

(2)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH

O.A. No. 142/90

Date of decision..... 10.6.94.

Hon'ble Sh.S.R. Adige, Member(A)

Hon'ble Smt.Lakshmi Swaminathan, Member(J)

Shri R.K. Chopra,
resident of D/854,
Netaji Nagar, N/Delhi-110002.

... Applicant

(By Advocate Sh.D.C. Vohra)

Versus

1. Union of India
through the Secy.
Ministry of Defence
South Block,
New Delhi
2. Engineer in Chief
Military Engg.Services,
Ministry of Defence,
Kashmir House, Rajaji
Marg, New Delhi-11
3. Chief Engineer, MES
Delhi Zone, Delhi Cantt-110010

... Respondents

(By Advocate Sh. V.S.R. Krishna)

J U D G M E N T

(Delivered by Hon'ble Shri S.R. Adige, Member(A))

In this application, Shri R.K. Chopra, Assistant Executive Engineer(Elect) M.E.S. Ministry of Defence, New Delhi has impugned the order dated 24.6.1989 (Ann.G.1) communicating ^a recordable warning in connection with his unauthorised absence from duty/ absence without Medical Certificate from Authorised Medical Attendant, and his conduct in deliberately attending office only on half working days and leaving

office well before close of the office hours.

2. The applicant was appointed to the post of Assistant Executive Engineer(E) on 27.3.1986 and was posted under Chief Engineer, MES Delhi Zone on 16.6.1988. According to the respondents the applicant was a habitual absentee and remained absent from duty without obtaining prior permission/sanction of leave from the competent authorities, and stayed away from his work on a piecemeal basis at frequent intervals.

3. In view of the applicant's behaviour and his failure to submit medical certificate from authorised medical attendant in support of his claim to being sick during the relevant periods of time, respondents communicated the impugned order dated 24.6.89, by which he was warned in writing and advised to desist from such ^{in future} behaviour, failing which disciplinary action would be taken against him.

4. Shri Vohra, learned counsel for the applicant, emphasized that as the respondents had regularised the applicants absence and communicated the regularisation in the impugned order, itself, no adverse inference could

be drawn regarding the applicants conduct in any way and hence no warning was justified. He stated that after the applicants conduct had come to adverse notice, his periods of absence would not normally be regularised and if it was regularised, no warning could be administered. He further stated that if the respondents, so wanted they could have been taken regular disciplinary action against the applicant, instead of taking recourse to the communication of a recordable warning. In this connection, he relied upon the contents of O.M. dated 39/21/56-Estt.(A) dated 13.12.1956.

5. Shri Krishna, ld.counsel for the respondents, however pointed out that a reading of the said O.M. made it clear that it did not restrain the respondents in any way from issuing a warning where they felt that the behaviour of a Govt. servant, while not so serious as to invite disciplinary action, was serious enough to invite adverse comment. In such circumstances, the respondents were fully within their rights to communicate a warning and where it was desired that the warning should be kept in the ACR, a recordable warning was issued.

15

6. We entirely agree with Shri Krishna that merely because the respondents regularised the applicants frequent absences from duty does not mean that these absences, without proper authorisation, did not attract adverse comment or could be completely ignored. While the respondents felt that the applicants conduct was not serious enough to merit disciplinary action, they did feel that the applicant should be admonished, so that he could improve his conduct in future and it is in that spirit that the recordable warning was issued.

7. Under the circumstances, we see no reason to interfere with the impugned order dated 24.6.89 communicating a recordable warning to the applicant, and the prayer for quashing and setting aside the same therefore fails. In this connection we are given to understand that the applicant has left Govt. service some time back.

8. Before parting with the case, we may briefly refer to Shri Vohras ^{in contention} ~~admission~~ that certain dues payable to the applicant still remain unsettled.

However, Shri Krishna for the respondents has stated

16

that all the dues admissible to the applicant have been paid. As the question whether the applicants dues have been finally settled or not is purely one of fact, we direct the applicant to present a fresh representation to the respondent No.3 indicating such dues which according to him still ^{remain} to be paid, within two months from the date of receipt of a copy of this order. Respondent No.3 will there upon, after giving the applicant an opportunity of being heard, dispose of the representation within 3 months of its receipt, by means of a speaking order, and release such of the applicant's dues if any, which still remain to be paid.

9. This application is disposed of in terms of direction contained in paragraph 8 above. No costs.

Lakshmi Swaminathan
(Lakshmi Swaminathan)
Member (J)

S.R. Adige
(S.R. Adige)
Member (A)