

CENTRAL ADMINISTRATIVE TRIBUNAL,
JABALPUR BENCH
JABALPUR

Original Application No. 182 of 2006

Jabalpur, this the 1st day of December, 2006

Hon'ble Dr. G.C. Srivastava, Vice Chairman
Hon'ble Shri A.K. Gaur, Judicial Member

S.K. Vinodia, aged about 40 years,
Son of Shri H.L. Vinodia, Assistant,
RMRCT (ICMR), Jabalpur,
Resident of House No. 852,
Street No. 17, Sadar Bazar,
Jabalpur Cantt (MP) - 482 001.

..... Applicant

(By Advocate - Shri M.P. Singh)

VERSUS

1. Union of India,
Through the Secretary,
Ministry of Health & Family
Welfare, New Delhi 110 011.
2. The Director General,
Indian Council of Medical Research,
V. Ramalingaswamy Bhawan,
Ansari Nagar, Post Box No. 4911,
New Delhi 110 029.
3. The Director, Regional Medical
Research Centre for Tribals
(Indian Council of Medical Research)
Nagpur Road, P.O. Garha,
Jabalpur (MP) 482 003.

..... Respondents

(By Advocate - Shri Ashish Shrotri)

ORDER (Oral)

By Dr. G.C. Srivastava, Vice Chairman -

This Original Application has been filed against the order passed by the Officer Incharge, Regional Medical Research Centre for Tribals, Jabalpur on 22nd February, 2006 (Annexure A-12) by which the request for payment of due salary consequent upon setting aside of

the penalty, was refused. The applicant has sought for the following relief:

"(b) that this Hon'ble Tribunal be pleased to set aside the respondent No. 3 order No. RMRCT/Estt/PF-98/2474/2006 dated 22.2.2006 (Annexure A-12),

(c) that this Hon'ble Tribunal be pleased to declare the penalty of reduction of rank, grade, pay and service imposed on the applicant by the respondent No. 3 Annexure A-7 as illegal and void,

(d) that this Hon'ble Tribunal be pleased to direct the respondents to release the difference of salary of the applicant for the period from 18.2.1999 to 16.8.2000 withheld due to illegal imposition of the penalty."

2. The facts of the case are that the applicant was found guilty of misconduct and as a result penalty of reduction in rank was imposed on him on 17.2.1999 (Annexure A-7). The operative part of the penalty order is reproduced below:

"These misconducts stand proved beyond reasonable doubt based on his own confession. These are so grave misconducts which involves moral turpitude, financial embezzlement, criminal aptitude and doubtful integrity which call for severest punishment. However, on the consideration of his tender age and the future of the family supported by him, the undersigned here by imposes the punishment of Reduction to lower time scale of pay, grade, post or service mentioned at Rule 11(vi) of CCS (CCA) Rules, 1965 by reverting Shri S.K. Vinodia from the post of Upper Division Clerk in the pay, grade and time scale of Rs. 4000-100-6000 to the post of Lower Division Clerk in the time scale of Rs. 3050-4590.

It is further directed :-

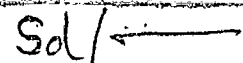
That this penalty will operate indefinitely until he is found fit by the competent authority to be restored to the post of Upper Division Clerk.

That these orders will operate with effect from the 18th February, 1999 (fore-noon).

He will draw pay of Rs. 3050/-(three thousand fifty only) plus usual allowance on the post of Lower Division Clerk in the scale of Rs. 3050-4590."

3: It is seen that this order was reviewed on 16th August, 2000 (Annexure A-8) by the same authority and the original order was set aside with immediate effect and the applicant was ordered to be restored on initial pay of Rs. 4200/- with usual date of increment. Thereafter, the applicant submitted representation to the authorities for payment of salary (18.2.1999 to 16.8.2000) in the higher scale during the period punishment was in operation, but this request was rejected by the respondents.

4. We have heard the arguments advanced by the counsel for both the parties. We find that the applicant has not appealed against the order of the disciplinary authority passed on 17.2.1999. We also find that the order dated 16.8.2000 has been passed by the disciplinary authority, who is also the appointing authority i.e. Director, Regional Medical Research Centre for Tribals, Indian Council of Medical Research, Jabalpur. The competent authority has thus reviewed the case of the applicant, as was required under the order dated 16.8.2000, immediately after one year and found him fit to be restored to the original post and passed the order dated 16.6.2000 with immediate effect. We find no irregularity or illegality either in this order or in the impugned order by which the request of the applicant for release of salary for the penalty period was rejected. The penalty remained operative from 17.2.1999 to 16.8.2000 and the respondents have rightly rejected the request of the applicant to pay him the salary in the higher scale. In view of this we do not find any merit in this Original Application and it is accordingly dismissed. No costs.

Sd/ 
(A.K. Gaur)
Judicial Member

Sd/ 
(Dr. G.C. Srivastava)
Vice Chairman