

OPEN COURT

CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH
ALLAHABAD

Dated: This the 02st day of August 2018.

Original Application No. 330/00343 of 2018

PRESENT:

HON'BLE MR. GOKUL CHANDRA PATI, MEMBER -A

HON'BLE MR. RAKESH SAGAR JAIN, MEMBER -J

Dinesh Chandra Pandey, S/o Sharad Chandra Pandey, House No. 4, Lane No. 4, Ashirwad Enclave, Dehradun.

.....Applicant

By Adv: Shri Manoj Upadhyaya/Shri L.K. Dwivedi

V E R S U S

1. Union of India through the Secretary, Govt. of India Ministry of Commerce & Industry, Udyog Bhawan, New Delhi.
2. The Chief Controller of Explosives, Petroleum & Explosives Safety Organization, (PESO), A Block, 5th Floor, CGO Complex Seminary Hills, District Nagpur 440006.
3. The Joint Chief Controller of Explosives Petroleum & Explosives Safety Organization (PESO), A Wing, IInd Floor Kendralaya 63/4 Sanjay Place District Agra 282002.

..... Respondents

By Adv: Sri Jai Singh

O R D E R

BY HON'BLE MR. GOKUL CHANDRA PATI, MEMBER -A

Heard Shri Manoj Upadhyaya and Shri L.K. Dwivedi learned counsels for the applicant and Shri Jai Singh, learned counsel for the respondents.

2. Learned counsel for the applicant submitted that vide impugned order dated 18.01.2018, the salary of applicant for 3 days i.e. 5.1.2018, 6.1.2018 and 7.1.2018 is not disbursed by the respondent No.3. He submitted that in this regard, respondent No.2 has given a direction to the respondent No. 3 vide letter dated 14.2.2018 (Annexure A-10) directing the respondent No.3 to release the salary of these 3 days to the applicant.

3. Learned counsel for the respondents submitted that against these directions of respondent No.2, respondent No. 3 has moved respondent No.1 requesting for instruction. This is a peculiar situation, where an authority, without complying the direction of the Senior Authority, has moved an application to the Head of Department seeking instructions in this matter. On perusal of impugned order, it is seen that respondent No. 3 has come to the conclusion that on these 3 days i.e. 5, 6, and 7 January 2018, the applicant remained unauthorizedly absent. Further it is mentioned in the order that disciplinary proceeding is initiated against the applicant. There is nothing in the counter affidavit to show that any Disciplinary proceeding has been taken against the applicant before concluding that for the said dates, he was on unauthorized absence.

4. In view of the above, since the finding that the applicant was on unauthorized absence for 5th - 7th January 2018 is without any proceeding against the applicant is incorrect, the impugned order dated 18.1.2018, which is passed without giving any opportunity of hearing to the applicant is set aside. Taking into account the fact that the respondent No. 2 vide his letters at Annexure A-10 has directed the respondent No. 3 to release the salary of the applicant for the period in question, we direct the respondent No. 3 to release the salary for 5, 6 and 7 January 2018 of the applicant within 15 days from the date of receipt of a certified copy of the order. However, the respondents will be at liberty to initiate disciplinary proceedings against the applicant as per rules in case there is any allegation of unauthorized absence or any other misconduct against the applicant.

5. Accordingly, the O.A. is disposed of at this stage. No order as to costs.

(RAKESH SAGAR JAIN)
Member (J)

(GOKUL CHANDRA PATI)
Member (A)

Manish/-