

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, HYDERABAD BENCH

AT HYDERABAD.

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O.A.No.262/97.

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Date of decision: December 14, 1998.

Between:

Dr.W.L.Barwad.

.. .. Applicant.

and

1. The Union of India, represented by its Secretary, Ministry of Agriculture, Department of Agriculture, Krishi Bhavan, New Delhi - 110 001.
2. The Director General, ICAR, Krishi Bhavan, New Delhi 110 001.
3. The Director, Indian Grassland & Fodder Research Institute, Jhansi, U.P. 284 003.

Respondents.

Counsel for the applicant: Sri S.Ramakrishna Rao.

Counsel for the respondents: Sri Kota Bhaskara Rao.

CORAM:

Hon'ble Sri R. Rangarajan, Member (A)

Hon'ble Sri B.S.Jai Parameshwar, Member (J)

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D.A.262/1997.

(by Hon'ble Sri R. Rangarajan, Member (A))

Heard Sri S.Ramakrishna Rao for the applicant
and Sri D.Rangayya for Sri K.Bhaskara Rao for the
Respondents.

The applicant in this O.A., is a Senior Scientist
(Entomology), National Research Centre on Sorghum, Rajendra-
nagar, Hyderabad. He was transferred to Sirsa (Haryana)
by Order No.F.15/(E.2)7/87 Per.II dated 23.2.1988
(Annexure III Page 12 to the O.A.). The applicant
submits that he has not received the transfer order but
the respondents submit that not only the transfer order
was issued to him but he was also relieved on 26.2.1988.
Be that as it may, The applicant submits that on the
basis of the Telex message dated 9.4.1988 received from
I.C.A.R., New Delhi he obeyed the transfer order and joined
at Sirsa on 11.4.1988. The applicant herein submits that
he is entitled for treating the period from 1.3.1988 to 31.3.1988
as ^{on} duty which is alleged to have been treated as unauthorised
absence by the Indian Council of Agricultural Research
New Delhi (Annexure VI Page 16 to the O.A.) d/21.12.1988
which was conveyed to him by the Indian Grassland and
Fodder Research Institute, Jhansi by letter No. PF.5(3)
dated 2.12.1996 (Annexure VII page 17 to the O.A.).

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The learned counsel for the applicant submits that the period from 1-3-1988 to 10-4-1988 was treated as unauthorised absence and it was conveyed to the applicant on 2.12.1996. It is stated that the applicant had filed O.A.756/91 comprising ~~of~~ number of reliefs. However, the applicant was directed to file a separate O.A., for each relief and hence this O.A. has been filed for the relief of treating the period from 1.3.1988 to 10.4.1988 as duty at Jhansi. This O.A., has been filed in this Tribunal as the applicant was working at Hyderabad ^{at} ~~by~~ the time of filing the O.A.

The O.A., is filed to quash the confidential order dated 21.12.1988 of ICAR treating the period from 1.3.1988 to 10.4.1988 as a unauthorised absence which was illegally made confidential in nature without serving the copy of the same on the applicant till date but was produced before the Hon'ble Tribunal on 6.6.1994 along with the counter in O.A.No.756/91 disposed of on 20.6.1994 with consequential benefit of pay and salary for the said period with interest at 24% per annum from the due date till payment and for costs of Rs.4,000/-.

The respondents have filed their reply. It is not possible to pass any orders on the basis of this reply unless the duty list of the applicant is made available to us. The applicant submits that ~~he~~ ^{assigned Khim} he had performed the duties from 1.3.1988 to 10.4.1988




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and he carried out the transfer order on receipt of the Telex Message dated 9.4.1988. Hence, treating the said period as unauthorised absence is not only erroneous but also unjustified in the eye of law. He submits that the period from 1.3.1988 to 10.4.1988 at Jhoni should be treated as duty but not in any other manner.

This Bench will find it very difficult to appreciate the facts of the case as no duty list is produced. Even if the duty list is produced, the question ^{whether} ~~where~~ the applicant had performed such duties during the said period ^{has to be decided} ~~arises~~ and it is a factual verification of the records to be verified on the basis of the duty list. Such a verification has to be made by a senior appropriate authority of the Department but not by this Tribunal. In our opinion, no adjudication on the basis of law ^{necessary in this case} ~~is available~~ but only the adjudication on the basis of the facts available on record. If the facts prove that the applicant had performed duties during the said period on the basis of the verification made by a senior appropriate Authority of the Indian Council of Agricultural Research ^{shall be treated as on duty} then the period ~~as duty~~ and not in any other manner. If the said period cannot be treated as ^{on} duty, the reasons should be made known to the applicant in writing by a speaking order. In that case, ~~if~~

~~the authorities~~

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that period i.e., 1.3.1988 to 10.4.1988 should be debited to his leave account so that the said period will not be treated as an unauthorised absence leading to Departmental action by the respondents.

The above directions in our opinion will meet the ends of justice in the present case for the reasons mentioned above. Hence the following directions are given:

- i) An appropriate senior officer of the Indian Council of Agricultural Research working under the 2nd Respondent should be nominated for examining the "Duty List" of the applicant and also the duties performed by him at Jhansi during the period from 1.3.1988 to 10.4.1988;
- ii) that if that Officer comes to the conclusion that the applicant had performed the duties during the period from 10.3.1988 to 10.4.1988, ^{then} that period should ^{be} treated as on duty and should not be debited to his leave account and he should be paid fully his pay and allowances for the said period
- iii) that in case the said Officer comes to the conclusion that the applicant had not performed the duties during the said period, ^{then} ~~he~~ ^{the applicant} should give a detailed speaking order and it should be communicated to the applicant through the 2nd respondent and in such a case

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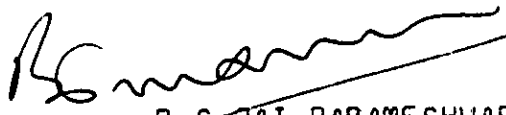
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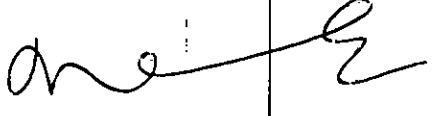
the applicant has to be granted/leave whatever
available to his credit and the pay
and allowances shall be paid to him
in accordance with the rules in force.

iv) that time for compliance is three months
from the date of receipt of a copy of
this order~~s~~ and

v) that there will be no order as to costs.

With the above directions, the O.A.,
is disposed of without costs.


B.S. JAI PARAMESHWAR,
14.12.98 Member (J)


R. RANGARAJAN,
Member (A)

Date: 14-12-1998

Dictated in open Court.

sss.

copy to:-

1) D.R (A)

2) Spare

II COURT

TYPED BY
COMPARED BY

CHECKED BY
APPROVED BY

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH HYDERABAD

THE HON'BLE SHRI R. RANGARAJAN : M(A)

AND

THE HON'BLE SHRI B.S. JAI PARAMESWAR :
M(J)

DATED: 14/12/98

ORDER/JUDGMENT

MA/R.A./G.P.No.

in

DA.NO. 262/97

ADMITTED AND INTERIM DIRECTIONS ISSUED

ALLOWED

DISPOSED OF WITH DIRECTIONS

DISMISSED

DISMISSED AS WITHDRAWN

ORDERED/REJECTED

NO ORDER AS TO COSTS

SRR

