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CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH
NEW DELHI

O.A. NO.2159/2003

This the 27th day of July, 2004

HON'BLE SHRI V. K. MAJOTRA, VICE CHAIRMAN (A)

HON'BLE SHRI SHANKER RAJU, MEMBER (J)

K.K.Jha S/O Jay Kant Jha,
working as UDC in the Directorate
of General Supplies & Disposal,
R/O 143/8, Sector-I, M.B.Road,
Pushp Vihar,
New Delhi-110017.

... Applicant

(By Shri B.Krishan, Advocate)

-versus-

1. Union of India through
Director General Supplies & Disposal,
Jeewan Tara Building,
Sansad Marg, New Delhi-110001.

2. Director,
Directorate of Quality Assurance,
Directorate General Supplies & Disposal,
Jeewan Tara Building,
Sansad Marg,
New Delhi-110001.

... Respondents

(By Shri B.S.Jain, Advocate)

O R D E R (ORAL)

Hon'ble Shri V.K.Majotra, VC(A) :

At the outset, learned counsel of the applicant raised the objection that while counter reply has been filed by respondent No.2, respondent No.1 has not filed any reply. The learned counsel of the respondents stated that this counter reply has been filed on behalf of the respondents even though the same has been signed and verified by respondent No.2. The contention of the learned counsel of respondents is accepted and the reply is taken to be on behalf of both the respondents.

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2. Applicant has challenged Annexure A-1 dated 25.6.2002 relating to recovery of excess payments in respect of pay and allowances from the applicant's salary. The learned counsel of applicant stated that applicant was promoted as Junior Hindi Translator (JHT) on ad hoc basis w.e.f. 15.2.1994. His pay was fixed at Rs.1440/- w.e.f. 1.1.1996 in the old scale. His pay was refixed at Rs.5000/- in the revised pay scale of JHT w.e.f. 1.1.1996 with next date of increment as 1.2.1996. He went on deputation on the post of JHT to the office of respondent No.2 from 21.10.1997 till 20.2.1999. He was allowed to draw his pay at the rate of Rs.5300/- per month. However, no increments were allowed to him. On repatriation from deputation, respondent No.2 organisation issued LPC showing applicant's pay as Rs.4625/- + Rs.150/-. This LPC also showed a recovery of Rs.16650/- on account of recovery of pay and allowances alleged to have been paid in excess. The learned counsel of the applicant contended that applicant is entitled to pay in the scale of Rs.5000-8000 w.e.f. 1.1.1996 as JHT. Applicant has sought that impugned recovery of Rs.16650/- on account of alleged excess payment of pay and allowances as indicated in the LPC dated 12.10.2000 be quashed and set aside, and his pay should be refixed in the scale of Rs.5000-8000 as JHT by giving him annual increments for the period of deputation. His pay should also be refixed on repatriation w.e.f. 21.10.2001.

3. The learned counsel of respondents contended that applicant is guilty of suppression of vital information inasmuch as while applicant has been

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appointed on ad hoc basis as JHT from time to time, during the intervening periods he was repeatedly reverted to the post of LDC. Applicant has projected as if he has been continuously working as JHT since 15.2.1994 onwards. As such, he has not come with clean hands and is not entitled to any claims preferred herein.

4. In the counter reply, respondents have stated that applicant was reverted to the post of LDC thrice over as follows :

- (1) From the post of JHT (ad hoc) to the post of LDC from 14.8.1996 and was paid salary of LDC from 14.8.1996 to 20.8.1996.
- (2) From the post of JHT (ad hoc) to LDC w.e.f. 20.2.1997 and was paid as LDC from 21.2.1997 to 23.2.1997.
- (3) From the post of JHT (ad hoc) to LDC w.e.f. 21.6.1997 and was paid in the grade of LDC from 22.6.1997 to 23.6.1997.

5. The learned counsel of respondents further stated that during reversion as LDC from time to time, applicant continued to receive pay in the post of JHT, while he was entitled only to the pay of LDC. As such, over-payments had to be recovered from him and periods when he did not function as ^JJHT were not to be taken into account for increments and fixation of salary in the higher grade. This contention has not been contradicted by way of any rejoinder.

6. Respondents have contended that on repatriation from deputation w.e.f. 20.10.1999, applicant is entitled to draw pay and allowances of his original regular post

and not of the post of JHT. Applicant has not filed any rejoinder to the counter reply of the respondents. Thus, it is found that while the applicant has projected to have functioned as JHT from 15.2.1994 onwards, he was reverted to the post of LDC on several occasions and functioned as LDC time and again between 14.8.1996 and 23.6.1997. Respondents' contention regarding entitlement of the applicant to draw pay and allowances of his original regular post and not on the post of JHT is established from Annexures R-1 to R-8 which have not been denied on behalf of the applicant. The contention of the applicant that he had been functioning as JHT from 15.2.1994 onwards till the date of his reversion on 20.10.1999 certainly involves suppression of material information. This ground along^{-e} suffices to dismiss this OA. However, the learned counsel of respondents conceded that so far as the applicant's claim for LTC is concerned, while the competent authority has already condoned the delay, applicant's claim will be settled in case he submits duplicate LTC claim relating to LTC advance of Rs.4995/-.

7. Having regard to the suppression of material information relating to applicant's repeated reversion from the post of JHT to LDC and drawal of pay and allowances of the post of JHT even during such periods, we are in agreement with the learned counsel of the respondents that applicant has not come before us with clean hands and has suppressed vital information necessary for adjudication in the matter. The established law is that such a conduct on the part of the

applicant disentitles him ^{for} any equitable relief.

Basically, this OA deserves an outright dismissal and should not be considered for grant of any relief.

Ordered accordingly. However, in view of the concession agreed ^{to} by the learned counsel of the respondents in respect of LTC claim of the applicant, applicant may submit duplicate LTC claim to the competent authority which would be considered and settled by him as per rules. No costs.

S. Raju

(Shanker Raju)
Member (J)

V. K. Majotra

(V. K. Majotra)
Vice-Chairman (A)

27.7.04

/as/