

(13)

CENTRAL ADMINISTRATIVE TRIBUNAL
JAIPUR BENCH, JAIPUR

ORDER SHEET

ORDERS OF THE TRIBUNAL

9.7.2008

OA 170/2006

Applicant present in person.
Mr.T.P.Sharma, counsel for respondents.

The applicant, who is present in person, has been heard.

Learned proxy counsel for the respondents seeks further time to make averments.

Let the matter be listed for final hearing on 30.7.2008, as Part Heard.

B.L. Khatri
(B.L.KHATRI)
MEMBER (A)

M.L. Chauhan
(M.L.CHAUHAN)
MEMBER (J)

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30.7.08 Applicant present in person.
Mr. T.P. Sharma, counsel for respondents.

Heard. Order reserved.

B.L. Khatri
(B.L. Khatri)
m(A)

M.L. Chauhan
(M.L. Chauhan)
m(J)

01/8/2008

order pronounced today
in the open court by the
aforesaid Bench

01/08/2008
C.O.

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,
JAIPUR BENCH

JAIPUR, this the 1st day of August, 2008

ORIGINAL APPLICATION No.170/2006

CORAM:

HON'BLE MR.M.L.CHAUHAN, MEMBER (JUDICIAL)
HON'BLE MR.B.L.KHATRI, MEMBER (ADMINISTRATIVE)

Vijay Kumar Gupta
s/o Shri Kailash Chand Gupta,
r/o 6-314, Vidhyadhar Nagar,
Jaipur-302023,
Ex-Branch Manager,
ESIC, Jaipur Rajasthan

..Applicant

(Applicant present in person)

Versus

1. Union of India
through Secretary,
Ministry of Labour,
Shram Bhawan,
New Delhi.
2. Director General,
ESIC, Panchdeep Bhawan,
Kotla Road,
New Delhi.
3. Regional Director,
ESIC, Panchdeep Bhawan,
Bhawani Singh Road,
Jaipur

... Respondents

(By Advocate: Shri Tej Prakash Sharma)

14

O R D E R

Per Hon'ble Mr. M.L.Chauhan.

The applicant has filed this OA thereby praying for the following reliefs:-

1. The respondents may please be asked immediately to make payment of all the pending claims as mentioned under para 4 of the Original Application.
2. The respondents may also please be directed to pay interest @ 15 p.a. for the period of delay i.e. date of submission of claims to the date of payment as there is delay of more than five years and in some cases it is more than that.
3. The respondents may also be asked to pay Rs. 20000/- as cost of this litigation which has been forced by them.
4. Any other relief which the Hon'ble Tribunal may deem fit in this case.

2. Briefly stated, facts of the case are that the applicant was initially appointed as Lower Division Clerk on 18.2.1981 and subsequently he was promoted as Branch Manager w.e.f. 6.2.1991. A case of corruption was also instituted against the applicant. The grievance of the applicant in this case is regarding order dated 2nd January, 2004 (Ann.A1) whereby various claims of the applicant were rejected. The said order was passed pursuant to representation of the applicant dated 21.7.2003 and 31.12.2003. As can be gathered from the impugned order dated 2nd January, 2004, the claim of the applicant regarding item No. a), b) and c) was rejected on the ground that such claim cannot be granted as disciplinary proceedings are pending against him. Regarding claim at item No. d) i.e. payment of increment during the suspension period, it has been stated that regarding this claim the applicant ~~he~~ has already been informed vide letter

dated 17.7.2002, validity of which order has not been challenged by the applicant in this OA. The other claims are regarding TA bills amounting to Rs. 1183/- and three other claims pertaining to the month of April, 97, May, 97 and October, 97. The said claims have been rejected on the ground that he has undertaken journey/tour without prior approval of the competent authority, as such, the claims are not admissible.

3. Notice of this application was given to the respondents. The respondents have filed reply thereby opposing claim of the applicant.

