

CENTRAL ADMINISTRATIVE TRIBUNAL
AHMEDABAD BENCH

O.A.NO. 576/93
~~XXA.NO.XX~~

DATE OF DECISION : 24/3/2000

Mr.M.Rajendran Petitioner

Mr.P.H.Pathak Advocate for the Petitioner [s]
Versus

Union of India & ors. Respondent

Mr.M.S.Rao Advocate for the Respondent [s]

CORAM

The Hon'ble Mr. A.S.Sanghavi : Member (J)

The Hon'ble Mr.

JUDGMENT

- 1, Whether Reporters of Local papers may be allowed to see the Judgment ? ~
- 2, To be referred to the Reporter or not ? ~
- 3, Whether their Lordships wish to see the fair copy of the Judgment ? ~
- 4, Whether it needs to be circulated to other Benches of the Tribunal ? ~

Mr.M.Rajendran
40/239, M.I.G.
Pragatinagar,
Naranpura,
Ahmedabad.

Applicant

(Advocate : Mr.P.H.Pathak)

VERSUS

1. Union of India
Notice to be served through
The Comptroller & Auditor
General of India,
10, Bahadurshah Zafar Marg
New Delhi : 110 002.

2. Accountant General (Audit - I)
Accountant General Office
Lal Darwaja,
Ahmedabad : 380 001.

3. Sr. Deputy Accountant General (A),
Office of the A.G.Office,
Lal Darwaja,
Ahmedabad : 380 001.

Respondents

(Advocate : Mr.M.S.Rao)

ORAL ORDER


O.A./576/93

DATE : 24/3/20

Per : Hon'ble Shri A.S.Sanghavi : Member (J)

Cont..page 03/-

Mr.M.S.Rao learned advocate for the respondents^{has} produced a copy of the application made by the widow of the applicant for the family pension wherein date of the death of the applicant ^{was} is mentioned as dt: 11/04/98. According to Mr.M.S.Rao, family pension is also sanctioned to the widow of the applicant. Since the applicant has died and till now none of his legal heirs have come forward to continue this O.A., O.A abates and same is disposed of as abated. No order as to costs.


(A.S.Sanghavi)
Member (J)

nkk

FORM NO. 21

(See Rule 114)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL AHMEDABAD BENCH

OA/TA/RA/CP/MA/PT 576 of 199 3

M. R. Tondani

APPLICANT (S)

VERSUS

V. G. T. D. S.

RESPONDENT (S)

I N D E X S H E E T

SR. NO.	DESCRIPTION OF DOCUMENTS	PAGE
1.	OA	1 to 57
2.	Reply	58 to 67
3	Judgment D. 24-3-2000	
	Annexures	68 - 72
	O.O. dtd 24/03/20	3 page
	10' part	10 page.

Certified that the file is complete in all respects.

pu/1-82

Signature of S.O. (J)

acclap
25/05/20

Signature of Deal. Hand.

CENTRAL ADMINISTRATIVE TRIBUNAL
AHMEDABAD BENCH
AHMEDABAD

Submitted :

C.A.T./Judicial Section.

Original Petition No 576
of 1993

Miscellaneous Petition No _____
of _____

Shri N. Rajendram Petitioner(s)

versus

11012083 Respondent (s)

This application has been submitted to the Tribunal by
Shri P.H. Patil

Under Section 19 of the Administrative Tribunal Act, 1985.
It has been scrutinised with reference to the points mentioned in
the check list in the light of the provisions contained in the
Administrative Tribunal Act, 1985 and Central Administrative
Tribunals (Procedure) Rules 1985.

The application has been found in order and may be given
to concerned for fixation of date.

The application has not been found in order for the reasons
indicated in the check list. The applicant advocate may be asked
to rectify the same within 14 days/draft letter is placed below
for signature.

~~ASST.~~

1. IPO not filed
2. V.P. not stamped.

~~S.O.(J)~~

Medical certificates at pages 21 and 23 are
partially in Gujarati. Necessity of filing English translation
may be seen

22/9/93.

~~D.R.(J)~~

22/9/93

Letter issued on
23/9/93

Submitted

Kindly see above orders.

IPO has been filed today and V.P. stamped.

The matter if approved, will be handled over for
necessary action.

01/10

S.O.(J) 22/9/93

Filed by Mr. P.H. Pathak
Learned Advocate for Petitioners
with second set & 3 copies
copies copy served/not served to
other side

20/9/93
By Registrar C.A.T(U)
A'ud Bench

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
AT AHMEDABAD.

ORIGINAL APPLICATION NO. 576 OF 1993.

M. Rajendran.

..Applicant

Vs.

Union of India & Ors.

..Respondents.


I N D E X

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Date : 20/9/93
Ahmedabad.


P.H. Pathak
Advocate for Applicant.

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
AT AHMEDABAD.

ORIGINAL APPLICATION NO. OF 1993.

I. Applicant :-

M. Rajendran
40/239. M.I.G.
Pragatinagar. Naranpura
Ahmedabad.

II. Respondents :-

1. Union of India
Notice to be served through
The Comptroller & Auditor
General of India
10. Bahadurshah Zafar Marg.
New Delhi- 110002.
2. Accountant General (Audit-I)
Accountant General Office
Lal Darwaja, Ahmedabad-380001.
3. Sr. Deputy Accountant General(A)
Office of the A.G. Office
Lal Darwaja, Ahmedabad-380001.

III. Order under challenge :-

Order of the respondent no.2
covered to the applicant vide
order dt. 23.9.92 treating the
period from 9-7-92 to 23-7-92 &
8-8-92 to 27-8-92 as unauthorised
absent with consequential benefits
& the decession of the respdt no.
3 not accepting recommendation of
the member of the medical Board
and insisted for certificate
opinion of authority which do not
exist, as illegal, arbitrary.

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IV & Jurisdiction /
V. Limitation :-

: The applicant declare that the subject matter of this application is within the jurisdiction of this Tribunal and limitation prescribed under sec.21 of the Administrative Tribunal Act.

VI. Facts of the cases :-

1. That the applicant is citizen of India and is working as Aduit Officer. That the case of the applicant is gross case of malafide exerixe of power to victimise the applicant. That the respondent No.2 Mr. Mukhopadhaya who has imposed the penalty, has acted as a judge and prosecutor and for his own cause, he has issued the chargesheet to the applicant and imposed the penalty of censure. That the applicant has in is capacity as a President of the association, made a complaint to the respondent No.1 office abouth the irregularity of purchase of article. That the applicant ~~was~~ directly against Mr. Mukhopadhaya i.e. respondent No.2, who has with a view to take revenge against the applicant and to teach him a lession, immediately transferred the applicant and on the representation of the applicant, he himself has issued a chargesheet and has decided to impose the penalty. On the applicant Thus it is a clear case of arbitrary and malafide exercise of power and is also in flagrant violation of principle

of natural justice and fair play, is violative of Art.14 of the Constitution of India and therefore the same is required to be quashed and set aside.

2. It is submitted that the applicant has joined the service of the respondent deptt since 1957 as UDC at Ahmedabad. That on passing the prescribed test etc. the applicant was promoted to the post of Section Officer and in 1976, promoted as Audit Officer. That at present, the applicant is working as Audit Officer and in the scale of Rs 2200-3500. That during the whole service career, the applicant is not served with any memo or chargesheet and his performance is found excellent. That the trouble has started only when the applicant has made a complaint against the respondent No.2, Mr. Mukhopadhaya in capacity of the President of the association. That at the relevant time, the applicant was President of All India Association of the Accounts & Audit Officers in the Indian Audit & Accounts Deptt (Gujarat Unit). That certain irregularities have come to the notice of the association and therefore the applicant has written a letter dt. 13.5.92 to the Comptroller and Auditor General of India, against the respondent No.2. Copy of the letter dt. 13.5.92 is annexed and marked as Annexure 'A' to this application, a copy of which was also given to the office of the respondent No.2. That as the contention of the letter about the purchase of cup and saucer etc. was against the respondent No.2, he was highly antagonised against the applicant.

