

CENTRAL ADMINISTRATIVE TRIBUNAL, JABALPUR BENCH, JABALPUR
Original Application No 147 of 2004

Jabalpur, this the 1st day of April, 2005.

Hon'ble Mr. M.P. Singh, Vice Chairman
Hon'ble Ms. Sadhna Srivastava, Judicial Member

(By Advocate – Shri S.Nagu)

VERSUS

1. Union of India through Secretary
Department of Defence Production
& Supplies- Ministry of Defence,
South Block, New Delhi.
2. Chairman, Ordnance Factory Board,
10-A Shahid Khudiram Boase,
Road, Kolkata, (W.B.)
3. General Manager, Vehicle Factory,
Jabalpur, District Jabalpur(M.P.)

(By Advocate - Shri S.P. Singh)

ORDER

By Sadhna Srivastava, Judicial Member :-

By means of the aforesaid OA, the applicant has sought the following main reliefs :-

“8.1 The Hon’ble Tribunal may be pleased to quash the impugned order dated 16.6.2003 to the extent it treats the period from 6.6.1994 to 24.8.2001 as not spent on duty even for pensionary benefits.

8.2 The Hon'ble Tribunal may be pleased to declare that the action of issuing the impugned order is arbitrary unlawful and void.

8.3 The Hon'ble Tribunal may be pleased to direct the respondents to treat the period from 6.6.1994 to 24.8.2001 as having spent on duty, at least for the purpose of pensionary benefits.

8.4 The Hon'ble Tribunal may be further pleased to direct respondents to refix the pension and related pensionary benefits by adding the period from 6.6.1994 to 24.8.2001 as qualifying service."

2 While the applicant was serving as Turner (Highly skilled) Gr.II, he was served with a charge sheet under Rule 14 CCS(CCA) Rules, 1965 on 14.12.1992. After holding the detailed enquiry a penalty of compulsory retirement was passed on 6.6.94. Aggrieved by the compulsory retirement, the applicant filed an appeal, which was also rejected. Thereafter he filed an OA No. 51/95 before this Tribunal which was disposed of on 19.5.2000 with a direction to the appellate authority to reconsider the quantum of penalty dated 6.6.94. In pursuance to the direction of this Tribunal, the respondents had moderated the penalty from compulsory retirement from service to reduction in rank from Tuner (Highly Skilled) Gr.II to Tool Setter Grade-B in the minimum of scale of pay vide order dated 25.8.2001. Thereafter, the applicant has preferred an appeal dated 21.1.2002 for payment of pay for the suspension period and also pay from the date of compulsory retirement to the date of reduction to the rank on penalty being moderated. In the mean time on 30.4.2002 the applicant retired after attaining the age of superannuation from the post of Tool Setter Grade-B. The applicant's appeal dated 21.1.2002 has been considered and following orders were passed :-

"(a) Restricting payment of 50% salary and allowances for the period from 6.6.94 to 24.8.2001.

(b) Treating this period from 6.6.94 to 24.8.2001 as not spent on duty.



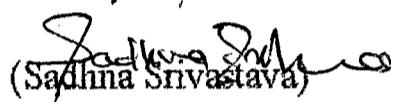
Aggrieved by the order passed by the appellate authority, the present petition has been filed.

3. The respondents have contested the matter and filed the counter affidavit stating that the applicant was allowed and paid 50% salary for the intervening period from 6.6.94 to 24.8.2001. Since, the penalty of compulsory retirement was moderated to that of reduction in rank from Turner Highly Skilled Gr.II to Tool Setter Grade-B in the minimum of pay scale, which is a major penalty, the claim of the applicant to pay him full wages for the intervening period is not tenable and the intervening period has been treated rightly as not spent on duty. There is no violation of any rule. Hence, the OA deserves to be dismissed.

4. We have heard the learned counsel for the parties and perused the pleadings carefully.

5. The applicant has challenged the order dated 16.6.2003 only to the extent that the period from 6.6.94 to 24.8.2001 has not been treated as spent on duty by the respondents. In the instant OA he has not claimed for full salary for the intervening period. Hence, the question before us is only whether the period from 6.6.94 to 24.8.2001 will be counted towards the pensionary benefits or not ? Since, the respondents has paid half salary to the applicant it means that the respondents had accepted that the applicant ~~was~~ the employee of the respondents for the relevant period. It is well settled position of rule that salary is paid to its employee by the employer for which he has rendered service, may be half for his misconduct as a punishment. Thus that period should always be treated as spent on duty unless any specific order is passed for dies-non and in that condition no part of the salary can be paid. The respondent have paid 50% salary to the applicant for the period from 6.6.94 to 24.8.2001 but treated this period as not spent on duty, is bad in law . The applicant is entitled to the relief claimed. The OA is allowed and the order dated 16.6.2003

is quashed to the extent that the period from 6.6.94 to 24.8.2001 has not been treated as spent on duty. We direct the respondents to treat the period from 6.6.94 to 24.8.2001 as having been spent on duty for the purpose of pensionary benefits and refix the pension of the applicant accordingly. The arrears if any shall be paid within a period of three months from the date of receipt of a copy of this order. There shall be no order as to costs.


(Sadhna Srivastava)
Judicial Member


(M.P. Singh)
Vice Chairman

Skm

प्रांतिक सभा/व्या..... अवलम्बन, दि.....
प्रतिलिपि अवलोकन
(1) साधना, उच्च न्यायालय कार्यालय, नेहरान, अवलम्बन
(2) आदेशक श्री/ श्रीमती/ द्वा..... के वारांगल
(3) अस्थायी श्री/ श्रीमती/ द्वा..... के वारांगल
(4) विधायक, के.प्र.स. अवलम्बन न्यायालय
सूचना एवं आवश्यक कार्यवाही हेतु १५५
संसद एवं आवश्यक कार्यवाही हेतु १५५

१५५ अप्रैल २००५

S. K. Singh ०८०८०
M. P. Singh ०८०८०

S. K. Singh
ग्र. ६.४.०५