

CENTRAL ADMINISTRATIVE TRIBUNAL, PRINCIPAL BENCH

OA No.54 of 1997

New Delhi, this 27th day of July, 2000

Hon'ble Shri Justice V.Rajagopala Reddy, VC(J)
Hon'ble Smt. Shanta Shastry Member(A)

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Balbir Singh
S/o Shri Banni Singh
R/o Village Surakhpur, P.O. Guidiani
Dist. Rohtak
Haryana.

... Applicant

(By Advocate: Shri J.M.L.Kaushik - not present)

versus

Government of Delhi

1. The Chief Secretary, Delhi
5 Sham Nath Marg
Delhi-6.
2. The Medical Superintendent
Lok Nayak Hospital
New Delhi.
3. The Director (Administration)
Lok Nayak Hospital
New Delhi.

... Respondents

(By Advocate: ~~Shri Anil Singh~~ through proxy
Shri Anil Singhal)

ORDER(Oral)

By Shri Justice V. Rajagopala Reddy

The applicant was working as a Chowkidar in Lok Nayak Hospital, New Delhi. It was alleged that he absented from duty with effect from 23.6.1995 without intimation and though he was directed to join service by memo and the same has been published in newspapers, the applicant failed to join his duties, nor did he submit any reply. The respondents without issuing any charge-sheet or conducting any enquiry invoking Rule 19(ii) of CCS(CCA)Rules (for short, Rules), removed the applicant from service by the impugned order dated

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15.1.1996. The appeal filed also was also rejected by order dated 26.1.1996. Hence the present OA.

2. None appears for the applicant either in person or through counsel even on the second call. Heard proxy counsel for the respondents.

3. We have given careful consideration to the pleadings and other material available on record and to the contentions raised by the learned proxy counsel for the respondents.

4. It is seen from the order of the disciplinary authority, that neither charge-sheet was issued nor an enquiry conducted against the applicant.

5. Rule 19(ii) of CCS(CCA) Rules, 1965 reads as under:

"(ii) where the disciplinary authority is satisfied for reasons to be recorded by it in writing that it is not reasonably practicable to hold an inquiry in the manner provided in these rules."

This sub-rule could be invoked only when it was not reasonably practicable to hold an enquiry as per the rules. It is not stated in the order as to why an enquiry could not be conducted against the applicant. Simply because an employee was unauthorisedly absent, it cannot be said that no enquiry could be conducted as per the rules. No effort was made either to frame the charge or send it to the address of the applicant. It is always open to an employee who was unauthorizedly absent to attend enquiry after issuing the charge-sheet

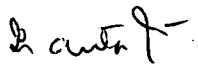



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and to explain why he was unauthorizedly absent. It is the case of the applicant in the OA that he was unwell and he went to his native village which lies in the interior part. He also states that he has not received either the memo asking him to join duty or the newspapers in which the same was alleged to have been published. However, we do not propose to decide whether the applicant was rightly absent from duty or not. The appeal filed by the applicant giving the details why he was absent was not properly considered by the appellate authority as the appeal has been rejected without giving any reasons. In the absence of any reason forthcoming for holding that the enquiry was not practicable, it has to be held that the order is incompetent.

6. The impugned orders of the disciplinary authority as well as the appellate authority are quashed.

7. We however direct the respondents to issue charge-sheet to the applicant and hold an enquiry in the manner provided in the rules within a period of six months from the date of receipt of a copy of this order and pass a final order. With this direction, the OA is allowed. No costs.


(Smt. Shanta Shastri)
Member(A)


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

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