3. It is submitted that the applicant was not well and was under the treatment of the Civil Surgeon at Civil Hospital, Ahmedabad and has applied to sanction the medical leave with the certificate issued by the Civil Hospital, Ahmedabad. Copy of the letter dt. 30.5.92 with the certificate issued by the Superintendent, Civil Hospital is annexed and marked as Annexure 'AA' to this application. That the applicant has applied

for Earned Leave from 26.5.92 to 29.5.92 and requested to sanction his commuted leave from 30.5.92 to 12.6.92. That as the applicant was not cured and he was further directed to take rest, the applicant has submitted an application on 13.6.92 annexing the certificate issued by the Supdt, Civil Hospital, Ahmedabad.

That the leave of the applicant was sanctioned and and he was paid the salary. That the applicant was declared fit by the Civil Surgeon, Ahmedabad vide his certificate dt. 27.6.92 and the applicant has reported to resume his duty with the letter of 29.6.92.

Copy of the letter of 29.6.92 with the certificate issued by the Civil Hospital are annexed and marked as Annexure A/1 collectively to this application.

That the applicant was advised not to go on tour for about two months and he should be awarded light duties.

4. That the Audit Officer (A) vide his letter dt. 30.6.92 informed the applicant that the fitness certificate which is issued by the Civil Hospital, Ahmedabad is not acceptable and the certificate should be issued in form No.5. Copy of the letter dt. 30.6.92 is annexed and marked as Annexure A/2 to this application.

It is submitted that as per the said letter, the applicant has submitted the fitness certificate in Form No.5 duly signed by the Member of the Medical Board. Copy of the letter of the applicant dt. 1.7.92 with the certificate in form No.5 are annexed and marked as Annexure A/3 collectively to this application. That for submitting the said certificate in form No.5, one more objection was raised by the Audit Officer on 3.7.92, that the certificate is not signed by the Civil Surgeon.

Copy of the letter dt. 3.7.92 is annexed and marked as Annexure A/4 to this application. It can be seen from the above facts that

above fact that under the guise of technical objection the respondent No.3 denied the resumption of duty of the applicant, only with a view to harass the applicant, which is ex facie arbitrary and illegal.

5. It is submitted that again the Sr. Dy. Accountant General(A) has vide his letter dt. 13.7.92 informed the applicant to appear again before the Civil Surgeon, Civil Hospital, Ahmedabad for medical opinion. Copy of the letter dt. 13.7.92 is annexed and marked as Annexure A/5 to this application. That during this period, the applicant was allowed to sit in the office and he was allowed to sign the muster roll but the applicant was not given any work. It is submitted that immediately the applicant has addressed a letter to the Sr. Dy. Accountant General on 13.7.92 informing him that the certificate is issued by the Civil Surgeon and the person who has issued the certificate in form No.5 is the higher authority, member of the Medical Board and therefore, the say of the Dy. Accountant General, again to appear before the Civil Surgeon is contrary to the provisions of law contained in rule 19(3) and the Govt. of India's decision. Copy of the letter dt. 13.7.92 is annexed and marked as Annexure A/6 to this application. That again, Sr. Dy. Accountant General(A) has vide his letter dt. 17.7.92 reiterated his contention about re-examination by the Civil Surgeon. He pointed out that the certifying officer is not at liberty to certify whether the Govt. servant requires change to a particular locality or not. It is important to note that it is none of the say of the applicant but if the competent medical officer, after checking the applicant, advise the applicant to take certain precaution, the applicant cannot restrain the Medical Officer nor it is the business of the administration to do so. That ~~there is~~ no change in place of duty of the applicant was mentioned by the authority. Copy of the letter

dated 17.7.92 is annexed and marked as Annexure A/7 to this application. That immediately, the applicant has on 20.7.92 informed the Sr. Dy. Accountant General that there is no fault on his part nor he can prevent the doctor from writing his own opinion. It was specifically pointed out that the action of re-examination of the applicant is contrary to rules and it was only with a view to harass the applicant and therefore such practice should be stopped forthwith. Copy of the letter dt. 20.7.92 is annexed and marked as Annexure A/8 to this application. From this correspondence, it is clear that the respondent authorities are behind the applicant and he was not allowed to perform his duty but he was allowed to sit idle in the office. That the applicant was again sent for second medical opinion to the Civil Hospital and the applicant has appeared and the Member of the Medical Board has given the certificate in form No.5 reiterating the fitness of the applicant and advised for lighter duty. Copy of the second certificate in form No.5 issued by the Medical Board is annexed and marked as Annexure A/9 to this application. It is pertinent to note that the same authority who is the member of the Medical Board, has issued the second certificate and the same was accepted by the respondent authorities. That on 28.7.92, the applicant has addressed a detailed letter to the respondents pointing out that there is no question of change of place of duty but it is the advice by the Medical Officer that I should be given lighter job. Copy of the letter dt. 28.7.92 is annexed and marked as Annexure A/10 to this application.

6. It is submitted that after all technicalities, ~~and~~ with a view to further harassment to the applicant,

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the Sr. Dy. Accountant General (A) has vide his letter dated 7.8.92 informed the applicant that as the applicant has not obtained the certificate from Civil Surgeon as per letter dated 9.7.92 and therefore the request of change of place of duty on health ground is not accepted and rejected. Copy of the letter dt. 7.8.92 is annexed and marked as Annexure A/11 to this application. That the said letter was replied by the applicant on 10.8.92 whereby the applicant has informed the respondents that on inquiring at Civil Hospital, he came to know that the person who has issued the certificate is the highest authority, Member of the Medical Board and so far the Civil Surgeon is concerned, the post is abolished. The applicant has informed the respondents that as the applicant has signed the muster and there is no question of not giving him posting order by the respondent authorities. That the applicant has pointed out that for the lapse of 39 days, no posting order was issued and the said cannot be considered against the applicant because the applicant has remained on duty and has signed the muster everyday. Copy of the letter dt. 10.8.92 is annexed and marked as Annexure A/12 to this application.

7. It is submitted that pursuance to the letter written by the applicant, the respondent authority has informed the applicant vide his letter dt. 19.8.92 that the applicant has not reported to the appropriate authority as per the order dt. 25.5.92 and therefore it is in violation of the order of the competent authority. Copy of the letter dt. 19.8.92 is annexed and marked as Annexure A/13 to this application. It is pertinent to note that so far the letter dt. 25.5.92 is concerned, that was for tour and immediately the applicant was informed to join the Inspection Committee at Gondal by telegram from the respondent authorities. Copy of the telegram is annexed and marked as Annexure A/14 to this application. It is pertinent to

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note that from the date when the applicant has produced the medical certificate and joined the duty and was allowed to sign the muster at Ahmedabad, was never informed for two months i.e. the period during which he was advised light duty by the Medical Officer and advised to avoid tour, the respondents have not informed anything about joining of the duty to the applicant on tour. It is pertinent to note that the practice of the respondent department is, when an officer proceed on leave, if he is to be sent on tour, on resuming his duty, he will be issued the fresh order sending him and assigning him particular work of tour. In the present case, neither the respondents have issued such fresh order nor the applicant was informed for about two months when he was under the advice of Medical Officer to avoid tour and he was allowed to sign the muster roll at Ahmedabad and not assigned any work. Thus it is clear that on one hand the respondents have tried to harass the applicant by raising the technical objection in the certificate issued by the competent medical authority and after completion of that period the respondents have come out with the case that the applicant should join at Rajkot, as per the order dt.25.5.92. It is important to note that at the first instance, when the applicant given the medical fitness certificate, the respondent authority has raised an objection that it is not in the prescribed proforma. That subsequently the applicant obtained the medical certificate in proforma, then the objection raised that it is not signed by the Civil Surgeon. The applicant has pointed out that the authority who has signed is higher authority than the Civil Surgeon, is the Member of the Medical Board and there is no post of Civil Surgeon.

..9/-

The respondents have accepted the said certificate but not accepted the advice given by the medical authority.

