

CENTRAL ADMINISTRATIVE TRIBUNAL
MADRAS BENCH

Dated the Wednesday 8th day of February Two Thousand And Seventeen

PRESENT:

THE HON'BLE MR. JUSTICE A. ARUMUGHASWAMY, MEMBER (J)
THE HON'BLE MR. R. RAMANUJAM, MEMBER (A)

O.A./310/00074/2017

1. C. Raja, (56),
S/o. T.M. Chinnappan,
No.8, Rajiv Gandhi Nagar,
Vandavasi Salai,
Kanchipuram- 631 502.

....Applicant

(By Advocate : M/s. S.T. Varadarajulu)

-versus-

1. Union of India Rep. by
Air Officer Commanding in-Chief,
Head Quarters/ Training Command, I.A.F (P.C),
Bangalore-560 006;
2. The Air Commodore,
Air Officer Commanding,
Headquarters, Air Force,
Tambaram,
Chennai- 600 0046;
3. The Commanding Officer,
Workshop Training Institute,
Headquarters, Air Force,
Tambaram,
Chennai- 600 046.

...Respondents

(By Advocate: Mr. M. Kishore Kumar)

ORAL ORDER

(Pronounced by Hon'ble Mr. Justice A. Arumughaswamy, Member (J))


The case of the applicant is that he was appointed as Gardener on 07.12.1981 with the pass No. WTI/05 and working continuously. It is stated by the applicant that from the year 2002 onwards, the staff members in the office of the Unit Warrant Office, Air Force Station, forced the applicant to do their personal works while he was on duty. When he refused, he was not allowed to sign his attendance register or taking leave. Therefore, he filed W.P.13121/2005 before Hon'ble High Court seeking a direction to the respondents to allow him to join duty and to treat the period of absence from 28.12.2004 till the date of joining as a duty period. While the Writ Petition was pending, the applicant was issued with a charge memo dated 31.05.2005 for absence and he was permitted to join duty from 02.10.2005, therefore, Writ Petition was closed. For the charge memo after an enquiry, the applicant was imposed with penalty of withholding of one increment cut for a period of one year without cumulative effect and absence from 20.12.2004 to 02.10.2005 was treated as leave on loss of pay after adjusting with the available leave on the credit of the applicant. Challenging the punishment, he filed O.A. 319/2014 which is still pending.

2. It is stated by the applicant that while he was on duty on 31.07.2007, 4.10.2008 and 16.5.2012 he got injured. In spite of taking treatment, his health condition did not improve. From January, 2014 he became seriously ill and took treatment. He applied medical leave and it was granted upto August 2014. From 1st September 2014, the

respondents refused to grant any leave and asked to report for duty. Since he pleaded inability in attending duty, he was referred to medical board, which after thorough examination certified that he was unfit to continue in job. He made a representation to the respondents to discharge him under Medical invalidation and to settle all his terminal benefits. Instead of discharging him under Medical invalidation, he was issued show cause notice dated 21.3.2016 and framed Articles of charge by proceedings dated 07.06.2016, to which he submitted his explanation on 08.07.2016. The respondents by an order dated 7.11.2016 appointed the enquiry officer and applicant attended the same with difficulty and explained his inability in attending the enquiry. Enquiry Officer refused to receive the letter and warned the applicant if he did not participate in enquiry, exparty enquiry will be conducted. Enquiry Officer sent a proceeding dated 09.1.2017 and asked the applicant to attend enquiry on 24.01.2017. As the applicant is not in a position to walk and the respondents are not stopping the enquiry proceedings the applicant is constrained to approach the Tribunal seeking the following relief:-

"to quash the charge memo dated 07.06.2016 of the 2nd respondent and consequently direct the 2nd respondent to relieve the applicant under medical invalidation and to pay consequential terminal benefits like pension, PF, gratuity etc."

3. Heard. Learned counsel for the applicant reiterates the contentions made in the O.A. and states that the applicant had already submitted representations dated 18.1.2017 and 31.1.2017, which are still pending with the respondents and would be satisfied if a direction is given to the

 respondents to consider the matter sympathetically and dispose of the same.

4. Learned counsel for the respondents submits that the respondents had not received any representations from the applicant. Learned counsel for the applicant has not produced any proof of acknowledgment. Learned counsel for the respondents fairly submits that in case applicant submits a representation, it would be considered and suitable orders would be passed on the same as per the procedure known to law.

5. Under such circumstances, statement made by counsel for the respondents is recorded. It is seen from the impugned order dated 07.06.2016, the department has already proceeded under Rule 14 of CCS (CCA) Rules and the respondents themselves are prepared to consider the case of the applicant in a sympathetic manner on the representation submitted by the applicant. We are, therefore, of the view that this court need not to give a direction to that effect. As the respondents themselves are willing to consider the case of the applicant, suitable orders may be passed within a period of six weeks from the date of receipt of copy of this order.

6. With the above observation, the O.A. is disposed of. There shall be no order as to costs.