

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, JAIPUR BENCH, JAIPUR.

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Date of Decision: 04.10.1999

OA 334/96

Suresh Chand Sharma, AE B/R in the office of Chief Engineer, MES (1052/08), Jaipur Zone as SO.3 Jaipur.

... Applicant

Versus

1. Union of India through Secretary, Ministry of Defence (Civil Side), New Delhi.
2. Engineer-in-Chief, Army Headquarters, DHQ/PO, Kashmir House, New Delhi.
3. Chief Engineer, Western Command, Chandigarh.
4. Chief Engineer, Headquarters, Bhatinda Zone, Bhatinda (Punjab).
5. Garrison Engineer, Bhatinda Military Station, Bhatinda.
6. Chief Engineer, MES, Jaipur Zone, Jaipur.

... Respondents

COPIM:

HON'BLE MR.GOPAL KRISHNA, VICE CHAIRMAN

HON'BLE MR.N.P.NAWANI, ADMINISTRATIVE MEMBER

For the Applicant

... Mr.V.B.Srivastava

For the Respondents

... Mr.Hawa Singh, Advocate, brief holder for Mr.V.S.Gurjar

O R D E R

PER HON'BLE MR.GOPAL KRISHNA, VICE CHAIRMAN

1. Applicant, Suresh Chand Sharma, in this application under Section 19 of the Administrative Tribunals Act, 1985, has claimed a direction to the respondents to grant full pay and allowances as are admissible/payable to the applicant from 1.3.95 to 14.12.95 and treat him as on duty during this period.

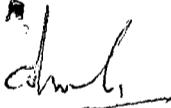
2. We have heard the learned counsel for the parties and have carefully perused the records.

3. The brief facts giving rise to this application are that during the applicant's posting at Bhatinda as an Assistant Garrison Engineer, he had developed heart ailments. On his transfer to Jallandhar, the applicant represented to the Engineer-in-Chief, respondent No.2, for his posting either to Jaipur or at Delhi, but the same was not heeded to. Whereupon the applicant had filed an OA (No.528/95), wherein a direction was issued

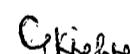
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respondent No.2 to decide the applicant's representation on merits as per rules. Pursuant to this order, the applicant's transfer/posting to Jallandhar was cancelled and the applicant was transferred from Bhatinda to Jaipur on the post of Assistant Garrison Engineer. It is contended by the applicant that he is entitled to be treated as on duty from 1.3.95 to 14.12.95 and adjusting the leave due to the applicant for the period from 1.3.95 to 20.7.95 was uncalled for in the circumstances of the case and that the remaining period from 21.7.95 to 14.12.95 has been wrongly treated as extra-ordinary leave since the order of transfer from Bhatinda to Jallandhar was cancelled by respondent No.2. The learned counsel for the applicant has cited 1984 LAB. I.C. NOC 58 (KANT), H. Manchaiah Vs. The Director of Medical Education, Bangalore. The respondents have stated that since the applicant has been admittedly on leave during the period from 1.3.95 to 14.12.95, this period cannot be, in the circumstances, be treated as spent on duty. It is borne out by Annexure A-4 dated 18.12.95 that the applicant's transfer from Bhatinda to Jallandhar was cancelled and he was posted at Jaipur on the post of Assistant Garrison Engineer against an existing vacancy. It is stated by the applicant that certain claims have not been cleared by the respondents.

4. In the circumstances, this application is disposed of with a direction to the respondents to reconsider the applicant's case for treating the period from 1.3.95 to 14.12.95 as spent on duty keeping in view the decision of Hon'ble the High Court, reported in 1984 LAB. I.C. NOC 58 (KANT), H. Manchaiah Vs. The Director of Medical Education, Bangalore, referred to above. The respondents are further directed to clear the pending dues mentioned in the letter dated 15.3.96, at Annexure A-1, within a period of three months from the date of receipt of a copy of this order.

  
(N.P. NAWANI)

ADM. MEMBER

  
(GOPAL KRISHNA)  
VICE CHAIRMAN

VK