That subsequently after ~~completion~~ of two months period of light duty, for refusal of the acceptance of the recommendation, the applicant has approached to the same medical authority who has issued the earlier order and has not approached to the Civil Surgeon. It is pertinent to note that the applicant has pointed out that so far the medical authority is concerned, he is the highest authority i.e. Member of the Medical Board and specialised in Urology. That it is the fault on the part of the respondents that they were not aware about the situation of abolition of the post of Civil Surgeon yet they insisted upon the applicant to report to the Civil Surgeon for their second medical opinion. That when the respondents have accepted the certificate issued by the Member of the Medical Board, who is higher authority than the Civil Surgeon, the question of not accepting the recommendation of lighter duty is also misconceived and after thought. That during this period, the applicant was permitted to sign the muster and the applicant was present all the days in the office of the respondent at Ahmedabad. Now it is hard and harsh and arbitrary exercise of power by the respondents to deny the applicant salary for the period from the date when he has reported for resuming duty after the medical certificate of the Medical Officer till he is actually allowed to perform the duty.

8. It is submitted that as the applicant was not allowed to perform the duty at Ahmedabad, the applicant was constrained to approach to the Accountant General to point out his genuine grievance. That the Accountant General has felt that the applicant has not taken his permission for entry in the office and instructed to issue a letter to the applicant. That the applicant has vide his letter dt. 14.9.92 informed the Sr. Accountant General about his grievance and pointed out that

the intention of the applicant was only to point out the Accountant General about his grievance and particularly in light of ill-health of the applicant, he was advised by the Medical Officer to avoid touring and therefore his case is required to be considered. Copy of the letter dt. 14.8.92 is annexed and marked as Annexure A/15 to this application.

That the applicant was informed by the letter dated 27.8.92 of Br. Dy. Accountant General that as the applicant has not reported to the Civil Surgeon for the second medical opinion and has not obtained the second opinion, his request for avoiding touring duty is refused and the applicant was advised vide his earlier letter dt. 19.8.92 that the applicant should report for his posting at Ahmedabad on his joining Old Civil as per order dt. 25.5.92, and therefore, has issued a show cause saying that the applicant was absent from duty from 29.6.92 and why the said period should not be treated as unauthorised absence under FR 17(1), with future consequences. Copy of the letter dt. 27.8.92 is annexed and marked as Annexure A/16 to this application. It is pertinent to note that the said contention of the respondent authority is misconceived because the question of absent does not arise.

The applicant was present and his presence was marked in the muster. Only case is that the applicant was not given any duty at the negligence and omission on the part of the respondents. That the question of absent is misconceived and there is no justification for the same. That on the same day, the applicant has replied the said letter of the respondent authorities and pointed out that there was no fault on his part and the question of absent does not arise. Copy of the letter dt. 27.8.92 issued by the applicant is annexed and marked as Annexure A/17 to this application.

9. It is submitted that in the said letter the applicant has pointed out the fact that the first medical certificate was refused on the technical ground that it is not in form No.5. At that time, no objection regarding Civil Surgeon was informed. That subsequently when the applicant has produced the certificate, the objection was raised that it is not the second opinion and not signed by the Civil Surgeon. Thereafter the applicant has submitted a certificate as asked by the respondents and the certificate was countersigned by the lower authority i.e. Supdt of Civil Hospital, Sola yet the respondents have not accepted the same and therefore there is no question of any fault on the part of the applicant. The respondents should aware before issuing any letter from the particular authority i.e. Civil Surgeon, to know that whether the post is existing or not. As far as rule 17(1) which is quoted by the respondents is not applicable to the case of the applicant and therefore the period cannot be treated as absent by the respondents. The applicant has earlier pointed out that he is not given advance to carry out the tour. That the applicant has vide his letter dt. 3.9.92 informed Sr. Dy. Accountant General about non releasing of his advance and informed that as per circular No.1 dt. 2.9.92 it was stated in para 3 that an option is given to the official on tour to return to Headquarter if the officers are unable to undertake tour without advance. That the applicant has requested to continue him at Headquarter. copy of the letter dt. 3.9.92 is annexed and marked as Annexure A/18 to this application.

10. It is submitted that thereafter the applicant received a letter dt. 23.9.92 from the Sr. Dy. Accountant General informing that the representation dt. 27.8.92 of the applicant is considered by the Accountant General and has issued the order. Copy of the letter dt. 23.9.92 with the order of the Accountant General is annexed and marked as Annexure A/19

to this application. That the Accountant General has without application of mind and without considering the circumstances and the negligence and omission on the part of the administration, jumped to the conclusion that the period from 9.7.92 to 23.7.92 and 8.8.92 to 27.8.92 should be treated as unauthorised absence. That the said decision is ex facie bad in law and is in contravention of the provisions of principle of natural justice and fair play and requires to be quashed and set aside. That immediately the applicant has, on 13.10.92, addressed a letter to the Accountant General to re-consider his case of treating the above period as absent. Copy of the letter dt. 13.10.92 is annexed and marked as Annexure A/20 to this application. It is pertinent to note that in the said letter of reconsideration, the applicant has given all the details and pointed out the relevant rules also. The applicant has pointed out that as per rule, when an officer proceed on leave, when he report after the leave are exhausted to the authority who has sanctioned the leave, it is the duty of the leave sanctioning authority to issue fresh order. That the applicant has pointed out important aspect that imposing the penalty of treating the period as unauthorised absence is a major penalty, which will affect incremental benefit, pensionary benefit etc. of the applicant. Therefore, such penalty cannot be imposed without following the regular inquiry proceeding and therefore, only on that ground, the order of treating the period of unauthorised absence is required to be quashed and set aside. That as for about two months no response was available from the Accountant General about reconsideration of the case of the applicant,

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the applicant has sent a letter on 19.12.92 to the Comptroller & Auditor General of India annexing copy of the letter dated 13.10.92 and requested to consider his case and to do the justice. Copy of the letter dt. 19.12.92 is annexed and marked as Annexure A/21 to this application. It is pertinent to note that the said representation of the applicant is not decided by the Comptroller & Auditor General of India and the decision which is ex facie bad in law is operative, which affect the incremental benefit as well as other consequential benefits of the applicant and the same is required to be quashed and set aside.

11. Looking to the overall circumstances of the case, it is a fit case where the applicant is required to be granted interim relief. That it is a case where if the respondent authority intend to impose the penalty of treating the period as unauthorised absence, which amounts to a major penalty and for that it is the statutory duty of the respondents to conduct the departmental inquiry against the applicant. The applicant is required to be given an opportunity of being heard and to examine the witnesses also. Here, the respondents have not taken into consideration during the impugned period when the applicant was allowed to mark the muster but due to omission and negligence on the part of the respondents not issued further posting as per rule and therefore the applicant cannot be punished for the said inaction on the part of the respondents.

12. It is submitted that order of imposing the penalty of treating the period as unauthorised absence is in flagrant violation of the principle of natural justice and fair play and also contrary to the provisions contained in CCS(CCA) Rule and therefore is required to be quashed and set aside. That otherwise also the order of treating the period as unauthorised absence is arbitrary, unconstitutional, illegal.

That the authority has not taken into account the facts which are pointed out and which are admitted by the administration about sending the applicant from pillar to post without any justification.

That it is the fault of the administration knowing fully well that the applicant was sent for the medical opinion before the Civil Surgeon. I reiterate what I have stated in the representation and say that there is no provision for second opinion by the Civil Surgeon in case the lighter duty are suggested and particularly when the Member of the Medical Board has examined the applicant and issued certificate, there was no justification available to the respondents not to accept the request of the applicant as well as not to allow the applicant to perform his duty.

13. It is pertinent to note that from the date when the applicant has reported for duty till the last letter, the applicant was never informed by the respondent authority that he has to join duty as per the letter dt. 25.5.92. That at earlier stage, the respondents have raised a technical objection and the recommendation was for two months and after completion of two months the applicant was informed to join duty as per the letter dt. 25.5.92 and the applicant has thereafter joined the duty and is performing his duty satisfactorily. In these circumstances, there is no case for the respondents to impose the penalty of treating the period as absent from duty and is malafide exercise of power, requires to be set aside.

14. The applicant is having a strong prima facie case in his favour. The balance of convenience is also in favour of the applicant. That the period which

the respondents have decided to treat as absent will immediately affect releasing of increment of the applicant and it will affect the future benefit of the applicant and it will be treated as break in service. That if the interim relief is granted, it will not any way adversely affect the right of the respondents because the applicant is in service and the applicant will get increment etc. at the proper time. That there is no justification available to the respondents to impose the penalty on the applicant and therefore also the interim relief prayed for in the application is required to be granted.

