

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH

OA No. 3375/2002

New Delhi, this the 11th day of July, 2003

Hon'ble Shri Justice V.S. Aggarwal, Chairman
Hon'ble Shri S.K. Naik, Member(A)

Smt. Manju Lata, Staff Nurse
W/o Shri Pradeep Kumar,
R/O, Pocket B,
Uttam Nagar
New Delhi.

.. Applicant

(By Advocate: Sh.S.K.Sinha)

versus

1. Secretary
Health & Family Welfare Dept.
Govt. of N.C.T. of Delhi
I.P. Bhawan
New Delhi.
2. Director of Health Services
Directorate of Health Services
Govt. of NCT/Delhi
F-, Karkardooma
New Delhi.
3. Medical Superintendent
Guru Govind Singh Hospital
Raghbir Nagar
New Delhi. .. Respondents

(Shri George Paracken, Advocate)

ORDER

Justice V.S. Aggarwal

Applicant (Smt. Manju Lata) is aggrieved by the action of the respondents in rejecting the grant of study leave to her.

2. The relevant facts are that on 28.5.1997, the applicant submitted an application seeking permission to join a course of diploma in Nursing Education Administration at the Rajkumari Amrit Kaur College of

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Nursing, New Delhi. It was conducted by the Directorate General of Health Services. She wanted to improve her professional skills and qualifications and thus had applied for the said course. On 24.6.1997, the Head of Office forwarded the request of the applicant along with the security bond in the prescribed form to the Officer on Special Duty (Medical). The applicant was in due course permitted to join the said course by the respondents through Office Memorandum dated 15.7.1997. She received the sanction and went ahead to pursue the course. She completed it successfully. She had been informed vide the order dated 29.11.2001 that her request for grant of study leave had been turned down. She made a representation and the same was rejected. The applicant contends that in the facts, her request for grant of study leave had been rejected illegally and without any basis.

3. A reply has been filed. The basic facts have not been controverted. It is not disputed that the applicant is working in Guru Gobind Singh Government Hospital, Raghbir Nagar, New Delhi. She submitted an application to attend the course referred to above. The same had been forwarded by the Chief Medical Officer. She had been relieved, but the study leave had not been granted by the competent authority. According to the respondents, at the time of relieving her for the said course, she was permitted to pursue the said course subject to the condition that in the event of her study leave not being granted, her training period during the said course would

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be adjusted against the leave of kind due to her. It is on these facts that a plea has been raised that the study leave had rightly been refused keeping in view the facts and circumstances and the application is without merit.

4. Perusal of the facts referred to above clearly indicates that the applicant had applied for the study leave. The Head Of Office had forwarded the application to the Officer on Special Duty (Medical) on 24.6.1997 recommending the case of the applicant recording:-

"Sub:-Reg.request of Smt.Manju Lata S/N for sanction of study leave for DNEA course from R.A.K. college of Nursing.

Sir,

This Dte. is in receipt of an application of Mrs.Manjulata, Staff Nurse for grant of 10 months study leave w.e.f.16.7.97 for DNEA course from R.A.K College of Nurses. The application for admission was duly forwarded vide this Directorate under intimation to your offices and now she has been selected.

Her case is received through the Med.Suptt.GGSGH who has recommended her case for grant of study leave & he has also certified that the course is in public interest & will increase the efficiency of the incumbent.

The incumbent has also submitted an undertaking & an bond in form 9 which is enclosed herewith. The service particulars duly certified by the Med.Suptt. are also enclosed.

Smt.Manju Lata has completed 5 years of service & she is eligible for grant of study leave under rule 50 of CCS (Leave) rules, 1972.

You are requested to convey necessary permission to pursue the above noted course & sanction of competent authority for grant of study leave as per rules as the earliest.

Yours faithfully,
Sd/-

(DR. T. B. CHAKRABORTY)
HEAD OF OFFICE"

Encl:As above.

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Thereupon the Medical Superintendent on 15.9.1997 had passed the following order:-

"In pursuance of the office memorandum No.F.3(64)/93-DHS/HQ/26802 dated 11.07.97 from Head of Office, DHS (HQ), Smt. Manju Lata, Staff Nurse, is hereby relieved of her duties w.e.f. 15.07.97 (A/N) to join the D.N.E.A. Course organised by the R.A.K. College of Nursing, Lajpat Nagar, N. Delhi.

