

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,
PRINCIPAL BENCH,
NEW DELHI.

(12)

Date of Decision: 15.07.92.

OA 1614/92

A.K. BHARDWAJ

... APPLICANT.

Vs.

UNION OF INDIA & ORS.

... RESPONDENTS.

CORAM:

THE HON'BLE SHRI J.P. SHARMA, MEMBER (J).

For the Applicant

... SHRI K.L. BHATIA.

For the Respondents

... MRS. RAJ KUMARI CHOPRA.

1. Whether Reporters of local papers may be allowed to see the Judgement ? *yes*
2. To be referred to the Reporters or not ? *yes*

JUDGEMENT (ORAL)

(DELIVERED BY HON'BLE SHRI J.P. SHARMA, MEMBER (J)).

The applicant is working as Junior Hindi Translator, CGHS Dispensary, Meerut (UP) and he is aggrieved by the order dated 17.7.1990 (Annexure A-1) issued by the Deputy Director, rejecting his representation dated 6.2.1990 treating him on strike for the period from 8.3.90 to 23.3.90.

The applicant has prayed that an order be granted directing the respondents to grant the medical leave due to him for the aforesaid period and the Memorandum dated 17.7.90 and 26.7.90 be quashed.

The simple facts are that there was a strike in the Organisation of CGHS, the notice of which was

....2.

Lo

(13)

given on 7.3.90 and the ministerial staff alongwith other para medical staff absented from their duties in compliance with the above notice. The case of the applicant is that he was never on strike nor he joined hands with the strikers but was prevented from joining his duties in the said CGHS Dispensary on account of abrupt illness he developed in the pre-lunch session on 8.3.1990 and rushed immediately to the CGHS Dispensary nearby where he was referred to Pyare Lal Sharma Hospital, Meerut. The applicant was discharged after his diagnosis for diorrhea and advised 7 days rest. However, the applicant did not recover and he again got himself treated with the ENT Surgeon. The ENT Surgeon gave him fitness certificate on 24.3.90 and he joined his duties on 26.3.90. The averments of the applicant is that all these documents he has submitted to the respondent No.3 have not been thoroughly and properly gone into and by a cryptic order his representation has been rejected without proper application of mind.

None is present on behalf of the respondents. However, there is a reply filed by the respondents denying the various averments made by the applicant in the application and stating that the applicant was not confined to illness and participated in the strike and also pointing out that the treatment of diorrhea was given to the applicant on 8.3.90 and

✓

....3.

(14)

then subsequently he was given the treatment of Maxillary sinusitis. Thus, this documents annexed with the representation by the applicant did not inspire confidence to come to the conclusion that the applicant was bonafide ill in the relevant period. The applicant has also filed rejoinder to the aforesaid reply but he did not specifically deny the treatment given to him for the disease diagnosed by the Doctor attending him on that day.

I have heard the learned counsel at length and perused the records and the counter filed by the respondents as well as various other documents annexed with the application as annexures.

Basically a person do not loose his credibility and he has to be believed. The applicant says that he was ill and the illness is a special feature which the applicant himself knows. He should, therefore, not to be dis-believed but when there are certain circumstances which are antecedent or subsequent to such conduct of such person then it is to be seen whether it is diplomatic illness or genuine. On a perusal of the out-door patient slips filed by the applicant (Annexure-1 & 3) and the Medical Certificate of Fitness (Annexure-6), by appearance the signature of the Doctor appears to be of the same. He is ENT Surgeon, P.L. Sharma Hospital

de

(B)

Meerut. If the applicant was referred by CGHS Dispensary as a case of diarrhoea then the expert would have been a person specialist in Gastro enteritis. It may be that the same Doctor may happen to be on emergency duty. However, if the applicant can be treated for an ailment of Gastro enteritis then he appears to have been recovered on the same day as the prescription was not repeated the next day, the Doctor only advised him rest for 7 days, that is one day's medicine was sufficient to cure the patient after taking the rest for 7 days or the patient was very much in his right to procure the same medicine and take the same day after day for his recovery. However, the main thing which has been seen, is the certificate dated 24.3.90. Under Indian Medical Manual, the Supdt. of a District Hospital, who is competent to issue a Medical Certificate through certificate of treatment can be issued by any Doctor who attended him. Though, this point has been clarified by the learned counsel that any CGHS Doctor can issue certificate. The fact remains of treatment first of diarrhoea and then of maxillary sinusitis does not inspire confidence about the genuine illness of the applicant at the particular point of time.

The applicant has filed certain UPC (Under Postal Certificate) and the slips bears the stamps of

.....5.

(16)

- 5 -

the Post Office & the contention of the learned counsel for the applicant is that the applicant informed the respondent No.3 about his illness. Normally if a letter is posted at a correct address it is expected to reach the destination. The applicant can post UPC within Meerut itself after going to the Post Office or sending someone as an agent but could not send an application with a copy for endorsement of a receipt of delivery to the proper person. In the context and circumstances, the posting of a letter at a Post Office not under registered cover and only obtaining the receipt of posting will be judged. In the context of all the above mentioned circumstances referred to in the earlier part of this order, these documents also do not inspire confidence.

Though, an administrative order passed after considering certain documents should be expressed, in such a manner as to give an indication that the passing authority is applying its mind thoroughly. However, this cannot be said to be vital in a case where by virtue of an analysis the documents and respective averments and contentions of the parties that the conclusion arrived at cannot be said to be unfair, unjust or cannot be otherwise arrived at by reasonable mind.

le

.....6.

(17)

In view of the above circumstances, I find that this application is devoid of merit and is dismissed leaving the parties to bear their own costs.

J.P. Sharma

(J.P. SHARMA)

MEMBER (J)

15.07.92