

**CENTRAL ADMINISTRATIVE TRIBUNAL  
HYDERABAD BENCH**

**OA/020/00342/2020**

HYDERABAD, this the 12<sup>th</sup> day of October, 2020



**Hon'ble Mr. Ashish Kalia, Judl. Member**  
**Hon'ble Mr. B.V. Sudhakar, Admn. Member**

U.Galib Rao S/o Gangaiah Ummadi,  
Aged about 33 years, Occupation : Junior  
Statistical Officer (Group C)  
O/o NSO(FOD), Sub Regional Office, Visakhapatnam,  
r/o 38-31-45, C/o Kaniti Venkat Rao, Green Gardens,  
Marripalem, Visakhapatnam.

...Applicant

(By Advocate : Mr.K.Siva Reddy)

Vs.

- 1.Union of India rep. by  
The Secretary to Govt of India,  
Ministry of Statistics & Programme Implementation,  
NSSO (FOD), R.K.Puram, NEW DELHI.
2. The Deputy Director General,  
Ministry of Statistics & Programme Implementation,  
National Statistical Office, Regional Office,  
CGO Complex, Auto Nagar, Vijayawada.

....Respondents

(By Advocate : Mrs. K. Rajitha, Sr. CGSC)

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**ORAL ORDER**  
**(As per Hon'ble Mr.B.V.Sudhakar, Administrative Member)**

**Through Video Conferencing:**



2. The OA has been filed challenging the validity of the order dated 4.6.2020 of the respondents in declaring the period from 23.3.2020 to 19.5.2020 as *dies non* and ordering recovery from the salary of the applicant.

3. The brief facts of the case are that applicant was appointed as JSO on 15.4.2016. Due to the prevailing Covid-19 situation, he could not attend office for 5 days. The 2<sup>nd</sup> respondent issued a notice seeking explanation from the applicant within 3 days for which the applicant gave a reply, detailing the difficulties in attending duty. Without considering the explanation properly, 2<sup>nd</sup> respondent treated the absence as *dies non* and ordered recovery. Hence, the present O.A.

4. The contentions of the applicant are that respondents should appreciate the fact that he could not attend office due to lock down and that he was residing in a containment zone. Respondents ordering *dies non* without following the procedure laid down in CCS (CCA) Rules is irregular. Applicant claims that even other employees failed to attend office and that others were not dealt in the way he was dealt..

5. Respondents in the reply statement state that the job profile of the applicant requires him to work in the field. Applicant has a blemished record of service. Series of memos were issued to the applicant. Applicant attended duty on 20.3.2020 and thereafter abstained from duties without

seeking any permission from the competent authority. He was absent on 23.3.2020, 24.3.2020, 20.4.2020, 18.5.2020 & 19.5.2020 for inexplicable reasons. Applicant and the other employees were directed on 16.4.2020 to attend to duty from 20.4.2020 on wards. When contacted over telephone to communicate the message, applicant was not even available over telephone despite clear directions that officers and officials who are working from home should make themselves available over telephone and through electronic means of communication at all times vide Memo dated 25.3.2020. As the applicant was not accessible, he was served with two Memos dated 27.4.2020 & 29.5.2020, calling for his explanation for the lapses pointed therein. He has not furnished any explanation to the Memo dated 27.4.2020 but responded to Memo dated 29.5.2020. The explanation given was unsatisfactory and therefore, the period of absence from 23.3.2020 to 19.5.2020 was treated as *dies non* in accordance with CCS (CCA) Rules 1965. Applicant did not bring to the notice of the respondents about the problems he was facing so that the respondents could have worked out solutions for the same. Respondents reiterate that applicant is a habitual and chronic defaulter in attending to duties in time and is prone to delay execution of assigned works. Explanations were called for on many occasions and finally he gave an undertaking that he will not repeat the lapses in future. In view of the poor performance of the applicant his probation period has been extended by two years. Respondents claim that they have taken action as per rules.



6. Heard Sri K. Siva Reddy, learned counsel for the applicant and Smt. K. Rajitha, learned Senior Standing Counsel appearing for the respondents, and perused the pleadings on record.

7. The dispute is about applicant's absence during Covid-19 period, resulting in the respondents taking penal action, treating the period of absence as *dies non* and ordering recovery from the applicant's salary.



Learned counsel for the applicant vehemently argued that *dies non* was ordered not just for the period of absence but included other periods and hence, the same is irregular. Respondents have given dates of absence of the applicant as 23.3.2020, 24.3.2020, 20.4.2020, 18.5.2020 & 19.5.2020. As we understand from the reply statement, they have ordered *dies non* for the period 23.3.2020 to 19.5.2020. Respondents have every right to act against the applicant if he is found to err in discharging his official duties. However, action against the applicant has to be confined to the norms laid down in CCS (CCA) Rules and the charges have to be specific and clear confining them to lapses to the extent applicant was put on notice. Any action taken contravening the same, is liable to be challenged under law. Applicant has done the same by filing the present O.A.

We do take note of the fact that the applicant's record of service is shown to be unsatisfactory. However, applicant has prayed that in the present situation of Covid-19 pandemic, he could not attend duty for certain days. Learned counsel for the applicant has submitted that action can be taken against the applicant as per rules and not in any other way. After going through the details, we are of the view that the respondents should take into consideration the exact dates of absence of the applicant and any other

lapses which they notice against the applicant and thereafter initiate action deemed fit in consonance with rules and law. Till such an action is taken, amount recovered shall be refunded to the applicant within 8 weeks from the date of receipt of this order.



With the above direction, the O.A. is disposed of. No order as to costs.

**(B.V.SUDHAKAR)**  
**ADMINISTRATIVE MEMBER**

**(ASHISH KALIA)**  
**JUDICIAL MEMBER**

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