

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, JAIPUR BENCH

JAIPUR.

O.A. No. 723/92

Dt. of order: 17.12.93

Jagdish Narayan

: Applicant

VS.

Union of India & Ors. : Respondents

Mr. P. V. Calla : Counsel for applicant

Mr. V. S. Gurjar : Counsel for respondents

CORAM:

Hon'ble Mr. Justice D.L. Mehta, Vice Chairman

Hon'ble Mr. B.B. Mahajan, Member (Adm.).

PER HON'BLE MR. JUSTICE D.L. MEHTA, VICE CHAIRMAN.

Heard the learned counsel for the parties and perused the record. The applicant has submitted in the O.A. that he joined in the Department as Casual Labour in December 1986 and his services were terminated by verbal order on 27.2.1988. He claimed that he has worked 389 days plus 62 days as shown in Annexure :A-1. He further claimed that he should also be paid the benefits of this period in the light of the judgment of the Hon'ble Supreme Court and the order passed by the respondents dated 25.2.1988 wherein directions were given that the skilled persons should be given Rs. 950+38 from 1.7.86 to 31.12.86, Rs. 950+76 = Rs. 1026/- from 1.1.87 to 30.6.87 and thereafter the salary should be calculated from 1.7.87 to 31.12.87. $Rs. 950+123.50 = Rs. 1073.50$. The applicant has claimed an amount of Rs. 9253.00 on account of the difference in wages. The respondents have submitted that they have paid Rs. 5801.40 on 21.3.88. It was also submitted that the applicant's services were not terminated but he abandoned from the services.

2. It will not be out of place to mention here that the applicant submitted this O.A. on 21.4.88 and the respondents submitted their reply on 27.10.88. Even then no prayer was made that they are ready to take

the applicant back on duty and will take action according to law as a disciplinary measure for unauthorised absence. This fact has not been mentioned in the reply and no application has been moved. A person approaching to the Court within 1½ months ordinarily cannot be treated as a person who abandoned from services voluntarily. We are not satisfied with the explanation given by the respondents in the reply that the applicant is ~~not~~ abandoned from service. It will not be out of place to further mention that the respondents have also not taken action against the applicant on the ground of unauthorised absence. In such circumstances, we are of the view that it is not a case of abandonment but it is a case of unlawful termination.

3. The total amount of dues has not been paid to the applicant and the respondents have also not given the details why the total amount was not paid as claimed and how they have arrived at the amount of Rs.5801.40 instead of Rs.9253.00. Whatever may be the position, we are of the view that it is the duty of the respondents to explain and to satisfy the applicant for ~~about~~ non-payment of the dues in accordance with the decision of the Hon'ble Supreme Court and the circulars of the Department.

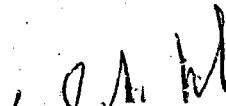
4. In the result, we accept the O.A. and direct that the applicant should be reinstated and he should be treated as continuously in employment from the date of his termination from service i.e. ~~on~~ 27.2.88. The applicant shall be paid 40% ^{of} back wages from the period 27.2.88 till he reports for duty. The respondents are further directed to take the applicant on duty immediately. It is a case of violation of Section 25-F of the I.D Act and we hope that in future such cases do not ~~occur~~ and such pleas are also not taken. As far as the question of non-payment or less payment

is concerned, we direct the respondents to re-calculate the amount again and explain to the applicant what was the cause for less payment of the wages than what the applicant has claimed. If it is found that less amount has been paid than was due under circular of the department dated 25.2.88 (Annex. A/4) as amended by circular dated 29.2.88 (Annex. A/6), the applicant should be paid the difference within a period of 2 months of this order with interest @ 12% per annum from 21.3.88 when Rs. 5801.40 was paid. In case the applicant feels aggrieved after the re-calculation, he will be at liberty to move a fresh OA for the difference in amount.

5. The OA is disposed of accordingly with no order as to costs.


(B.B. Mahajan)

Adm. Member


(D.L. Mehta)
Vice Chairman

Copy to counsel for applicant

Received
Copy of OA
31/12/93

Recd on behalf
of Advocate
31/12/93
31/12/93