

Central Administrative Tribunal
Principal Bench

O.A. 663/97

New Delhi this the 4th day of July, 2000

Hon'ble Smt. Lakshmi Swaminathan, Member(J). 11

H.C. Kanwar Pal,
No. 3910/DAP,
S/o Shri Giriraj Singh,
R/o D-33, Police Lines,
Model Town,
Delhi-33. ... Applicant.

(By Advocate Ms. Sumedha Sharma)

Versus

1. Commissioner of Police,
MSO Building,
Police Headquarters,
I.P. Estate,
New Delhi.
2. Dy. Commissioner of Police,
IV Bn., DAP Delhi,
Kingsway Camp,
Delhi.
3. Sr. Addl. Commissioner of Police,
(AP & T),
MSO Building, PHQ, IP Estate,
New Delhi. ... Respondents.

(By Advocate Shri Anil Singhal proxy for Shri Harvir Singh)

O R D E R (ORAL)

Hon'ble Smt. Lakshmi Swaminathan, Member(J).

The applicant has impugned the orders passed by the respondents dated 17.9.1996, 12.12.1995 and 21.8.1995 (Annexures 'G', 'E' and 'A' respectively). Learned counsel for the applicant has stated that in para 1 of the O.A. Annexure 'A' order has been wrongly mentioned as 21.1.1995 instead of 21.8.1995.

2. I have heard both the learned counsel for the parties and perused the records.

Yours

3. The main contention of Ms. Sumedha Sharma, learned counsel for the applicant, is that for 41 days absence for which the impugned censure order has been issued by the respondents, the applicant has given due intimation of his illness and, therefore, the respondents cannot claim that they were not aware of his illness for the relevant period. She has submitted that from 6.1.1995, the applicant had remained ill for which he was being treated by one Dr. Hans Kumar, who had issued the certificates of his medical condition from 6.1.1995 onwards, from time to time. According to the learned counsel for the applicant, copies of the medical certificates were sent to the respondents by registered post on 10.2.1995 and thereafter when he resumed duty on 16.2.1995 he had also submitted the medical certificates to the concerned authorities praying for leave for the intervening period. She has, therefore, contended that the action of the respondents in taking further action against the respondents in passing the censure order after giving the show cause notice is unwarranted and illegal. In the impugned order, it is also mentioned that the absence period of 41 days has been treated as leave without pay which the respondents could not have ordered in the facts of the case.

4. The learned proxy counsel for the respondents has controverted the above averments. According to the respondents, the applicant was to report for duty after availing of one day casual leave on 6.1.1995 but instead, he had lodged intimation regarding medical rest advised by the doctor from 6.1.1995 upto 31.1.1995. He had also been marked absent w.e.f. 10.2.1995 vide DD dated 11.2.1995.

18:

According to them, he was absent unauthorisedly for a period of 41 days upto 15.2.1995. They have submitted in the facts of the case, that he has violated the provisions of Rule 19 (5) of the CCS (Leave) Rules, 1972 and SO No.111, hence the show cause notice was issued for imposing on him the penalty. Learned proxy counsel has, therefore, submitted that the action of the respondents is in accordance with the rules and instructions and the O.A. may be dismissed.

(B)

5. No rejoinder has been filed but I have heard Ms. Sumedha Sharma, learned counsel in reply.

6. In the facts stated above, it is seen that the impugned order dated 21.8.1995 passed by the respondents has been done after giving a show cause notice to the applicant in compliance with the principles of natural justice. The reasons have been recorded in that order as to why the competent authority had taken a decision to confirm the order of censure against the applicant. It is seen from the facts mentioned by the applicant that he has stated that the certificates issued by the doctor, from whom he was being treated w.e.f. 6.1.1995 and subsequently recommending that he should continue on leave and take rest, have been obtained by him, but according to the submissions of the learned counsel for the applicant these certificates were sent to the respondents by registered post much later on 10.2.1995. No doubt, he learned counsel for the applicant has submitted that in the meantime he had given telephonic intimation to the respondents. Even if that is so, the conclusion arrived at by the competent authority in the impugned order dated 21.8.1995 as to the reasons why he has decided to impose a penalty of censure cannot be held as

either arbitrary or illegal justifying any interference in the matter. Besides, the action of the respondents is also in accordance with the provisions of Rule 19(5) of the CCS (Leave) Rules, 1972 which provides that the grant of medical certificate under this Rule does not in itself confer upon the Government servant concerned any right to leave. The reasons for disallowing the leave prayed for by the applicant on medical ground have been spelt¹⁸ out in the impugned order dated 21.8.1995, Subsequent orders passed by the appellate authority and reviewing authority are speaking orders and in the circumstances of the case there is no good ground to interference in the matter.

(A)

7. In the result, O.A. fails and is dismissed. No order as to costs.

Lakshmi Swaminathan
(Smt. Lakshmi Swaminathan)
Member (J)

'SRD'