

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL: HYDERABAD BENCH:
AT HYDERABAD

M.A.No.238 of 2003 in O.A.No.289 of 1999

DATE OF ORDER:18.7.2003

BETWEEN:

K.S.Devasahayam, s/o K.S.Joseph,
Income Tax Inspector, I.T.Office, Vizag. ..Applicant

AND

The Chief Commissioner of Income Tax,
Hyderabad-I, Aayakar Bhavan, Hyderabad. ..Respondent

COUNSEL FOR THE APPLICANT : Mr.K.S.Devasahayam (P-I-P)
COUNSEL FOR THE RESPONDENT : Mr.B.Narsimha Sarma

CORAM:

THE HON'BLE SRI JUSTICE K.R.PRASADA RAO, VICE CHAIRMAN
THE HON'BLE SRI S.K.AGRAWAL, MEMBER (ADMN.)

O R D E R

(PER HON'BLE SRI JUSTICE K.R.PRASADA RAO, VICE CHAIRMAN)

The applicant submitted that he has not yet received the Demand Draft for Rs.10,000/- and odd representing the amount deducted earlier towards GPF and CGEGIS, which was sent on 16.7.2003. He further submitted that as per the relevant service rules, the period from the date of allowing the OA i.e., from 14.10.1999 till the date of his reinstatement subsequent to the disposal of the Writ Petition No.23990 of 1999 by the High Court, vide its Order dated 7.11.2001, confirming the Order of this Tribunal in so far as it relates to setting aside the order of termination of his services, is to be treated as on duty and he is entitled to be paid full salary for the said period. He has drawn our attention to the provisions of Rule 3, which read as follows:-

"If the dismissal, removal or compulsory retirement of a Government servant is set aside by the Court on the merits of the case, the period intervening between the date of dismissal, removal or compulsory retirement including the period of suspension preceding such dismissal, removal or compulsory retirement, as the case may

be, and the date of reinstatement shall be treated as duty for all purposes and he shall be paid the full pay and allowances for the period, to which he would have been entitled, had he not been dismissed, removed or compulsorily retired or suspended prior to such dismissal, removal or compulsory retirement, as the case may be."

2. But it is pointed out by the learned Counsel for the Respondents that as per the Orders passed by this Tribunal dated 14.10.1999 in O.A.No.289 of 1999, the period from 1.2.1999 i.e., the date of order of termination till the applicant joins duty, should be treated as leave due to him. He further submitted that by virtue of the stay order granted by the High Court in W.P.No.23990 of 1999, the applicant could not be permitted to join duty and he was reinstated to duty only on 13.2.2002 after the disposal of the Writ Petition.


3. The learned Standing Counsel for the Respondents further submitted that the direction given by this Tribunal to consider the request of the applicant to adjust the 84 days of Earned Leave availed by him under the account of 'leave not due' (i.e., half pay leave) out of 361 days available to him, has been considered and the said request has been rejected.

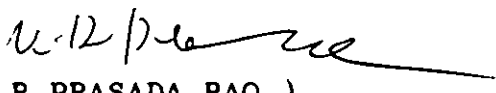
4. In view of the above Orders passed by this Tribunal, we find that it is not permissible to look into rules as to how the period is to be calculated for the purpose of granting full pay and allowances. Since the Writ Petition came to be disposed of on 7.11.2001, we find that the applicant should have been reinstated to duty on the next day itself. ^{(ie) on 8/11/2001} Since the applicant was taken to duty only on 13.2.2002, we find that the period from

8.11.2001 to 12.2.2002 is to be treated as on duty and the applicant is entitled to be paid full salary for the said period.

A direction is accordingly given to the respondents to treat the above said period i.e., from 8.11.2001 to 12.2.2002, as on duty and to pay full pay and allowances to the applicant. This MA is accordingly disposed of.


5. The above direction shall be complied with within two weeks. Call on 1.8.2003 for compliance.


(S.K.AGRAWAL)
MEMBER (A)


(K.R.PRASADA RAO)
VICE CHAIRMAN

Dated: this the 18th day of July, 2003
Dictated in the Open Court@@

DSN


22/7/03