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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
NEW DELHI

O.A. No. OA 218
T.A. No.

1986.

DATE OF DECISION 11th April, 1986.

Shri C.V. Goswami,

Petitioner

In person.

Advocate for the Petitioner(s)

Versus

Secretary, Ministry of Defence

Respondents.

and others.

None.

Advocate for the Respondent(s)

CORAM :

The Hon'ble Mr. Justice K. Madhava Reddy, Chairman.

The Hon'ble Mr. Kaushal Kumar, Member

1. Whether Reporters of local papers may be allowed to see the Judgement? *Yes*
2. To be referred to the Reporter or not? *Yes*
3. Whether their Lordships wish to see the fair copy of the Judgement? *No*
4. Whether to be circulated to all Benches? *Yes*

Early
(K. Madhava Reddy)
Chairman 11.4.86.

Kaushal Kumar
(Kaushal Kumar)
Member 11.4.86.

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CENTRAL ADMINISTRATIVE TRIBUNAL
DELHI.

Regn. No. OA 218/1986.

Dated: 11th April, 1986.

Shri C.V. Goswami ...

Petitioner.

Versus

Secretary, Ministry of Defence,)
Govt. of India, New Delhi.)

Respondents.

Engineer-in-Chief, Army H.Q.,)
New Delhi.)

CORAM:

Shri Justice K.Madhava Reddy, Chairman.

Shri Kaushal Kumar, Member.

For petitioner In person.

For respondents None.

(Judgment of the bench delivered by
Shri Justice K.Madhava Reddy, Chairman).

The petitioner herein seeks an appropriate order to quash the order No. 78650/344/81/EID/342/S/D(Lab.) dated the 12th March, 1983, made by the Ministry of Defence, Government of India, New Delhi imposing the punishment of removal from service.

2. The petitioner was working as A.E.E., Staff Officer-III in the Office of the Chief Engineer, Lucknow Zone, Lucknow and his wife was working as Lecturer in Gandhi Medical College Bhopal. Mrs. Goswami, on being selected by the Govt. of Iraq and her name being forwarded by the Secretary, Department of Personnel and Administrative Reforms was accorded sanction for foreign assignment in Iraq.

3. The petitioner applied for leave for a period of one month from 24th November, 1980, to accompany his wife to Iraq. However, without waiting for sanction of his leave and without obtaining permission to leave the country, the petitioner left for Iraq towards the end of November, 1980,



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without any further notice to the respondents. He returned to India sometime in January, 1984 and for the first time on 13.2.1984, he wrote to the Chief Engineer Northern Zone as to where he should report for duty. He did not receive any reply. The petitioner sent a letter on 30.3.1984 to which the Chief Engineer Lucknow Zone replied on 24th April, 1984 (Appendix-E) by which he drew his attention to their Office letter No.122034/65/71/EI(Con) dated 20.5.1983 and told him that no further correspondence would be entertained. In reply to that letter the petitioner stated that he did not receive the letter dated 20th May, 1983 and requested for a copy of the same. In response to his further request, he was given the copy of impugned order dated 12th March, 1983. Thereupon he requested for copies of all supporting documents which lead to the passing of the impugned order. He complains that he was/furnished copies of any of these documents. He was, however, informed through letter dated 3rd June, 1985 (Appendix-R) that he being a Group 'A' Officer, disciplinary proceedings had been finalised by the President of India, Ministry of Defence, and as such any documents required in this connection might be had from the Ministry of Defence. He, thereupon applied to the Ministry of Defence on 19.6.1985 and in reply to that letter he was intimated vide letter No.122034/65/98/EI(Con) dated 19th July, 1985, that in awarding the punishment of 'Removal from Service', no oral inquiry was held and that the special procedure under Rule 19(ii) of CCS(CCA) Rules, 1965, had been invoked and that there are no other documents.

4. From the facts averred by the petitioner himself, it is clear that though the petitioner applied for leave, it was not at all granted. The petitioner claims that



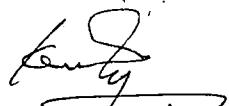
his Supervising Officer who was a Superintending Engineer recommended that leave applied for be granted and he was confident that it would be granted and, therefore, he went on leave. Such recommendation, if any, would not amount to grant of leave. Admittedly leave was not sanctioned by any Authority. Further before leaving the country, as a public servant, he was duty bound to obtain permission from the competent authority; that he did not do. Thereafter he remained absent from duty for a period of over three years from November, 1980 upto January, 1984. During his absence from duty, he did not intimate the respondents as to where he was actually residing. The mere fact that he had applied for leave for the purpose of accompanying his wife to Iraq does not absolve from attending to his duties nor does it notify the respondents as to where he was actually residing. Much less does it cast any responsibility on them to make enquiries as to where the petitioner is actually residing. That was the plain duty of the petitioner himself. As per the Rules, governing disciplinary proceedings, notice was sent to the petitioner's last known address and to his permanent address. It cannot be seriously disputed that for this prolonged and unauthorised absence from duty amounting to absconding from duty initiation of disciplinary proceedings was called for. The respondents made every effort to serve the chargesheet on the petitioner by sending it by Registered post to his last known address and to his permanent address. These notices were returned undelivered with postal endorsement "No such person in the above Address". Before making the impugned order, a Registered A.D. Insured Letter for Rs.200/- was sent to the petitioner at House No.218/3, Railway Colony, Kishan Ganj, Delhi as delivered at that

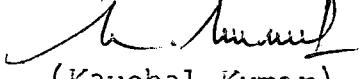


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address on 27.5.1983 which is certified by the Sub Post Master, Dilkhusha, Lucknow-226002 in his letter No. Misc./A-121/83-84 dated 12th September, 1983. Someone obviously authorised by Shri Goswami received that letter on 27.5.1983, as is evident from the receipt appended as Appendix-H.

5. The petitioner having left for Iraq without sanction of leave and permission to leave the country and not having left any other address with the respondents than what was already in his service record, they had no option but to send the notices at his last known address and permanent address. As the notices were returned undelivered, it was obviously not practicable to hold any enquiry. The petitioner having thus placed himself in a position where he could not be served with any notice and the respondents having made every attempt to serve him finding that no useful purpose would be served in making an enquiry behind his back, the Respondents rightly adopted the procedure laid down in Rule 19(ii) of CCS(CCA) Rules. In fact to the charges levelled against him, the disciplinary authority made appropriate order to which, in our opinion, no exception can be taken. Any enquiry contemplated by the CCS(CCA) Rules is only intended to establish the facts necessary to hold the charges proved. The charge of his absence from duty without leave even on the facts averred by the petitioner himself in this petition must be held proved. Neither any Rule nor any principle of natural justice can be said to have been violated so as to warrant any interference by this Tribunal. This petition is accordingly dismissed.


(K. Madhava Reddy)
Chairman 11.4.86.


(Kaushal Kumar)
Member 11.4.86.