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Central Administrative Tribunal, Principal Bench, New Delhi

O.A.No.2448/2004

Hon'ble Mr.Justice V.S. Aggarwal, Chairman
Hon'ble Mr.M.K.Misra, Member(A)

New Delhi, this the 19th day of May, 2005

HC Bishamber Singh
(PIS No.28760489)
r/o VPO Katha
Distt. Bagpat, U.P.

... Applicant

(By Advocate: Sh. Anil Singhal)

Versus

1. Govt. of NCT of Delhi
Through Commissioner of Police
Police Headquarter
IP Estate
New Delhi.

2. Addl. Comm. Of Police
PCR & Communication
Police Headquarter
IP Estate, New Delhi.

3. Addl. DCP (PCR)
Through Commissioner of Police
Police Headquarter
IP Estate
New Delhi.

... Respondents

(By Advocate: Sh. S.Q. Kazim)

Order(Oral)

Justice V.S. Aggarwal, Chairman

The applicant, by virtue of the present application, seeks quashing of the orders of 22.10.2003 and 29.10.2003. The same are being reproduced below for the sake of facility:

"A show cause notice proposing therein for treating the absence period as not spent on duty was issued to HC Bishamber Singh, No.1139/PCR vide No.11714/SIP(AC) PCR, dt. 18.8.2003, on the allegations that he absented himself from C.L., wilfully and un-authorizedly while he was posted in 9th Bn. DAP, on the following occasions:-

<u>S.No.</u>	<u>DD No. Dt.</u>	<u>DD No. & dt.</u>	<u>Period</u>
	<u>of absent</u>	<u>of arrival</u>	<u>D H M</u>
1.	20/18.7.02	24/27.8.02	40 2 35

A copy of show cause notice was received by him and submitted his reply pleading therein that due to illness he could not report on his duty and he informed through telephonically.

The Addl.DCP/PCR has gone through his reply, relevant papers available on the file and the was also heard in O.R. on 17.10.03 by Addl.DCP/PCR. The plea taken by the HC did not found convincing. He did not seek leave//permission from the competent authority and remained absent wilfully and un-authorizedly, which is violation of rule 19.5 of CCS (Leave) Rules as well as S.O. No.111/88. Therefore, as per decision taken by the Addl.DCP/PCR, the above mentioned absence period is treated as not spent on duty i.e. "No work No pay, hence the same is not being regularized in any manner. He will not be entitled for salary of the above said period on the principle of "No work No pay."

"On having been decided the absence period w.e.f. 18-7-02 to 27-8-02, i.e. 40 days, 2 hrs. and 35 mts. as period NOT SPENT ON DUTY i.e. NO WORK NO PAY V/O No.14801-805/SIP(AC)PCR, dated

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22.10.03, HC BISHAMBER SINGH, No.139/PCR is hereby granted his annual increment @ Rs.4800/-PM w.e.f. 10-2-03 (after excluding his above mentioned absent period).

Previous OB regarding grant of annual increment w.e.f. 1-1-03 is hereby cancelled."

2. He also seeks quashing of the orders of appellate authority whereby the appeals against the abovesaid orders have been dismissed.

3. The sum and substance of the assertions are that the applicant has been taken to be absent from duty from 18/20.7.2002 to 24/27.8.2002. Vide the impugned orders, his absence from duty was taken to be as not spent on duty. It was not regularized and it has been directed that he will not be entitled to any salary for the said period. Vide the subsequent order of 29.10.2003, the applicant has been granted his annual increment after excluding the above said period which was treated as absence from duty.

4. The petition is being contested.

5. Perusal of the record reveals that vide DD entry No.15 of 18.7.2002, the applicant had informed on telephone at 11.20 A.M. that he would be on leave because he is not feeling well. On the same day, vide DD entry No.20, at 1.45 P.M., it had been reported that applicant had not turned up for duty. Subsequently, the applicant had submitted medical certificates copies of which are on the record.

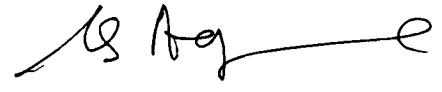
6. Perusal of the impugned order clearly shows that the medical certificates have not at all been considered as to whether the applicant was really unwell and thus could not report for duty. In such like events, it is necessary that medical

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certificates when produced, should be considered in proper perspective and thereafter appropriate order should be passed. Unfortunately, it has not been so done in the present case. Consequently, we need not dwell into any other controversy.

7. For these reasons, we quash the impugned orders and direct that if deemed appropriate, the reply of the applicant along with medical certificates should be reconsidered. The necessary exercise preferably should be done within four months of the receipt of the certified copy of the present order.


(M.K. Misra)
Member(A)


(V.S. Aggarwal)
Chairman

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