

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH

O.A. No .120/1994

New Delhi dated the 19th January, 1994

Hon'ble Sh. N.V.Krishnan, Vice Chairman(A)

Hon'ble Sh. B.S. Hegde, Member(Judicial)

Shri Krishan,
R/o 27, Block-E,
Manakpura, South Moti Bagh,
New Delhi.21

.. Applicant

(By Advocate Sh.L.D. Adlakhia)

Versus

1. Union of India, through its Secretary,
Ministry of Health & Family Welfare,
Govt.of India, New Delhi.
2. The Director General, Health Services,
Govt.of India, Nirman Bhawan, N/Delhi
3. Professor V.N.Sehgal,
Principal & Medical Superintendent,
Kalawati Saran Children Hospital &
Cucheta Kirpalani Hospital, Bangla Sahab
Road, N/Delhi.110001
4. Dr. A.K. Sarkar
Addl Medical Superintendent-I,
Kalawati Saran Children Hospital,
Bangla Sahab Road, N/Delhi

.. Respondents.

ORDER(ORAL)

(Hon'ble Sh.N.V.Krishnan, Vice Chairman(A))

Applicant is aggrieved by the Annexure 'A'

order dated 24.2.1993 which reads as follows :-

" With reference to his letter dated 1.6.92,
Sh Siri Krishnan, Store-Keeper, K.S.C.H. is
informed that his explanations have been
carefully examined and it has been observed
that he has tactfully concocted false
allegations to divert the action against him
for the serious lapse on his part. Being
fully aware of the fact that Head Clerk(Store)

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(3)

had retired on 30.4.1992 and there was no other senior and responsible person to take over the charge and responsibilities of the important department and being the custodian of Stores and Keys of the Store Department, he deliberately sent leave application form from 1.5.92 to 15.5.92 at a very short notice of 4 days on religious pretext and tactfully avoided to acknowledge receipt of information of refusal of his leave sent under Registered cover to his two addresses. Thus his behaviour showed not becoming of a Govt. servant.

Taking into consideration the true facts, the period of his wilful absence from 1.5.92 to 14.5.1992 is treated as 'unauthorised absence'. The period will be treated as 'dies non' for all purposes. However, it will not count as 'break in service.'

2. The learned counsel submits that disciplinary authority has not followed the procedure laid down in the CCS(CCA) Rules, 1965 for imposing this penalty. It is also contended that even refusal of leave from 1.5.92 to 14.5.92 is malafide. He, therefore, states that application has been admitted.

3. We have considered the arguments. The order clearly states ^{in the} ~~that~~ reason why the applicant could not be granted leave from 1.5.92 to 14.5.92. The refusal was also communicated to him. Learned counsel for the applicant admits that he proceeded on leave but the leave had not been sanctioned by the authority. In the circumstances, we are of the view, that the applicant ^{is} remain absent unauthorizedly. Therefore, the competent authority has rightly treated this as dies non. This is on the principle of 'no work no pay'. As he has not worked for this period it cannot be treated ~~as~~ ^{as a}

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service for any purpose. This by itself is not a penalty. The authority has clarified that it will not amount to break in service. If the 'die s non' treatment results in break in service it will be a punishment. Therefore, procedure under CCA Rules would have to be followed.

4. The present order is not a penalty It cannot be impugned on this ground.

5. OA is, therefore, dismissed as prima-facie case is not made out.

B.S. Hegde

(B.S. Hegde)

Member(J)

N.V. Krishnan
18.1.94

(N.V. Krishnan)

Vice Chairman(A)

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