

CENTRAL ADMINISTRATIVE TRIBUNAL, PRINCIPAL BENCH

OA No.1992/98

New Delhi, this 1st day of September, 1999

Hon'ble Shri S.P. Biswas, Member(A)

M. Kutty
526, Sector V, M.B.Road
Pushp Vihar, New Delhi .. Applicant

(By Shri B.K. Chaudhary, Advocate)

versus

Union of India, through
Secretary (R)
Cabinet Secretariat
New Delhi .. Respondent

(By Shri Madhav Panickar, Advocate)

ORDER(oral)

The applicant, who retired as Caretaker from the Cabinet Secretariat, is aggrieved by order dated 8.5.98 by which his plea for treating the period from 21.1.95 to 30.11.96 as Special Disability Leave has been rejected.

2. Applicant seeks to assail the aforementioned order on the strength of sub-Rules 44 and 45 touching upon "Special Disability Leave" under Central Civil Services (Leave) Rules, 1972. Applicant would also draw support in respect of the above contention from the decision of the High Court of Kerala in the case of United India Insurance Company Vs. Gopalakrishnan, 1989(Vol.I) KLT 421.

3. The learned counsel for the respondents opposes the claim and submits that reasons for rejecting the claim of the applicant's are available in respondents' communication dated 8.5.98. During the course of the arguments, we asked the learned counsel for the applicant to indicate the rules under which the journey from office back to residence after completing duty hours of the day could be covered as duty for

the purpose of treating the period as Special Disability Leave. He could not show any law or rule that could establish his case. He would, however, state that the applicant was under serious stress and strain because of heavy pressure of work in the Cabinet Secretariat. Because of that the applicant carried lot of tension resulting in the road accident at about 7.35 PM on 20.1.95. The unfortunate event took place when he was coming home after performing his arduous duties. I am unable to get myself persuaded with the arguments advanced by the learned counsel for the applicant. The courts are to administer the law as they find it, however inconvenient it may be. Yielding to instinct will tend to ignore the whole logic of law. Courts should endeavour to find out whether a particular case in which sympathetic considerations are to be weighed falls within the scope of law. Disregardful of law, however hard a case may be, should never be done. (V2)

4. As the applicant has not come out with any specific rule or law that could cover his claim for relief, the OA deserves to be dismissed being devoid of merits and I do so accordingly. No costs.


(S.P. Biswas)
Member(A)

/gtv/