

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI

O.A.NO.1744/2003

Monday, this the 29th day of December, 2003

Hon'ble Shri Justice V.S. Aggarwal, Chairman
Hon'ble Shri Sarweshwar Jha, Member (A)

Shri Ganga Ram s/o Shri Rati Ram
r/o G-16, Police Colony, Mehru Nagar, New Delhi
..Applicant
(By Advocate: Shri Nirmal Singh for R.P. Singh)

Versus

1. The DCP (Communication)
Old Police Line
Rajpura Road, Delhi-54
2. The Hon'ble Commissioner of Police
PHQ, ITO, New Delhi
3. The Defence Pension Disbursing Officer
Office of District Pension Disbursing
Office, Bara Square, Delhi Cantt. No.10
New Delhi

..Respondents

(By Advocate: Shri Ram Kanwar)

O R D E R (ORAL)

Justice V.S. Aggarwal:

The applicant had joined the Delhi Police, Communication Unit on 26.10.1987. By virtue of the present application, he seeks a direction that he should be given the benefit of past service as defence personnel, his pay should be re-fixed in Delhi Police keeping in view his ~~fourteen~~ ^{①Nineteen} years of service and lastly, a direction should be issued to the respondents not to deduct Rs.1000/- as Dearness Allowance from his salary.

2. On behalf of the respondents, a preliminary objection had been taken that the present petition was not maintainable. It is on the ground that earlier application (OA-2117/2002) had been filed, which is stated to have been dismissed by this Tribunal on 9.5.2003.



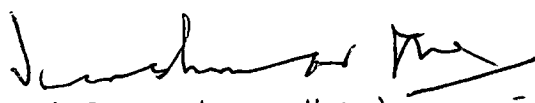
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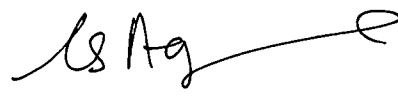
3. Copy of the order dated 9.5.2003 passed by the Tribunal in the earlier application filed by the applicant is on the record. Perusal of the same clearly shows that, in that application, there was no adjudication of the rights of the applicant. In fact, it was dismissed as withdrawn with liberty in accordance with law. In this backdrop, when a fresh petition is filed, it cannot be taken to be barred by the principles of res judicata or of abandonment of claim.

4. While the matter was argued on merits, it transpired that when the deduction with respect to Dearness Allowance was being effected, the respondents had not served any notice to show cause to the applicant. When civil rights of the applicant were likely to be affected, in all fairness, a notice to show cause must be issued and thereafter, on consideration of the reply, if any, a proper order should be passed.

5. Consequently, as for present, we quash the impugned order for deduction of amount of Rs.1000/- from the ^{(X) Pension} ~~salary~~ of the applicant and direct that before doing so, a notice to show cause must be issued to the applicant and thereafter an appropriate order may be passed. The applicant can press for the relief(s), if required, after the said exercise had been undertaken.

6. Subject to aforesaid, OA is disposed of.


(Sarweshwar Jha)
Member (A)


(V.S. Aggarwal)
Chairman

/sunil/

Note: (X) Corrected vide orders dated
9.2.04 in M.A. 142/2004 in OA 1744/2003.