

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH: NEW DELHI

OA.2298 of 1998

New Delhi, this 17th day of September, 1999.

HON'BLE MR. JUSTICE V. RAJAGOPALA REDDY, VICE CHAIRMAN
HON'BLE MRS. SHANTA SHASTRY, MEMBER(A)

Ganeshi Lal
Working as Lighting Assistant
In Doordarshan Kendra
Delhi, Akashvani Bhavan
Parliament Street
New Delhi - 110001.

... Applicant

(By Advocate: Shri T.C. Agarwal)

Versus

Union of India, through

1. The Secretary,
Ministry of Information &
Broadcasting, Shastri Bhavan
New Delhi 110001.
2. The Director
Doordarshan Kendra, Delhi
Akashvani Bhavan
Parliament Street
New Delhi 110001.
3. Shri Ram Bilas
Dy. Director (Admn.)
Delhi Doordarshan Kendra
Akashvani Bhavan
Parliament Street
New Delhi 110001.

... Respondents

(By Advocate: Shri V.S.R. Krishna)

O R D E R (Oral)

By Reddy, J.

Heard the learned counsel for the applicant
and the respondents.

2. The only question that is involved in
this case is whether want of notice vitiates the
order of treating unauthorised absence as 'dies non'
for the purposes of increment, leave and pension.

VRB

3. In the impugned order it is stated that the applicant was absent from duty from 01.11.1997 to 05.11.1997, the absence from duty from 01.11.1997 to 05.11.1997, 16.11.1997 and 22.11.1997 to 24.11.1997 and the ~~the~~ above absence was unauthorised and was treated the same as "dies non". Learned counsel for the applicant submits that this order was passed without notice. As the order entails civil consequences, the applicant is entitled to notice. It is also denied that the applicant was not absent during the periods as alleged above. It is however contended by the learned counsel for the respondents that under the relevant rules, the applicant is not entitled to notice.

4. In S.N. Ramaswamy V. UOI (Mad) [1989] 10 ATC p.80, it has been clearly laid down by the Bench at Madras, following Ramji Dass V. UOI [ATR (1986) 2 CAT 455, that treating a period of absence from duty, as dies non, without issuing notice is violative of the principles of natural justice. In the present case since the applicant denies ~~that~~ the allegation that he was unauthorisedly absent, in the interest of justice and fair play, instead of taking a unilateral decision, notice should have been issued to the applicant. We, therefore, agree with the above decision.

CAS ✓

5. In the circumstances, the OA is allowed. The impugned order is set aside. If the respondents wish to proceed against the applicant, they can do so only after issuing notice and in accordance with law.

Shanta
(Mrs. Shanta Shastry)
Member(A)

V. Rajagopla Reddy
(V. Rajagopla Reddy)
Vice Chairman(J)

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