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CENTRAL ADMINISTRATIVE TRIBUNAL
ADDITIONAL BENCH, ALIAHABAD

.....
Registration O.A. No. 204 of 1987
Jagdish Narain Srivastava Applicant
Vs.

Union of India & ors Respondents

Hon' Mr. D.K. Agrawal, J.M.

Hon' Mr. K. Obayya, A.M.

(BY Hon' Mr. K. Obayya, A.M.)

This application under section 19 of the Administrative Tribunals' Act No. XIII of 1985 has been filed by Jagdish Narain Srivastava while he was serving as selection grade Transmission Assistant (SGTA) at Allahabad under the Divisional Engineer Telegraphs Long Distance at Allahabad (Respondent No. 4), (D.E.T. L.D.).

2. In this application he sought:

- (a) cancellation of order dated 22-3-1986, in which he was transferred to Rae Bareilly (Annexure-A-3);
- (b) Direction to the Respondents to sanction leave and payment of salary for the leave period; and
- (c) Through an amendment application - Misc. Application No. 288 of 1987 which was permitted, he also sought that the period from 11.8.86 to 18.9.86 which was treated as 'DIES NON' be treated as leave due to him.

3. Briefly the facts are as follows:

The applicant was working as SGTA, under D.E.T. L.D., Allahabad since 1964. He was transferred to Rae Bareilly vide order dated 22-3-1986 (Annexure A-3) to work at the Carrier Station - under the jurisdiction of DET LD, Lucknow. This order was to be effective from 22-5-86 after noon. On 24-5-86, he conveyed his inability to work due to illness and stayed away

from duty. He went on medical leave initially for the period from 24-5-86 to 10-7-86, thereafter, extended leave periodically upto 12-11-1986. He made representations to the higher authorities for cancellation of the transfer order, without any success and ultimately joined at the new station Rae Bareilly on 13-11-1986.

4. At the stage of the arguments, the counsel for the applicant did not press for cancellation of the Transfer order, since the applicant had already joined at Rae Bareilly, and the transfer order has already been complied with. The counsel admitted that pay and other allowances for the leave period have also been settled and the only issue he would urge is regarding the period from 11.8.86 to 17.9.86 which is treated as 'DIES NON'.

5. The respondents contended that the applicant went on medical leave to evade transfer, leave applications, supported by medical certificates, were received later. The leave applications were considered and leave sanctioned, whatever was due to the applicant, by way of pay, allowances, was fully paid. However, the period from 11.8.1986 to 17.9.1986 is not covered by any leave application, hence no leave could be granted, and the period was treated as unauthorised absence. Applicant's explanation was called for for unauthorised absence. His explanation was found unsatisfactory and after expiry of the medical leave in the first spell i.e. from 24-5-86 to 10-8-86 he ought to have reported at the new station, Rae Bareilly.

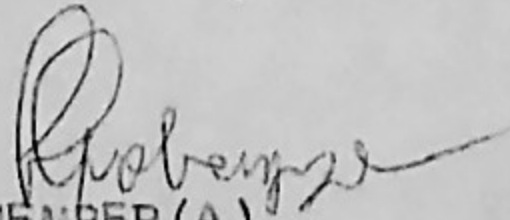
6. The facts are clear, it is admitted that there is no leave application for the period treated as unauthorised absence. We have seen the

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transfer order (Annexure-A-3). It clearly mentions that "Sri J.N. Srivastava, T.A. Carrier station Allahabad attached in the O/O DET/L/D Allahabad, is hereby struck off the strength of this division with effect from the afternoon of 22-5-1986 on transfer with orders to report for duty at Carrier station Rae Bareilly under the A.E. H/W Rae Bareilly and DET/L/D Lucknow in the interest of services." After expiry of medical leave, ^{since there was} the applicant had no post at Allahabad, he was duty bound to report at the new station, Rae Bareilly, his plea of joining at Allahabad, and signing in the attendance register, cannot be accepted, since he was not reposted to the same post, after expiry of leave.

7. Taking into consideration the circumstances of the case, we are of the view that the period covered by 'DIES NON' is not supported by any leave request. The authorities are within their right to treat the unauthorised absence as 'DIES NON'. It is too much to expect any authority to grant leave without any leave application.

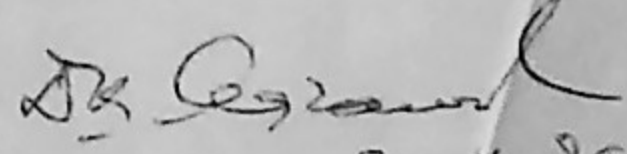
8. We consider this is not a fit case to give any direction to the respondents, as the action taken by them is correct as per the rules and there is no violation of any rule or procedure. Accordingly the application is rejected without any order as to costs.


MEMBER(A)

(sns)

November 30, 1989

Allahabad.


MEMBER(J) 30.11.89.