

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.

*(Signature)*

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.

(AS)

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 S*  
(Mrs. Shanta Shastray)  
Member(A)

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

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