4. We have heard the applicant, who is present in person and the learned counsel for the respondents.

5. So far as claims pertaining to item No. a), b) and c) are concerned, the applicant argued that since the departmental proceedings against the applicant have been concluded and he has been awarded punishment of dismissal from service, as such, it cannot be said that disciplinary proceedings are pending against him. When the applicant has been dismissed from service, the departmental proceedings come to an end, as such, it was incumbent upon the applicant to settle his claim pertaining to item No. a), b) and c) of the impugned order dated 2nd January, 2004.

6. We see considerable force in the submission made by the applicant. Thus, without going into merit of the case, we are of the view that appropriate direction can be given to the respondents to settle claim of the applicant qua item No. a), b) and c) within a period of two months from the date of receipt of copy of this order. Ordered accordingly. We wish to make it clear that we have not entered into the merit of the claim and it will be permissible for the respondents to decide the claim of the applicant in accordance with rules.

7. Regarding claim at item No. d) viz. entitlement of payment of increment during the suspension period, the claim of the applicant has been decided by the respondents vide letter dated 17.7.2002 and validity of which is not under challenge in this OA. The applicant submits that for that purpose, he will file a substantive OA. Thus, in view of the statement made by the applicant and in view of the fact that validity of the order dated 17.7.002 is not under challenge in this OA, we permit the applicant to agitate this claim by filing separate OA and disposal of this OA will not come in the way of the applicant to file substantive OA for this matter and it will be permissible for the respondents to raise all permissible objection in the OA to be filed by the applicant.

id

8. Regarding payment of TA claims amounting to Rs. 1183/- and also 3 other TA claims of the applicant for the month of April, 97, May, 97 and October, 97, the same have been rejected on the ground that the applicant performed journey without obtaining prior approval of the competent authority before proceeding on tour. The applicant submits that while performing tour six centres were under him. He performed journey/tour between April, 97 to February, 98 but except these 4 claims, the respondents have granted ex-post facto sanction. Thus, it was not permissible for the respondents to reject these claims of the applicant while sanctioning the claims in respect of other TA claims which were performed in similar circumstances.

9. We have given due consideration to the submissions made by the applicant. Admittedly, the applicant has proceeded on tour without prior approval/permission of the competent authority. According to the applicant, it was not necessary to obtain such approval before proceedings on tour. The fact that he has submitted inspection report which has been accepted by the department is sufficient proof regarding admissibility of his claim. We are not inclined to accept the contention as put forth by the applicant. The learned counsel for the respondents has drawn our attention to Memorandum No. S-11/12/2/87-

Ins.IV dated 14.8.87. The said Memorandum stipulates that every Insurance Inspector is required to undertake inspection of a factory/establishment in accordance with inspection programme approved by the competent authority. The Insurance Inspector is to prepare the inspection programme carefully and submit well in advance for approval keeping in view priorities of inspection fixed i.e. period/year for which inspection is to be conducted as also the type of employer i.e. defaulter where early inspection may be considered essential and necessary. Thus, from reading of opening part of this Memorandum, it is clear that the applicant has to obtain prior permission of the Regional Director before undertaking inspection of the factory/establishment and for that purpose, he has to prepare inspection programme well in advance for approval. Admittedly, the applicant has not followed such procedure. As such, there is no infirmity in this part of the order whereby claim of the applicant has been rejected. The learned counsel for the respondents has drawn our attention to letter dated 20.3.98 pertaining to TA claim amounting to Rs. 5429.50 whereby certain clarifications were sought from the applicant regarding admissibility of the claim. Since we have rejected the claim of the applicant on the ground that the applicant has not sought prior approval of the competent authority before proceeding on tour, it is unnecessary for us to

6

decide for what amount the applicant is entitled on account of TA bill submitted by him.

10. For the aforesaid reasons, the present OA is partly allowed in the aforesaid terms. No costs.


(B.L. KHATRI)

Admv. Member


(M.L. CHAUHAN)

Judl. Member

R/