VII. Relief sought for :

In the abovementioned facts and circumstances of the case, the applicant pray that :

- (A) The Hon'ble Tribunal be pleased to declare the impugned order of the respondent No.2 treating the period from 9.7.92 to 23.7.92 and 8.8.92 to 27.8.92 as unauthorised absence with future consequences, as arbitrary, illegal, unconstitutional and violative of principle of natural justice and fair play, and be pleased to quash and set aside it and direct the respondents to consider the said period as continuous service of the applicant and grant all consequential benefits.
- (B) Be pleased to declare that the respondent No.2 has acted in flagrant violation of the principle of natural justice and rule provided for imposing the penalty and hold that the decision of the respondent No.2 is arbitrary, illegal, unconstitutional and without jurisdiction and be pleased to set aside it and direct the respondents to grant all consequential benefits treating the period on duty by the applicant.

- (C) Be pleased to declare that there is no justification available to the respondents not to accept the certificate issued by the Member of the Medical Board and not to consider the request of the applicant as advised by the Medical Officer to avoid tour and therefore declare that the action of the respondents is with malafide intention to harass the applicant and be pleased to quash and set aside it and direct the respondents to consider the said period as on duty and grant all consequential benefits with 18% interest.
- (D) Any other relief to which the Hon'ble Court deems fit and proper in interest of justice together with cost.

VIII. Interim Relief :

- (A) Pending admission and final disposal of the application be pleased to stay further implementation and operation of the order of the respondent No.2 communicated to the applicant vide letter dt. 23.9.92 and be pl
- (B) Be pleased to direct the respondents to consider the applicant in continuous service without break which was decided to impose by the impugned order of the respondent No.2 conveyed to the applicant on 23.9.92.
- (C) Be pleased to direct the respondent No1 to decide the representation made by the applicant and to place the decision before this Hon'ble Tribunal.
- (D) Any other relief to which the Hon'ble Tribunal deems fit and proper in interest of justice together with cost.

IX. The applicant has not filed any other application in any other court including the Hon'ble Supreme Court of India with regard to subject matter of this application. The applicant has no other alternative remedy available except to approach this Hon'ble Tribunal by way of this application.

X. Details of Postal Order :

Postal Order No.

Dated :

Issued by

Amount of Rs 50/-

XI. An index in duplicate containing the document is produced h/w.

XII. List of enclosures as per above index.

Date 20/9/93
Ahmedabad

(P. H. Pathak)
Advocate for the applicant

12

VERIFICATION

I, Shri M. Rajendran, adult, residence of Ahmedabad, occupation service, have gone through the application and do hereby verify that the contents of para 1 to 12 are true to my personal knowledge and I believe the same to be true and that I have not suppressed any material fact.

Date : 20/9/93

Ahmedabad

M. Rajendran

18

Annexure-A/

ALL INDIA ASSOCIATION OF THE ACCOUNTS & AUDIT OFFICERS
OF THE INDIAN AUDIT AND ACCOUNTS DEPARTMENT.

(Gujarat Unit)

President : M. RAJENDRAN

Office of the Accountant General-I
Ahmedabad-380 001.

Secretary : B.K. Thakkar

Date 13-5-1992

To

Shri C. G. Somiah
Controller & Auditor General of India,
10, Bahadurshah Zafer Marg,
New Delhi- Pin 110002.

Sub : - Misuse of Power.

Sir,

This association very much regret to inform your goodself that certain strange things are happening in A.G. Gujarat (Audit Ahmedabad-I

When the regular G.O.M. officer was on leave certain purchases were made as under :-

	Cost
I. Cup Saucer for A.G.-I (Personal)	Rs.900/-
II. Hand Bag for A.G.- I (do)	Rs.700/-
III. Hands bag 3 for DAG's each costing Rs. 425/-	Rs.1275/-

Though the Audit Officer (Admn) held the charge during the absence of Audit Officer/GOM he had refused to sign the purchase order Sr. DAG(Admn(himself had sanctioned for himself for other DAG's and also A.G. This had happens during 1st May to 8th May 1992, When regular Audit Officer in charge of G.O.M. was on leave and charge was held by Audit Officer/Admn what was the hurry in this purchase is not clear specially when Audit Officer did not find it worth recommending the problem.

Each A.G. is provided with costly cu-saucer and what happens to it when he leaves Ahmedabad is not clear and even after 6 months service in Ahmedabad, Why present A.G.I require a New set of Cup-saucer at this time is not clear. Similar is the case with the bag as well. This matter requires investigation.

It is very much ironical to point out that Accounts officer (A &E) sitting in the same building are being provided with Cup-Saucer but this facility is denied to Audit Officers despite repeated requests and A.G. wants to enjoy such facility for himself. This expenditure was met from Suspense Accounts.

Audit Officer/GOM who is dealing with private parties for supply etc.

...2/-

10

: 2 :

demanded Cup-Soucer as to keep the dignity of the the department for entertaing private people/suppliers at his own cost has been denied.

~~certifies~~

Certain representations were given to local A.G. for transmissi n to your good self, but we are not aware of their fate and hence this letter direct to you.

Yours faithfully,

President

Secretary

Copy to The Accountant General(Audit)-I Through Sr. DAN (Audit) Ahmedabad for information.

TRUE COPY

(Advocate)

ANN-A 4 20

Registered Post

Ahmedabad.

30.5.92.

To,
The Accountant General
Audit I.M.S. Building,
Lal Darvaja,
Ahmedabad.- 1.

Sir,

I am enclosing medical certificate in original from the Civil Surgeon Govt. Hospital as directed by CGHS authorities.

Earned leave ~~of~~ for a period from 26-5-92 to 29-5-92 and commuted ~~Leave~~ for the period from 30-5-92 to 12.6.92 may please be granted (2 Weeks).

Thanking You.

Yours faithfully,

Encl: Medical Certificate

M. Rajendran
30-5-92
Audit officer

~~8888~~

Copy forwarded to A.G. Audit II, Race Course Road, Rajkot for information.

TRUE COPY.

(Associate)

(3)

AMN-AAAA

21

5/3537

3316/82

સી.એમ.જી(સુધારક)

30/5/82

સ. પ્રે. અ. (વાવ)-૭૯-૫૦,૦૦૦-૫-૬૦

સ.ક., સી. આ. નં. ૬૫૨૬, તા. ૬-૬-૭૯

NOT FORM L.C.

આથી પ્રમાણપત્ર આપવામાં આવે છે કે, શ્રી

આ ઇસ્તિલાકમાં જ હારતા હોઈ/અંદરનાં હોઈ તરીકે તારીખ ૩૦/૫/૮૨ ના રોજ

તા રોજ હા.ખ.વ કરવામાં આવ્યા હતા અને તેમને રજા આપવામાં આવી હતી.

રામ :-

દિનસો :-

(4) 10.11.82

Rest for 2 days

આથી પ્રમાણિત કરવામાં આવે છે કે, હું માનું છું ત્યાં સુધી, આ માંદગી અનિરૂપિત અને અસંયમ રહેવાને કારણે થયેલી છે/થયેલી નથી.

સિવિલ સર્જન

હવાસો ધરાવનાર તબીબી અધિકારી.
Resident Medical Officer
Civil Hospital, Ahmedabad.

TRUE COPY
(Signature)

228

Annexure- A/1

Ahmedabad
29th June 1992

To,
The Sr. Deputy Accountant General
Audit- I (Admini)
Gujarat, Ahmedabad.

Sir,

On expiring of my medical leave I am reporting to duty to day i.e 29/6/92 before Noon. The fitmen certificate for the Civil Hospital dt 27/6/92 in enclosed in Original.

One Doctor has advised me in the certificate to take up light duty to avoid Tour in view of his opinion on my health.

I
Therefore, I request that I may be accommodated in HQ.

Thanking you,

Yours faithfully,

Encl :

M. Rajendran
Audit Officer

TRUE COPY.
(Advocate)

24

Annexure- A/2

No.Estt(A)/GO/2(226)/1059/ 30.6.92

OFFICE OF THE
ACCOUNTANT GENERAL (AUDIT) I
GUJARAT, AHMEDABAD-380001.

