

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH

OA No.3233/92

New Delhi, this the ¹²28th day of August, 1997.

Hon'ble Mr. N. Sahu, Member(A)

Chetan Prakash Mittal
S/o Late Lala Nanak Chand,
R/o House No.5,
Kha Block,
Panchwati Colony,
Palam,
New Delhi

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...Applicant

(In-person)

Versus

Union of India : Through

1. Secretary
Ministry of Defence
Govt. of India
New Delhi
2. Controller General of
Defence Accounts,
West Block V,
R.K. Puram,
New Delhi
3. Controller of Defence Accounts,
Air Force,
West Block V,
R.K. Puram,
New Delhi
4. Shri J.S. Arya,
Deputy Controller of Defence Accounts,
Air Force,
Subroto Park,
New Delhi

...Respondents

(By Advocate : Shri S.M. Arif)

ORDER

Hon'ble Mr. N. Sahu, Member(A)

The applicant seeks release of the amount of salary of Rs.1,074/- for a period of eight days spent to obtain medical fitness certificate. He also claims compensation of Rs.3,600/- for physical and mental

harassment and interest on the withheld amount of salary at the rate of Rs.100/- per day. The facts in brief are as under:

(11)

The applicant, a Section Officer in the office of DCDA (Air Force), Subroto Park was not present on 13.01.1992. The respondents state that he did not take prior sanction of leave. He was asked to either take leave or to submit a medical certificate from the competent authority. By another letter dated 16.01.1992 served on him on 18.01.1992 he was again directed to submit a medical certificate. The applicant reported to duty on 20.01.1992. He claims to have taken treatment from the RMP, the Medical Superintendent of Government hospital at Hapur.

2. It is stated that although the applicant has been allotted Government accommodation at Panchvati, Delhi Cantonment, yet his son and his family resided there while the applicant himself frequently chose to leave for Hapur whenever he felt the need.

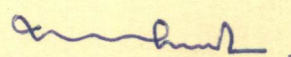
3. On 20.01.1992 he was directed to appear before a Civil Surgeon for a second medical opinion on his health. He was not allowed to join duty under Rule 93 of CCS (Leave) Rules, 1972. He was asked to appear before the CMO, Ram Manohar Lohia Hospital for medical examination. On 28.01.1992 the applicant secured a medical fitness certificate from the CMO of RML Hospital. He was allowed to resume duty. He was not granted commuted leave from 13.01.1992 to 17.01.1992. The genuineness of his sickness was required to be reported upon by the RML Hospital. However, the RML Hospital declined to give an opinion. In accordance with Rule 93 of CCS (Leave) Rules

1972 the competent authority did not initially regularise his absence and grant commuted leave from 13.01.1992 to 17.01.1992. He applied for special casual leave from 20.01.1992 to 27.01.1992. The period under consideration was 13.01.1992 to 28.01.1992. Applicant had taken EL from 13.01.1992 to 17.01.1992. Department subsequently regularised his leave and paid his salary.

4. As salary has already been paid, the only relief that survives is compensation for physical and mental harassment and interest for the delay. This Tribunal is not competent to adjudicate on this claim for damages and compensation. Hon'ble Supreme Court has held in the case of Dr.H. Mukherjee Vs. S.K. Bhargava, (1996)4 SCC 542 that a suit for damages is not within the province of Section 14 of the Administrative Tribunals Act, 1985. In the case of Sanjeev Kumar Sharma Vs. Union of India & others, (1990) 13 ATC 894 a Division Bench of this Tribunal has held that the prayer for damages for wrongful removal is in the nature of a claim for torture and cannot be considered in an application under Section 19 of the Administrative Tribunals Act.

5. In view of the circumstances discussed above leading to the delay in payment of salary it cannot be said that interest is payable for the delay.

6. OA is dismissed. No costs.


(N. SAHU)
Member(A)

/Kant/