of Aviation Medicine,
H.A.L. Post,
Bangalore
2. P.E. Garnir,
Air Vice Marshal,
Senior Officer,
i/c Administration,
HQ Training Command, I.A.F.
Hebbal,
Bangalore

Alleged
Contemners

(Shri M.S. Padmarajaiah - Advocate)

This contempt petition has come up
before this Tribunal for orders. Hon'ble Member(A)




made the following:

ORDER

Shri R. Hanuman Singh has filed this contempt petition with the prayer for the issue of appropriate directions by the Tribunal punishing the alleged contemnners for wilful disobedience of the order passed by the Tribunal in O.A. No.486/1987 dated 28.10.87. The order of the Tribunal reads as follows:

"We direct the respondents to reinstate the applicant to service with all such expedition as is possible in the circumstances of the case and in any event not later than 1.12.1987 denying him all arrears of salary due to him from 1.7.78 till he is actually reinstated to service. But, notwithstanding the same, the aforesaid period shall not be treated as a break in service of the applicant for all other purposes."

It is stated in the contempt petition that the alleged contemnners have disobeyed this portion of the Tribunal's order and according to the contempt petitioner the order only meant that the period between 30.6.78 till the date of his reinstatement should not be treated as break in service except for payment of the salary. According to, the petitioner, the order issued by the alleged contemnners in the original application (annexure A-5) the period between 30.6.78 till

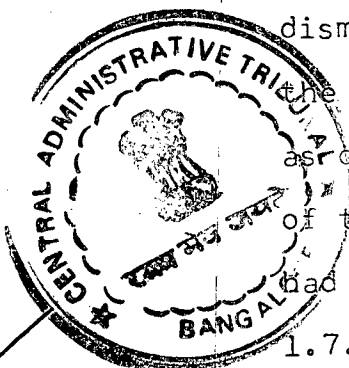


the date of his reinstatement was not taken into account as qualifying service for the purpose of calculating pension and other benefits.

As per the reply of the alleged contemners, it is stated that the suspension period between 25.10.77 to 30.6.78 was regularised as duty by the office order. The matter regarding his pension was taken up with the appropriate authorities particularly the Chief Controller of Defence Accounts (Pension), Allahabad and certain objections had been raised in the audit report vide details below:

- "a) whether his service from 1.7.78 to 30.11.87 can be counted for pension in the absence of any payment to the individual and service verification by the administrative authorities.
- b) whether leave credit given to him by the unit authorities for the service not rendered by the applicant can be accepted in audit."

According to the reply, the period of interruption in service between the date of dismissal and the date of reinstatement and the period of suspension could not be counted as qualifying service under the provisions of the Pension Rules. Since the Tribunal had given the directions that the period from 1.7.78 till reinstatement should not be treated



** Sanctioned by CCDA(P) Allahabad (P) provisional Pension Payment Order No.C/AF/555/90 dated 25.9.90) received under cover of their letter No.GI/C/AF/220/990/XVI dated 25.9.90 and paid

Total difference

7,717.00

9,665.00

113.00

17,495.00

It was not explained to us by the learned counsel for the contempt petitioner as to how this calculation and the payment paid or proposed to be made on this basis contravenes any of the directions of the Tribunal in O.A. No.486/87 disposed of on 28.10.1987. Unless there are specific directions in this behalf, technically there may not be any case for punishment for contempt. This is also borne out by the decision of their Lordships of the Supreme Court in R.M. RAMAUL v. THE STATE OF HIMACHAL PRADESH AND OTHERS AIR 1991 SC 1171 which states as follows:

*In this complaint of contempt of Court, complainant alleges a wilful disobedience by the H.P. Tourism Development Corporation of the directions of this Court made on 2.12.88 in CA 6144 of 1983 in that respondents despite the specific directions in the order for restoration of complainant's seniority in service over and above two other officers, viz., N.K. Sharma and H.R. Choudhary, the said Corporation had resorted to hairsplitting technicalities in order to deny to the complainant the benefit of the order of this Court. It is urged that if the complainant's seniority had

been so restored in accordance with the order the case of the complainant for promotion to the post of Deputy General Manager would require consideration with effect from 28.5.1982 on which date his admitted juniors had been promoted entitling complainant also to all the monetary benefits of such promotion. What the corporation is said to have done is that while it reviewed the promotions with effect from 28.5.1982 and granted the promotion to the complainant, it treated the promotion for the period from 28.5.1982 up to 3.9.1986 - on which latter date complainant, even according to the Corporation itself, had become entitled to and had been granted promotion - as a mere notional promotion without any monetary benefits.

2. In our view complainant's grievance is a legitimate one. Though there was no specific direction in the order of this Court to consider complainant's case for promotion with effect from 26.5.82 such a relief was implicit in the reasoning of the order. Indeed, the Corporation in convening the DPC and reviewing the promotions and granting the notional promotion to the complainant for the period between 28.5.82 to 3.9.86 had virtually conceded this position. The withholding of the monetary benefits in respect of this period is inconsistent with what was decided in the judgment and what complainant was clearly entitled to. Since there was no specific direction in this behalf in the order, technically there may be no case for punishment for contempt; but we make it clear that the promotion for the period from 28.5.82 to 3.9.86 should be accompanied by the monetary benefits. If a specific direction is necessary we issue it here and now. The appropriate monetary benefits shall be granted within 2 months from today.

3. There is yet another fall-out from what is decided in the order. It is also appropriate that the further promotions consistent with the seniority as declared by the judgment should also be considered in view of the fact that complainant's junior in service had been granted such promotion. Petitioner might also become eligible for consideration for promotion to the post of and appointment as Additional General Manager in the post that was specially created on 5.5.87. His case for



consideration for promotion shall have to be reviewed as on 5.5.1987 on which day his junior, viz., N.K. Sharma had been promoted. It is open to the authorities to put in to the scale the question whether complainant's possesses the requisite eligibility. Complainant's case shall accordingly be examined for the post of Additional General Manager and if the promotion is granted it shall now necessarily have to be only on a notional basis as the post is said to have since been abolished. But such notional promotion if granted shall also be accompanied by the monetary benefits upto the date of the abolition of the post. This consideration shall be bestowed within three months from today.

4. The contempt petition is disposed of with foregoing directions."

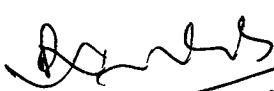
In view of these guidelines given in the judgment, we do not think that there is any case for initiating contempt proceedings. The proceedings are dropped and the notices are discharged. If the applicant is aggrieved by the decision of the authorities in fixing his pension and other benefits on the basis of this judgment the Tribunal in O.A.No.486/87 dated 28.10.87 he will be at liberty to file an original application before the Tribunal..



Sd/-
MEMBER(A) 17/12/91

Sd/-
MEMBER(J)

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