With reference to his letter dated 29.6.92 regarding reporting to duty on 29.6.92 F.M. alongwith the fitness certificate from the Civil Hospital, Ahmedabad. Shri M. Rajendran, Audit Officer is hereby informed that medical certificate produced by him is not acceptable. As per Rule 24 (3) of CCS leave Rules 1972, a Govt. ~~as per~~ servant returning from leave on medical grounds has to produce a medical certificate of fitness in Form No.5. Please furnish the medical certificate of fitness to return to duty in Form 5 (copy enclosed)

AUDIT OFFICER (A)

TRUE COPY:
(Advocate)

25
Annexure- A/3

From : M. Rajendran
Audit Officer

Date : 1-7-92

To,

The Sr. Deputy Accountant General (Amn.)
Office of the Account General (au) I,
Gujarat,
Ahmedabad.

Sir,

With reference to your letter dated 30-6-92,
I am to enclose the Medical Certificate in the
proforma as desired by you.

Yours faithfully,

(M. RAJENDRAN)
Audit Officer

TRUE COPY.

(Authenticate)


26

FORM - V

MEDICAL CERTIFICATE OF FITNESS TO RETURN TO DUTY

Signature of Government Servant M. Rajendran

I/We, the member of Medical Board

I, Dr. Ketan D. Desai Civil Surgeon/

staff Surgeon/ Authorised Medical Attendant,

Registered Medical Practitioner do hereby certify

that we/I have carefully examined -

Shri/ Smt./Kum. M. RAJENDRAN whose

signature is given above, and find that he has

recovered from his illness and is now fit to re-

sume duties in Government Service. I also certify

that before arriving at this decision, I have

examined medical Certificate and statement of the

case (or certified the original/copies thereof)

on which leave was, granted or extended and have

taken these into consideration arriving at our/any

taken these into consideration arriving at our/any

decision.

Member of the Medical Board

1. Dr. Ketan D. Desai

2. DR. KETAN DESAI
Associate Professor of
Urology

3. Civil Hospital, A'bad-18.

Authorised Medical Attendant/

Registered Medical Practitioner

(Regn. No.

Ø

Dated 1/7/

TRUE COPY

(Signature)

27
Annexure- A/4

No. Estt(A)/GO/2(226)/1132
03/07/92

Office of the
Accountant General (Audit)-I
Gujarat, Ahmedabad.

With reference to his letter dated 1.7.92 regarding submission of medical certificate, Shri M. Rajendran, Audit Officer is hereby informed it appears that Govt. Servant has not signed on the certificate in the space earmarked for it. He is, therefore, directed to produce a fresh certificate immediately duly signed by him. The certificate furnished by him is returned herewith in original.

AUDIT OFFICER (A)

Encl : As above

To

Shri M. Rajendran
Audit Officer.

TRUE COPY.
(Advocate)

Annexure- A/5

No. Estt(A)/GO/2(226)/1254

13/7/92

Office of the
Accountant General (Audit)-I
Gujarat, Ahmedabad-380001.

With reference to this office letter No.Estt(A)/GO/2(226)/Tr. 1238 dated 9.7.1992 Shri M. Rajendran Audit Officer is hereby again requested to appear before the Civil Surgeon, Civil Hospital, Ahmedabad for medical opinion. Incidentally, he has returned in original the above mentioned letter with the remarks on the face of the letter itself. Any official communication, should be made on a separate piece of paper. This may be noted.

SR.DY.ACCOUNTANT GENERAL(A)

To

Shri M. Rajendran
Audit Officer

TRUE COPY

(Admitted)

TO

The Sr. Deputy Accountant General(A)
Office of the
Accountant General(Audit)I
Gujarat,
Ahmedabad.

Ref :- Your letter No. Estt(A)/C.O./2/226/1244
dt. 13.7.92.

Sir,

I am to inform you that I have produced Medical Certificate from civil surgeon, Civil Hospital, Ahmedabad dt. 27.6.92 on 29.6.92 (Zerox copy enclosed) original is with me) As you wanted the certificate in from V this was produced on 1.7.92 from the doctor who treated me, as per direction given by Civil Surgeon. Now you are asking me again to go to civil surgeon.

The civil surgeon has issued fitness certificate and also the member medical board has issued the certificate in the formate(From-V) as required by you there is no question of going to civil surgeon once again as your direction is against the PROVISION Contained the Rule 19(3) and Govt. of India's decision(2) there under, And you have to follow the the procedure stipulated there in (Item 3 under Govt. of India decision Please read the Rule 19 and orders there under Completlys and

Your direction are not as per to rules and Government of India orders regarding produced of medical certificate during illness and there are joining duty in fitness workful.

Yours faithfully

(M. Rajendran)

TRUE COPY.

(Signature)

30

Annexure - A/7

No. Admn(Au)/GO/PC/Tr.No. 1378

Office of the
Accountant General (Audit)
Gujarat, Ahmedabad 380 001.

Dated : 17 July 1992.

With reference to his letter dated 13-7-1992, Shri M. Rajendran, Audit Officer is once again directed to appear before the Civil Surgeon, Ahmedabad for medical opinion regarding his request for posting in Headquarters (and to avoid tour), as advised earlier. He may note that the fitness certificate dated 27-6-1992 produced by him was not on a proper proforma as per Rule 24(3) (a) of Central Civil Services Leave Rules. At the instance of Administration, a certificate on a proper proforma was produced by him, but with the recommendation/advice which was not sought for by this office.

He may please note that in terms of Note 2 below Form-3 -Leave Rules (Page 88 of Swamy's Compilation of FRs & SRs - Part III Leave Rules), a certifying officer is not at liberty to certify whether the Government Servant requires a change from or to a particular locality. Such a certificate should only be given at the explicit desire of the Administrative Authority concerned, who is also competent to decide as to which medical authority the Government Servant should appear before deciding the matter. This office had not made any request to the medical authorities for such an advice. However, since he has requested the Administration for change of place of duty (i.e. avoidance of tour), he has now been requested to appear before the Civil Surgeon, Ahmedabad, who is the competent medical authority.

Sr. Dy. Accountant General (Admn.)

To :

Shri M. Rajendran
Audit Officer.

TRUE COPY.
(Advocate)

From : M. Rajendran
Audit Officer

Date : 20-7-92

To

The Sr. Deputy Accountant General (Admn.)
Audit-I,
Ahmedabad.

Sub : Medical fitness certificate

Ref : Memo No. Admn. (Au)/GO/PC/Tr.No. 1378
dated 17-7-92.

Sir,

Please refer your letter No. quoted above.

You may kindly know that I have been referred to Civil Hospital, Ahmedabad by C.G.H.S. Doctor. The certificate is an usual issued by the Civil Surgeon, he issues it as per specialist diagnosis. Therefore, I have no authority to impose on them your format. Yet then, they after knowing my physical condition gave the certificate in the form you wanted as per their diagnosis. Subsequently you objected petty things as signature, second medical opinion etc. which were not supported by rules.

In you letter under reference I quote "in terms of note -2 below form-3 Leave rules (Page 88 of Swami's compilation of FRs & SRs-Part-II Leave Rules) it is clear that it is intended for during the period of treatment by other Doctors and not after obtaining fitness certificate. Otherwise why should it be below Form-3 ?. The fitness certificate Form-5 (see Rule 24(3) which I produced as per your request is perfect. And there is no foot note under this. You are confused in this matter and no clear understanding or relevant rules.

You may kindly go through once again through the rules in its entirety before writing to me. Further I am to state that this is a sort of harrassment and I will be comperd to see proper remedies in a Court of Law.

Yours faithfully,

(M. RAJENDRAN)

TRUE COPY
(Associate)

FORM - V

Second medical opinion

MEDICAL CERTIFICATE OF FITNESS TO RETURN TO DUTY

Signature of Government servant M. RAJENDRAN

I, the member of Medical Board

I, Dr. Ketan D. Desai Civil Surgeon/

staff Surgeon/Authorised Medical Attendant,

Registered Medical Practitioner do hereby certify

that we/I have carefully examined .

Shri M. Rajendran whose

signature is given above, and find that he has

recovered from his illness and is now fit to re-

sume duties in Government service. I also certify

that before arriving at this decision. I have

examined medical certificate and ~~add~~ statement of the

of the case (or certified the original/copies thereof)

on which ~~leave~~ leave was granted or extended and have

taken these into consideration arriving at my

decision. fit for duty from 27.6.92 light duty

avail tour for two months ~~eff~~ & effect from today.

