

Central Administrative Tribunal  
Principal Bench

O.A. No. 775 of 1999

12  
New Delhi, dated this the 7<sup>th</sup> MARCH, 2001

HON'BLE MR. S.R. ADIGE, VICE CHAIRMAN (A)  
HON'BLE DR. A. VEDAVALLI, MEMBER (J)

Shri Baldev Raj Dhamija,  
Ex-Auditor,  
under Controller of Defence Accounts,  
Western Command, Chandigarh.

Resident of:  
C/o Shri Arun Kumar Vidyarthi,  
KG1-185, Vikaspuri,  
New Delhi-110018. . . Applicant

(By Advocate: Shri B.S. Mainee)

Versus

Union of India through

1. The Secretary,  
Ministry of Finance (Defence),  
New Delhi.
2. The Controller General of Defence A/cs,  
West Block V,  
R.K. Puram,  
New Delhi.
3. The Controller of Defence Accounts,  
Western Command,  
Chandigarh.
4. The Controller of Defence Accounts (Army),  
Meerut Cantt. . . Respondents

(By Advocate: None appeared)

ORDER

S.R. ADIGE, VC (A)

Applicant impugns the disciplinary authority's order dated 17.1.90 (Annexure A-1) and the appellate authority's order dated 26.2.99 (Annexure A-2).

2. Applicant was proceeded against departmentally vide Charge Memo dated 29.3.88

(Annexure A-7) on the charge of being unauthorisedly absent from duty from 11.2.87 till 9.3.89.

3. The E.O. in his report (Ann. A-13) held the charge as proved.

4. A copy of the E.O's findings was furnished to applicant vide letter dated 18.9.90 (Ann. A-13) for representation, if any.

5. Applicant did not submit any representation despite reminder.

6. Thereupon the disciplinary authority after perusing the materials on record and agreeing with the findings of the E.O. that the charge was proved, imposed the penalty upon applicant of removal from service w.e.f. 1.2.91, which order was sustained in appeal vide appellate authority's order dated 26.2.99 giving rise to the present O.A.

7. The main ground taken is that applicant was compelled to remain absent from duty because of his wife's illness, and also because of his own illness, including T.B. and mental illness, and this period of absence is covered by medical certificate. Support is also sought to be drawn from that portion of the E.O's report where it has been stated that the sickness of applicant was established during the enquiry and was confirmed by the Chief Medical Officer, Meerut.

14

3

8. We have considered the matter carefully.

9. Even if applicant was unable to attend office because of his own/wife's illness, that still does not excuse his conduct in failing to submit proper leave applications supported by medical certificates to the office of CDA (WC), Chandigarh to which he had been posted.

10. This is not a case of no evidence, or of the findings being perverse, or indeed of the impugned order being passed by an authority not competent to do so, so as to warrant judicial intervention. However, nothing contained in this order will restrain respondents from themselves considering any prayer applicant may make for sympathetic consideration of his case, were he to make any such prayer.

11. The O.A. is disposed of in terms of Para 1 above. No costs.

A. Vedavalli  
(Dr. A. Vedavalli)  
Member (J)

S.R. Adige  
(S.R. Adige)  
Vice Chairman (A)

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