

CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH
ALLAHABAD

ORIGINAL APPLICATION NUMBER 588 OF 2003

ALLAHABAD, THIS THE 23rd DAY OF SEPTEMBER, 2004

HON'BLE MRS. MEERA CHHIBBER, MEMBER(J)

Roop Chand, s/o Late Shi Bhole Nath
r/o 587/1 Triveni Bihar,
Allahabad.

.....Applicant

(By Advocate : Shri S.K. Srivastava)

V E R S U S

1. Union of India through Secretary,
Ministry of Defence, New Delhi.
2. The Director General,
Man Power, MP-4(CIV) Grievances Cell,
Army Headquarter, Sena Bhawan,
New Delhi-41.
3. Additional Director General,
Staff Branch, (S D 7 CIMS)
Army Head Quarter, New Delhi-11
4. Brigadier, Head Quarter, Allahabad,
Sub Area, Allahabad.
5. Station Commandant,
Station Head Quarter, Cell,
Head Quarter Sub-Area, Allahabad.

....Respondents

(By Advocate : Shri R.K. Tiwari)

O R D E R

By this O.A. applicant has sought quashing of the order dated 05.04.2003 whereby he has been informed that there are no rules under which he can be paid for absence period(Pg.12). He has further sought direction to respondents to grant him salary for 43 days against medical certificate produced by him or any other order or orders may be issued that may be deemed fit and proper in the circumstances of the case.



2. It is submitted by the applicant that applicant is working as senatory mate in the office of Station Head Quarter Cell Sub-Area, Allahabad. He fell seriously ill on 02.07.2001 as he had suffered a paralytic stroke. He took treatment and was declared fit on 13.08.2001. Accordingly, he joined the office on 14.08.2001 along with his medical certificates, which is annexed at Pg.16 of the O.A. He then requested the authorities not to reduce the salary for the said period and he may be got medically examined from C.G.H.S. (Pg.20) *in case of any doubt. B*

3. It is submitted by the applicant that his C.G.H.S. Card was damaged due to rain water, therefore, he had deposited the same for change with proper application and C.G.H.S. has re-issued the Card only on 22.08.2001, which is evident from Pg.21 of the O.A. and this fact was mentioned by him in his application addressed to the Director General also wherein he had requested to grant him medical leave, so that his payment may be released from the period 02.07.2001 to 14.08.2001. Inspite of it, respondents rejected his request by a non-speaking order, therefore, he had no other option but to approach this court. He has also relied on the circular dated 14.09.2001 issued by the office of Additional ^{General} Directorate General Manpower MP-4 ^{General} Branch, Army Headquarters DHQ, New Delhi wherein it was clarified that where a non-gazetted Govt. servant finds it difficult to obtain medical certificate from CGHS/AMA, the medical/fitness certificate from R.M.P. may be accepted (Pg.26) but even this circular was not taken into consideration by the respondents.

4. Respondents on the other hand have submitted that applicant absented himself from duty from 02.07.2001 to 14.08.2001 without any application or intimation to the department nor ~~he~~ ^{he} did submit the Medical Certificates of

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authorised Medical Officer of C.G.H.S. Therefore, his leave was rightly rejected. He gave his application only after 44 days of his absence when he re-joined in duty. Therefore, the impugned order has been passed in accordance with rules and there is no illegality in it. They have relied on Govt. of India Rules contained in letter dated 11.05.2000 wherein it was stated that Medical Certificate of Private Doctor cannot be accepted and only Medical Certificate issued by C.G.H.S. Dr. are to be considered for grant of leave (Annexure CA-1). They have, thus, submitted that there is no merit in the G.A. the same may, therefore, be dismissed.

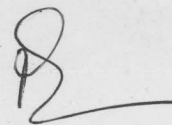
5. I have heard both the counsel and perused the pleadings as well.

6. Applicant has specifically stated in his application dated 13.02.2002 that his C.G.H.S. Card was damaged and he deposited the same for change with proper application and they had re-issued the CGHS Card only on 22.08.2001. Therefore, ~~naturally~~ if in the absence of CGHS Care, applicant had fallen sick, naturally he would have approached the private doctor. Applicant has annexed the medical certificate issued by Dr. R.S. Dwivedi. Therefore, it was incumbent on the part of respondents to either have got the applicant re-examined from CGHS as he had already made his request in his application dated 22.08.2001 (Pg.20) or should have found out the correctness of the certificates issued by the Dr. mentioned above. Respondents also should have taken into consideration the circular dated 14.09.2001 (Pg.26), which has been annexed by the applicant and according to which medical/fitness certificates from RMP could also have been accepted. Moreover, applicant has categorically stated that he still has 33 days Medical Leave, 48 Earned Leave and 8 days C.L. remaining in his



credit. Therefore, his leave could have been granted in the special circumstances, since his CGHS Card was not available with him. In these circumstances, I do not think it was justified to reject his request only on this ground, that he had not submitted the certificate from CGHS. However, since these are the facts, which would be ~~have~~ to be examined by the authorities, ~~accordingly~~, the impugned order dated 05.04.2003 is quashed and set aside. The matter is remitted back to the respondent No.5 with a direction to reconsider the case of applicant in the light of facts as stated above and then to pass a reasoned order under intimation to the applicant within a period of 6 weeks from the date of receipt of a copy of this order. It goes without saying that in case his medical leave is granted, he shall be paid the amount, which has been deducted for the period from 02.07.2001 to 14.08.2001 otherwise they shall pass a reasoned order as stated above.

7. With the above directions, this O.A. is disposed off with no order as to costs.



Member (J)

shukla/-