Member of the Medical Board

1. Dr. K.D. Desai

2.

3.

Civil Surgeon/Staff Surgeon/

Authorised Medical Attendant/

Registered Medical Practitioner

Dated 25/7/92

(Regn. No.)

TRUE COPY
(Affiliate)

33

Annexure A/10

Ahmedabad
28.7.92

To
The Senior Dy. Accountant General (A)
O/o the Accountant General, Audit I Ah'd

Ref: Your letter No. ESST (A) (GO/2(226)
1496 dt. 24.7.92

Sir,

Kindly furnish me a copy of the rules and existing instructions on the subject on or before 7.8.92. If I fail to get the same, I am free to proceed as such.

In the concluding para, you have threatened me with certain action. This does not suit the dignity of the post you hold and clearly indicates a idea to impose some penalty on me.

What the doctor has stated is that considering the nature of treatment undergone, no tour should be undertaken. You misunderstood as "a change of place of duty".

The medical opinion for second time as per proforma is enclosed. This has been conveyed by the Supdt

The letter written to me was shown to the Doctor and he has taken a copy of the same.

Thanking you,

Yours faithfully,

Encl. Medical Certificate

M. Rajendran
A.O.

TRUE COPY
(Advocate)

34
Annexure- A/11

No. Estt(A)/GO/2(226)/1649

Office of the
Accountant General (Audit)-I,
Gujarat,
Ahmedabad - 380 001.

Dated : 7-8-1992

This has reference to Shri M. Rajendran's letter of 28-7-1992. It has been observed that Shri Rajendran has not appeared before the Civil Surgeon, Ahmedabad, despite repeated directives to him to do so in this office Memos Dtd. 9-7-'92, 13-7-'92, 17-7-'92 and 23-7-'92.

In this office letter of 23-7-'92, it was clarified to Shri Rajendran the grounds under which he was asked to appear before the Civil Surgeon for second medical opinion regarding his request for change of place of duty (i.e. to avoid touring duty) on health grounds.

It is seen from his reply of 28-7-1992 that Shri Rajendran has not mentioned any reasons as to why he did not appear before the Civil Surgeon, as asked repeatedly in our aforesaid office Memos and instead produced a certificate from another medical authority to whom no reference was made by this office in this regard.

Shri Rajendran was also informed vide Memo of 23-7-'92 that unless he appeared before the Civil Surgeon his request for change of place of duty would not be considered.

Since he has not appeared before the Civil Surgeon as directed by this office, his request for change of place of duty on health ground is hereby rejected. He is directed to join his duties in OAD field as asked for in this office order Dtd. 25-5-1992.

Decision about the treatment of the period since his joining will be communicated separately.

SR. DY. ACCOUNTANT GENERAL(A)

Shri M. Rajendran,
Audit Officer.

TRUE COPY.
(Advocate)

Ahmedabad
10-8-92

To
The Sr. Deputy Accountant General (Admn)
Office of the Accountant General
(Audit) I, Ahmedabad.

Ref : Your letter No. Estt(A)/GO/2(226)/1649
dated 7-8-92.

Sir,

With reference to your letter, I am to inform you that there is no post of Civil Surgeon. and the same has been abolished long back. You are directing me to contract a Doctor for which no post exists.

However at your request, though the original medical certificate was given by a member Medical Board- who is higher than the post of non-existent Civil Surgeon - I obtained second medical opinion from Member, Medical Board and counter signed duty by Supdt. Medical. This post is what was originally Civil Surgeon's post.

If you would not issue a posting order despite a lapse of 39 days, it is not my fault and you have to treat it as duty. Your ignorance of rules, non existing posts etc. should not be a reason to harass me and you took two weeks to give me a reply instead of issuing posting order.

If I have to go on tour despite Doctor's advice and if anything happens to my life you will be responsible for the same.

You are once again requested to issue a posting order at Headquarters.

Yours faithfully,

(M. RAJENDRAN)
Audit Officer.

TRUE COPY.

(Advocate)

No. Estt.(A)/GO/2(226)1136

19/8/92

Confidential

Office of the
Accountant General (Audit)I
Gujarat, Ahmedabad 380 001.

MEMO

19th August 1992.

Ref : His letter dated 12-8-1992 and letter dated NIL
received in this office on 14-8-1992 in response to
Memo dated 11-8-1992.

It is seen that Shri M. Rajendran, Audit Officer, has not reported to the appropriate authority as per this office order No.Admn.Au/85 dated 25.5.1992 for duty even after his requested was rejected vide this office Memo No.Estt(A)/GO/2(226)/1649 dated 8-8-1992 and thus wilfully violating the orders of the Competent Authority regarding his posting. He is once again directed to report for duty as per the said posting order dated 25-5-1992 to the appropriate authority. On his joining to OAD Civil as per the posting order dated 25-5-1992, representation for posting in Ahmedabad mya be made to his controlling officer, for his consideration.

2. Separate communication will follow regarding the treatment of the period since he was directed to appear before the Civil Surgeon in connection with the request for change of place of duty, till date.

(R.N. Ghosh)
Sr. Dy. Accountant General (Admn).

To:

Shri M. Rajendran
Audit Officer.

TRUE COPY.

(Associate)

37

Annexure- A/14

ZCZC GAMMA0848 PPP GAMAMA
X 1800 CAS RAJKOT 28 STE 34

SHRI M. RAJENDRAN
AUDIT OFFICER
CAE A G (AUDIT) I
LAL DARWAJA
AHMEDABAD.

SUPERVISE OAD PARTY EIGHTEEN AT COMMANDANT S R P F
GROUP III GONDAL DIST
RAJKOT FROM THIRTIETH MAY

AUDIT
COL CAS

TRUE COPY
(Advocate)

Dt. 14-8-92

To
The Sr.Dy. Accountant General(Au.)
Office of the Accountant General(Au.I)
Ahmedabad.

Sir,

In acknowledging the receipt of your kind letter of 11th August 92 communicating the remarks of the A.G. in regard to certain acts and my posting to Headquarter etc., I wish to place before you my clarifications and request as now I feel that certain avoidable misconception and prejudices appears to have crept in which I did not even think of.

At the outset, I submit that in order to place before A.G. my genuine grievances about posting me at least in the Income Tax Wing where I can avoid touring duties to a large extent in view of the medical advice to me against tour duties for the present on account of my belath conditions. I did meet A.G. ensuring by tapping the door before entry that no person was present - my intention was simply to acquaint A.G. as Chief Welfare Officer with my psotion of health and request for sympathetic consideration. I did not mean any disrespect to any authority or transfection of any official decorum. If there is any feeling that I have hurt A.G. I am very sorry for the same.

Orders placing me at the disposal of A.G. II for posting to O.A.D. was issued initially. Unfortunately I fell ill and had to go on medical leave. Since I was within the area of C.G.H.S. under the rules, medical certificate as well as fitness certificate are to be issued by Medical Officer, CGHS but during the time I fell ill, I was directed by them to go to Civil Hospital for treatment as the CGHS staff was on strike. Under medical advise I had to take leave for a month. As per the usual practice in Govt. Civil Hospital, the fitness certificate was issued by the Specialist Doctor in Urology Department who treated me in the usual from wherein the Doctor had clearly opined not to have tour duties. At the time of joining duties, the Admn. insisted for another certificate of fitness in prescribed form which was also furnished after due examination on 25.7.92 and further countersigned by Superintendent of Civil Hospital as there is no post of Civil surgeon. The hospital has issued certificate of fitness by the duly authorised authority which the office can very well enquire and confirm. Thus since the issue of the 1st posting order, the events as stated above have taken place. There is already a medical advise to me not to undertake the tour duties which is likely to cause deterioration in my health condition and this fact has been noted as medical opinion by competent medical authority for taking administrative cognisance in posting and such medical opinions are not prohibited under the rules. This is the usual practice followed in any hospital which can be goy

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: 2 :

can be got confirmed, if felt necessary.
I again bring to your kind notice that my family is very anxious about my health condition and nothing contrary to medical opinion may be done which may cause irreparable loss to my family.

