



2024:DHC:9717-DB



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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ W.P.(C) 17207/2024 & CM APPL. 73143/2024, CM APPL. 73144/2024

**INDIAN COUNCIL OF AGRICULTURAL RESEARCH AND
ORS**

.....Petitioners

Through: Mr. Gagan Mathur and Mr.
Shitanshu, Adv.

versus

SHRI BIRENDER SINGH

.....Respondent

Through: Mr. M.K. Bhardwaj, Adv. with
Ms. Priyanka Bhardwaj, Adv.

CORAM:

HON'BLE MR. JUSTICE C. HARI SHANKAR

HON'BLE MR. JUSTICE ANOOP KUMAR MENDIRATTA

JUDGMENT (ORAL)

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13.12.2024

1. By office order dated 26 June 2024, the respondent, who was working as a driver in the New Delhi office of the petitioner Indian Council of Agricultural Research¹, was transferred to the Krishi Vigyan Kendra², Shikohpur, Gurugram.

2. Assailing the said transfer order, the respondent has instituted OA 2990/2024 before the Central Administrative Tribunal, Principal Bench³. The respondent also sought, in para 9 of the OA, a stay of operation of the transfer order dated 26 June 2024.

¹ "ICAR"

² "KVK" hereinafter

³ "the Tribunal" hereinafter



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3. The following order was passed by the Tribunal, on 27 August 2024:

“Order of The Tribunal

Mr. Gagan Mathur, learned counsel for the respondents submits that reply will be filed during the course of the day. Let the same be done.

2. Learned counsel for the applicant presses for grant on interim relief.

3. List on 17.09.2024 for consideration on grant of interim relief.

4. Status quo shall be maintained till the next date of hearing.”

4. Admittedly, at the time when this order was passed, it was never challenged by the petitioner before this Court. Nor, apparently, has any application been moved by the petitioner before the Tribunal seeking vacation of the said order.

5. It appears that, even after the passing of the aforesaid order, the services of the respondent continued to be availed by the Deputy Director General⁴ of the ICAR at Delhi as a driver.

6. In these circumstances, the Tribunal went on to pass the following order on 28 November 2024:

“Order of The Tribunal



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Learned counsel for respondents confirms that the applicant has continued to serve as Driver. He states that he was working with the DDG in the personal capacity of the DDG who has not been authorised to take the services of applicant as Driver. On 05.11.2024, the respondents were directed to confirm whether the applicant was driving the Car of the DDG, the same has been confirmed by the respondents' counsel. According to us, irrespective of the fact that he was driving a car in personal capacity or in official capacity, nevertheless, he is driving an official vehicle for a responsible officer of the organization and he is entitled for receive his dues for the services rendered by him. The respondents shall take appropriate steps to release the salary of the applicant along with the arrears for the period he performed the duties as driver forthwith.

List on 04.12.2024. Order DASTI.”

7. Despite passing of the aforesaid order, the petitioner did not disburse the salary of the respondent in compliance thereof. In view thereof, the Tribunal went on to pass the following orders on 5 December 2024 and 6 December 2024:

Order dated 5 December 2024

“Learned counsel for the respondents states that the respondents are unable to release the salary of the applicant, despite orders of by this Tribunal on 05.11.2024 reiterated on 26.11.2024 and 28.11.2024.

He submits that he has instructions that the respondents may not be in a position to release the salary of the applicant and are of the opinion that the order be challenged before the Hon'ble High Court.

Though, we recognise the right of the respondents can place challenge to this order. It is fact that the salary has to be paid to an employee, who has been discharging his duties.

Let the Drawing & Disbursing Officer be present tomorrow.

Let the matter remain on board (06.12.2024, ai SI. No. 1).

Order DASTI.”

Signature Not Verified

Digitally Signed By: AWP.(C) 17207/2024
KUMAR
Signing Date: 17.12.2024
19:44:54

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Order dated 6 December 2024

“The matter was taken up at 11:30 AM and Ms. Suparna Das Gupta, Director (TS) ICAR is present before the Court. She confirms that the applicant is working with the DDG. However, she states that he is discharging his duties informally and since he not on the rolls of the Institution, in view of the transfer they are unable to release his salary.

Be it as may, we reiterate that the applicant is a Driver he cannot enter the premises of the respondents without permission, he is driving an official vehicle and to which he can only have access officially.

Eventually, he is working with DDG and the fuel to the vehicle is also being paid by the Institute itself. Applicant is in the lowest post in the hierarchy with the Institution. On one end he has been transferred, second he has been made to work with DDG and is not in receipt of his salary, inspite of the fact that he is discharging his duties, which is not in dispute.”

Ms. Suparna Das Gupta, Director (TS), ICAR confirms that the salary of the applicant alongwith the arrears will be released forth with.

Re-list on 13,12.2024.

Order DASTI”

8. Assailing the orders dated 27 August 2024, 5 December 2024 and 6 December 2024, the petitioner has now filed the present writ petition before this Court.

9. Mr. Gagan Mathur, learned Counsel for the petitioner, submits that, as the respondent had been relieved, consequent to his transfer to KVK Gurugram, the impugned orders could not have been passed by the Tribunal.



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10. We are not in agreement with Mr. Mathur.

11. The order of transfer and relieving of the respondent was specifically made subject matter of challenge by the respondent in OA 2990/2024 instituted by him. The Tribunal is presently *in seisin* of the said challenge, and the issue of whether the transfer and relieving of the respondent was in accordance with law has yet to be determined.

12. In that view of the matter, the Tribunal was well within its jurisdiction in directing continuance of the *status quo* on 27 August 2024.

13. In any event, the petitioner never chose to challenge the order dated 27 August 2024 when it was passed. Rather, the DDG of the petitioner blithely continued to avail the services of the respondent as driver, till the passing of the order dated 6 December 2024.

14. The fact that the respondent's services were continued to be availed as driver by the DDG till 6 December 2024 is not disputed by the petitioner. The Tribunal has, in the order dated 6 December 2024, merely directed that the respondent should be paid his pay and allowances for the period during which his services were availed by the DDG.

15. There can be no possible cavil to this order.

16. It is axiomatic that a person is entitled to be paid for services



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rendered.

17. In view of the above, we see no reason to interfere with the impugned orders, which are upheld in their entirety.

18. The writ petition is accordingly dismissed in *limine*.

C. HARI SHANKAR, J.

ANOOP KUMAR MENDIRATTA, J.

DECEMBER 13, 2024/dsn

Click here to check corrigendum, if any