

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH
DELHI.

(P)

O.A. No. 1330/1987.

Date of decision: January 12, 1993.

ANIL KUMAR CHATURVEDI

...

PETITIONER

Vs.

UNION OF INDIA
THROUGH SECRETARY,
MINISTRY OF COMMUNICATION,
GOVT. OF INDIA, SANCHAR BHAWAN,
NEW DELHI.

...

RESPONDENT.

CORAM :

HON'BLE MR. JUSTICE V.S. MALIMATH, CHAIRMAN.

HON'BLE MR. S.R. ADIGE, MEMBER (A).

For the petitioner ...

Shri Umesh Mishra,
counsel.

For the respondent ..

Shri V.K. Rao, proxy
counsel for Shri A.K.
Sikri, counsel.

JUDGMENT (ORAL)

(BY HON'BLE MR. JUSTICE V.S. MALIMATH, CHAIRMAN)

The petitioner is a sportsman working in the Department of Telecommunications. He was one among the 80 male candidates who were chosen to take part in the Telecom. Regional Table Tennis Tournament-1985. This is clear from Annexure 'A' dated 28.8.1985. It further states that all participants mentioned in the list may be granted special casual leave for 3 days from 2.9.1985 to 4.9.1985. Advance application for grant of special casual leave was submitted by the petitioner for 3 days. He participated in the match on the 1st day and lost. Thus there was no need or opportunity to participate in the tournament on the subsequent two days,

(B)

that is, 3rd and 4th September, 1985. A certificate was issued in his favour about his participation on all the days. On the strength of the said certificate, the petitioner was also granted special casual leave. Subsequently, Welfare Officer appears to have given a report on verification that the petitioner did not participate on the 3rd and 4th September and, therefore, he is not entitled to secure special casual leave for those days. A disciplinary enquiry was initiated against the petitioner on the ground of falsely asserting that he participated on the 3rd and 4th September and obtained special casual leave for those 2 days and thus committed a misconduct. The explanation of the petitioner was that he participated in the tournament on 2nd September and lost. Though he lost the match on that day, he remained present in the tournament on the 3rd and 4th September. It is his case that as per the order he was entitled as a participant to the grant of special casual leave for all the 3 days. The Disciplinary Authority took the view that the petitioner had lost the game on 2nd September in which he participated and that he did not participate in the tournament on the next two days. It is his finding that it is a false assertion by the petitioner that he participated on the 3rd and 4th. It is in this background that a punishment of "Censure" has been imposed accompanied by a direction to treat the 3rd and 4th September, 1985 as 'Dies-Non'. Appeal and revision petitions filed against the said decision were also dismissed. Hence this Original Application.

2. On a perusal of Annexure 'A' dated 28.8.1985, we notice

that there is a direction that special casual leave should be granted from 2.9.1985 to 4.9.1985 to those who are selected for participation and whose names are included in the enclosed list. petitioner's name is admittedly at Sl.No.54. It is not disputed that the petitioner participated on 2.9.1985 and lost. It is nobody's case that the petitioner participated on 3rd and 4th September. The petitioner did not earn a right to participate in the rest of the tournament as he lost in the match of first day held on 2nd September. The petitioner appears to have felt that having regard to the language of Annexure 'A', he was entitled to remain present in the tournament on the subsequent days, though he had no privilege to participate in the contest. The Disciplinary Authority has, however, taken the view that the petitioner only participated on the 2nd September and did not participate on the next two days. This finding has been arrived at on the basis of the report of the Welfare Officer. The petitioner took the stand that he would be entitled to the special casual leave if he was present in the tournament on the 3rd and 4th. The counsel for the respondents does not take the stand that if the petitioner was present on the subsequent dates though he was not required to participate in the contest, he would have been entitled to grant of special casual leave and could not be penalised. But it is necessary to note that the petitioner took the stand before the Disciplinary Authority that he can establish by satisfactory evidence by examining several witnesses about his presence in the tournament on the 3rd and 4th September, 1985. The

Disciplinary Authority rejected his request stating that it is irrelevant. In our opinion, the Disciplinary Authority acted arbitrarily in taking the view that it is irrelevant as to whether the petitioner was present on the 3rd and 4th September and as to whether he has evidence in support of the same. This is a serious infirmity which vitiates the disciplinary proceedings. On this short ground, this petition succeeds and the impugned orders at Annexures 'E' and 'G' are hereby quashed. As this is a very trivial matter, the question for holding further inquiry does not arise. No costs.

Arulog
(S.R.ADIGE)
MEMBER(A)

V.S.MALIMATH
(V.S.MALIMATH)
CHAIRMAN

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