In the circumstances stated above, I requested that the leave applied for already may kindly be granted and in view of my health condition as already opined by the Competent medical authority in the fitness certificate, I may kindly be considered for posting to any Headquarters post and fresh orders issued since I have joined after leave under A.G.I. for the kind act of which I shall ever be grateful.

Awaiting for posting orders,

Yours faithfully,

TRUE COPY,

(M. Rajendran)

(Advocate)

No. Estt(Au)/GO/1738

Office of the Accountant
General (Audit)-I,
Gujarat,
Ahmedabad-380 001.27th August 1992

Shri M. Rajendran, Audit Officer, returned from leave on 29-6-1992 with a request for posting in Hqurs. in place of OAD Civil. on medical grounds. As per relevant Government instructions, he was directed to appear before the Civil Surgeon for a medical opinion regarding his request for change of place of duty. vide memo. No. Estt(A)/GO/2(226)/829/Tr.1238 Dtd. 9-7-'92. Shri Rajendran did not act accordingly and approached this office on 9-7-1992 that his existing Fitness Certificate should be accepted. He was again directed on 13-7-1992 to appear before the Civil Surgeon. Shri Rajendran did not carry out this order on the ground that the Directions were not as per Government of India orders. In reply, the Administration clarified the position regarding the action to be taken by the Administration in the case of a request for change of posting on medical grounds. In view of these clarifications, he was once again directed to appear before the Civil Surgeon. Shri Rajenrran did not carry our this order and replied inter alia on 20-7-1992 that the Administration is confused in this matter and it has no clear understanding of relevant rules.

Shri Rajendran was intimated on 23-7-1992 by the Administration that since he has not reported to the Civil Surgeon as directed by this office, the period since the expiry of his medical leave will be liable to be treated as unauthorised and wilful absence, and again directed him to report before the Civil Surgeon. Shri Rajendran reported back on 28-7-1992 with a certificate from the doctor who had originally issued his medical certificate recommending change of place of duty etc. with a countersignature of the Superintendent of the General Hospital, Sola. Since he did not appear before the Civil Surgeon and he had not initiated the reasons for that, his request for change of place of duty on health ground was rejected on 7-8-1992 and he was further directed that he should report for duty as per the posting order dated 25-5-1992. Shri Rajendran in his reply on 10.8.1992 did not carry out this order and instead re-requested for issue of a posting order to keep him at Hqurs. He met the A.G. on 11-8-1992 in this connection he was told that the orders of 25-5-1992 posting him to OAD civil have not been cancelled and he has to carry out that order, as communicated to him vide Memo No. Estt(A)/GO/2(226)/36 dated 11-8-1992. He did not carry out this order and represented on 14-8-1992 that apart from his health grounds, his family circumstances did not permit him to leave Ahmedabad and requested for a posting in the ITRA wing. He has further informed inter alia in his letter of 14-8-1992 that he could not go to the Civil Surgeon as the post has been abolished. Through Administration's Memo No. Estt(A)/GO/2(226)/1135 dated 19.8-1992, he has been advised that he should represent for his posting at Ahmedabad on his joining OAD Civil as per order Dtd. 25-5-1992.

Contd....2....

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It is thus seen that till 14-8-1992 he did not inform the Administration the reasons for his not going to the Civil Surgeon so that he could be redirected to another authority for proper consideration of his request for change of place of duty. By his act of going to the same doctor on his own accord for second medical opinion he has rendered the purpose of second opinion useless.

In view of these circumstances, the period of Shri Rajendran's absence from duty from 29-6-1992 till date is treated as unauthorised, under proviso to FR 17(1). Shri Rajendran is directed to show cause as to why this period should not be treated as "unauthorised" under proviso to FR 17(1) with attendant consequences.

SR. DY. ACCOUNTANT GENERAL (A)

Shri M. Rajendran,
Audit Officer.

TRUE COPY

(Advocate)

Ahmedabad
dated 27th August 1992.

To
The Senior Deputy Accountant General(A).
Office of the Accountant General(Audit) I,
Ahmedabad.

Ref : - Your letter No. Estt(Au)/GO/1738
dated 27th August 1992.

Sir,

Kindly refer to your letter referred to
above.

I have originally produced Medical fitness certificate from the Civil Hospital Doctor, who issues such certificates after ~~xxxxxxxxxxxx~~ verifying the case papers and as per instruction given by the doctor who treated me on the caase paper.

Since you refuse to accept the same I obtained the certificate in the pprescribed ~~from~~ form from the doctor under whose treatment I was. Besides he is a member of the Medical Board and holds a higher post than the Civil Surgeon, to whom you wanted me to contact. Normally in all cases when a second medical opinkon is obtained a copy of the letter addressed to the doctor (Civil ~~Surgeon a copy of the letter addressed to~~ Surgeon as you have done) is given to the individual with which he approaches the doctor. You have not done this in my case and as such I cannot approach any doctor at my own accord. It is also not my duty to inform the Administration whether such and such post (Civil Surgeon) in this case exists or not. Before addressing such letters administration should be aware of the same. For the fault of the administration, I cannot be penalised.

However, I once again got the medical certificate issued by Member, Medical Board duly counter-signed by a Medical Superintendent who holds a lower post due to persistant request of administration. You cannot say I have not gone to another doctor, since he is the specialist on Urology and I was under his treatment. Further I am to state that even an officer procees on leave without a substitute and reports to controlling authority after leave a fresh posting order is issued asking him to report back.

As you are my administrative authority, no such order was issued as per the practice in existance since long back.

I am surprised to note such a siggular treatment in my case.

Further, FR 17(i) Provise deals with the tenure post and not permanent post and I hold a permanent post.

Because the administration could not accept the medical certificate given by a Member Medical Board and also duly countersigned by the Supdt. Medical, I am not at all fault, which you ~~xyour~~ self has admitted in para 4 of your letter. Further FR 17(i) and Proviso

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: 2 :

is not applicable to me. Even today i.e. after a lapse of 4 days, I am yet to get the advance for undertaking tour.

I therefore once again request you to sanction Tour advance as I am under the administrative control of A.G. I, a fresh order may be issued as per existing procedure.

Further I am to state that I have been recruited in 12/58 and promoted as Audit Officer, in 7/79 as per CSAG's order, any authority lower than that cannot take and disciplinary action against me as at that time there is no delegation of Powers, and Subsequent to this date if any issued cannot be applicable to me.

The period from 29/6/92 till date is to be treated as duty only under all circumstances and also legally. I therefore once again request you to reconsider the same.

Thanking you,

Yours faithfully,

(M. Rajendran)

TRUE COPY

(Advocate)

Ahmedabad
3-9-92

To
The Senior Deputy Accountant General(A.)
Office of the Accountant General(Au.I)Ahmedbad.

Sub : - Relase of Tour Advance for Aug.& Sept,92.

Sir,

As per your letter received at my residence on 22-8-92. I have applied for tour advance on 24-8-92 itself and personally informed you about it I have also informed you that I cannot move without advance as my financial postition is as such. on 31st August 92 I reminded you again in writing to release my tour advance as per your letter under refernce ~~xxxxx~~. To my ~~chi~~ superise, I am to inform you till to day i.e. 3-9-92 I have not received any advance though I keep in touch with our cashier daily. In these circumstances, I seek your advice.

Secondly I came across your circular No.1 dt. 2-9-92, you have stated in para 3 that an option is given to official on tour to return to headquarters, if officers are unable to undertake tour without advance.

I am to inform you, my pay is spent mostly in fee to children's education and therefore unable to move out of Ahmedabad for want of finance.

As such I amy be kept at Headquarters.

Thanking you;

Yours faithfully,

(M. Rajendran)
Audit Officer.

TRUE COPY,
(Advocate)

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Annexure - A/19

No. Estt(A)/GO/2/226/C.W/297/23/9/92

By Regd. Post

OFFICE OF THE ACCOUNTANT GENERAL (AUDIT)
GUJARAT, AHMEDABAD-380 001.

M _ E _ M _ O

With reference to his reply dated 27-8-92 to this office Memo No. Estt(Au)GO/1738 27-8-92, I am to enclose herewith orders of A.G. for information & necessary action.

Senior Deputy Accountant General
(A)

Shri M. Rajendran,
Audit Officer,
Flat No. MIG-40/239
Pragtinagar, Narapura
Ahmedabad-13.