She is directed to report to the course director and send a copy of her joining report to this office. Smt. Manju Lata Staff Nurse, is further informed that in the event of her study leave not granted by competent authority, her training period during the said course shall be adjusted against the leave of kind due to her."

This clearly shows that the applicant was relieved by the Medical Superintendent. She was directed to report to the course Director. Of course, a rider was added that in the event the study leave not being granted, her training period during the said course had to be adjusted against the leave of kind due to her. After four years of the same, the study leave of the applicant had been rejected by the following order:-

"Reference her application, dated 24.1.2002 endorsed by the CMO (HQ), Directorate of Health Services, Delhi vide letter No.F.3(1)/B/2/96/GGSH/DHS/PF/15051, dated 22.5.2002 regarding grant of Study leave, Ms. Manju Lata, Staff Nurse working in G.G.S.G. Hospital (DHS), Govt. of NCT of Delhi is hereby informed that her request for grant of study leave has been rejected by the Fin. (G) Department after consideration."

It is on the strength of these facts that on behalf of the respondents, it was contended that they could reject the request of the applicant for grant of study leave.

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There is no right with the applicant and even if one person is granted the study leave, it can be refused to the other. Sub- rules (1) and (2) to Rule 50 of the Central Civil Services (Leave) Rules, 1972 read:-

"50. Conditions for grant of study leave. (1) Subject to conditions specified in this Chapter, study leave may be granted to a Government servant with due regard to the exigencies of public service to enable him to undergo, in or out of India, a special course of study consisting of higher studies or specialized training in a professional or a technical subject having a direct and close connection with the sphere of his duty.

(2) Study leave may also be granted-

- (i) for a course of training or study tour in which a Government servant may not attend a regular academic or semi-academic course if the course of training or the study tour is certified to be of definite advantage to Government from the point of view of public interest and is related to sphere of duties of the Government servant; and
- (ii) for the purpose of studies connected with the framework or background of public administration subject to the conditions that-
 - (a) the particular study or study tour should be approved by the authority competent to grant leave; and
 - (b) the Government servant should be required to submit on his return, a full report on the work done by him while on study leave;
- (iii) for the studies which may not be closely or directly connected with the work of a Government servant, but which are capable of widening his mind in a manner likely to improve his abilities as a civil servant and to equip him better to collaborate with those employed in other branches of the public service.

NOTE- Application for study leave in cases falling under clause (iii) shall be considered on merits of each case in

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consultation with the Department of Expenditure of the Ministry of Finance."

Perusal of the aforesaid shows that it prescribes certain conditions under which study leave can be granted and indeed does show that a person does not have a right to the study leave.

5. Our attention has been drawn towards a decision of this Tribunal in the case of **Smt. Sarita Gupta v. Govt. of NCT of Delhi & Ors.** in OA No. 2079/1999 rendered on 16.2.2001. In a somewhat similar case, this Tribunal had quashed the order refusing the study leave primarily on the ground that it was a non-speaking order, but the discretion can be exercised judicially and not arbitrarily. Certain other facts were also mentioned and taken note of.

6. In the present case in hand though the application was forwarded with the rider that in the event of the study leave being refused, her training period during the said course would be adjusted against the leave of kind due to her, but still the department took more than four years to reject the request for study leave. This inordinate delay in a simple matter of grant of study leave is not understandable. If it had been conveyed to the applicant earlier, she could have, if so advised, reverted back and joined duties. In addition to that though we are conscious of the fact that a detailed order need not be passed in refusing such a study leave, in face of what has been recorded in the preceding

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paragraph when such a long period has been taken to reject the request of the applicant, it is expected that the concerned authority competent to grant or refuse the study leave should give reasons as to why the study leave is not being granted. This assumes great importance because in the case of one Ms. Sarita Gupta (supra), the study leave had been granted. Can the department pick and choose and still not give reasons? The answer would be in the negative. In such cases when individual cases are being examined in preference to one against the other, something should be indicated as to why this had been done. The order, therefore, looks unconscionable and cannot withstand scrutiny.

7. Resultantly, we quash the impugned order and allow the present application. It is directed that the applicant would be entitled to all the consequential benefits i.e. grant of study leave for the period in question. No costs.

Naik

(S. K. Naik)
Member (A)

/sns/

V.S. Aggarwal

(V. S. Aggarwal)
Chairman