TRUE COPY

(Advocate)

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I have carefully considered Shri Rajendran's reply dated 27-8-92 of the show cause notice of the same date.

The notice asked him to show cause why the period from 29-6-92 to 27-8-92 should not be treated as unauthorised absence on the following grounds. L

1. He was asked to appear before the civil Surgeon for medical opinion on his request for change of duty on medical opinion. But he did not carry out this order, inspite of all clarifications given to him from time to time.
2. On 23-7-92 he was intimated that since he has not reported to the Civil Surgeon the period since his joining will be treated as unauthorised absence. He was also again directed to appear before the Civil Surgeon.
3. On 28-7-92 Shri Rajendran presented a certificate from the same doctor, who earlier issued him a certificate for change of place of duty. He did not intimate why he could not go to the civil surgeon.
4. On 8-8-92 his request for posting in Headquarters was categorically rejected and he was advised that he should report to his place of duty as per the posting order of 25-5-92.
5. He did not carry out this order and represented on 14-8-92 that he should be posted to ITRA wing. He informed that he could not go to the Civil Surgeon as there is no post of Civil Surgeon.
6. On 19-8-92 it was reiterated that his posting order of 25-5-92 remains in force that he may represent about his difficulties only after reporting to OAD field. Till 27-8-92 he did not carry out this order.
7. By his refusal to go to the Civil Surgeon initially and then by not reporting to the Administration that he was unable to report to the Civil Surgeon he did not give the Administration an opportunity to direct him to some other doctor.

contd...2/-

WJ

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8. By going to the same doctor who earlier recommended change of place of duty on his own for the medical opinion he rendered the purpose of second medical opinion useless.

In reply to these charges Sri Rajendran replied the following.

Regarding points 1 and 2 Sri Rajendran has not given specific reply. Regarding points 3 and 7 he has mentioned that a copy of the letter addressed to the doctor (to whom the case is referred for second medical opinion) is given to the Govt. servant. Since this was not done he could not approach any doctor. He has also mentioned that it is not his duty to inform the Administration whether such and such post (i.e. the Civil Surgeon in this case) exists. It is a fault of the Administration.

He has also mentioned that he has not got the certificate issued by the Member Medical Board duly countersigned by the Medical Suptd., who holds a lower post due to persistent request of the Administration. He also argued that Administration cannot say that he has not gone to another doctor, as the doctor giving the certificate is a specialist in urology.

He has further contented that on return from leave, a fresh posting order was not issued asking him to report back.

Regarding points at r.5,6, Shri Rajendran has not furnished any information at all.

He has inter alia mentioned the following :-

- a) FR 17 (i) is not applicable to him as it deals with tenure post and not permanent post and he is holder of a permanent post.
- b) He was recruited in 12/58 and was promoted in 7/79 as an Audit Officer as per CAG's order and any authority lower than CAG cannot take disciplinary action as there is no delegation of power.

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On going through his reply I find the following :-

From 9.7.1992 when he was asked to appear before the Civil Surgeon for a medical opinion to examine his request for change of posting on medical grounds, till 23-7-92. Shri Rajendran did not carry out this order passed by the competent authority. In reply to the show cause notice Shri Rajendran has not furnished any explanation for his failure to report to the prescribed medical authority during this period. It is seen from records that during this period Shri Rajendran raised various queries, one after another, regarding the validity of the order. Though these were replied at regular intervals and he was also repeatedly, told to report to the civil surgeon he chose to ignore the directive of the Administration till he was told on 23-7-1992 that his absence will be treated as unauthorised.

I therefore consider that this spell i.e. 9-7-92 to 23-7-92 when Shri Rajendran did not report to the prescribed Medical authority for medical opinion without any valid reason should be treated as unauthorised absence under FR 17(1) and the proviso thereto.

I find that on 28.8.92 Shri Rajendran produced a Medical certificate, which however was not acceptable due to reasons stated in the show cause notice. Since he was presumably contacting doctor during this period I consider this period as duty. After this, Shri Rajendran was awaiting reply from Administration and therefore up to 7-8-92 when a final reply was issued to him should also be treated as duty.

However from 7-8-92 when he was issued a categorical reply covering all the points and was clearly told that he has to report to the prescribed officer as per the o.o. dtd. 25-5-92 he had no excuse to further procrastinate on this matter. In the show cause notice he has not furnished any

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Valid explanation for his failure to report for duty to the prescribed authority after the memo dt- 7-8-92 was issued to him. His argument that a fresh posting order was not issued to him is without substance as the memo dt. 7-8-92 clearly stated that he was to carryout the posting order dtd.25-5-92. Regarding his arguments that he is not at fault for going to the same doctor or for not reporting to the Administration regarding his inability to contact the prescribed medical authority(i.e. the Civil Surgeon) his reply is not acceptable. As a senior Govt.Officer and he was expected to behave rationally on such occassion and promptly report the matter to the Administration. Shri Rajedran reply to the charge that by going to the same doctor on his own volition he has not rendered the purpose of second medical opinion useless is not reasonable and convincing and is therefore rejected.

His argument of non applicability of FR 17(i) and provisio thereto in his case has no merit and is therefore rejected.

His argument that he was promoted in 7/79 under the order of C.A.G.is not correct. His appointment as Accounts officer under order No.Estt(A)/189 dt.10-7-79 was ordered by the Accountant General. To sum up the following period will be preated as unauthorised absence under FR 17(i) and the proviso thereto with attendant consequences. :-

i) 9-7-92 to 23-7-92

2) 8-8-92 to 27-8-92

TRUE COPY

(Advocate)

sd/-

14-9-92
A.G.

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Annexure- A/20

From: M. Rajendran,
Audit Officer,
A.G. Gujarat I,
Ahmedabad.

TO : The Accountant General
(Audit) I
Gujarat,
Ahmedabad.

Date : 13.10.1992

Sub : Regularisation of periods from
9/7/92 to 23/7/92 and from
8/8/92 to 27/8/92.

Ref : A.G.'s Order dated 14/9/1992
communicated by Sr.D.A.G. under his
Memo No.Estt(A)/GO/2/226/PW/297,
dt. 23.9.1992.

Sir,

I am in due receipt of the above communication -
The decision of the A.G. to treat the periods from 9.7.92 to 23.7.92 and from 8.8.82 to 27.8.92 as unauthorised one with consequents has come to me as a solt from the blue. It seems to me that the decision has been arbitrary, subjective and irrational The punishment, it appears to me has been inflicted without due consideration on account of a medical opinion for which I am not responsible going beyond the concept of the rules and instructions of Government of India. It would be proper for me new to bring out the sequences of events to appreciate the case as a whole and request the Accountant General to reconsider his decision in the light of what has been stated therein by me.

After the expiry of the leave on Medical grounds, I reported to duty on 29.6.1992 producing the fintess certificate from the competent Medical Authority of the State Governemtn Civil Hospital in the form prescribed by State Government for the fitness certificate to be issued by them. However, I was asked to furnish the said certificate in prescribed form under G.C.S. Leave Rules (Form 5). Normally no medical authority would issue a fitness certificate second time but after much pleading with the medical authority who treated me, reluctantly agreed to give in Form 5 which I submitted on 1.7.92 as desired by Accountant General. On 13.7.92 (vide Estt A/GO/2(226)/254, dated 13.7.92 I was asked to appear before Civil Surgeon, Civil

Hospital for Medical opinion. However by letter Adm(AW) GO/PC/TRNo./378, dated 17.7.92 I was also informed to quote "a certifying officer is not at liberty to certify whether a change from our to a particular locality". Such a certificate should only be given at the explicit desire of the Administrative authority concerned who is also competent to decide as to which Medical authority the Government Servant should appear before deciding the matter. This office had not made any request to the Medical Authorities for such advice. However, since he has requested the Administration for change of place of duty (ie avoidance of tour), he has now been requested to appear before the Civil Surgeon, Ahmedabad, who is competent Medical Authority" Further in the letter dated 24.7.92, I have been informed that as per existing instructions a certificate for change of place of duties on medical grounds is to be given at the explicit desire of the administrative authority." The certificate of fitness has no scope for such a certification by the Officer issuing fitness certificate. It was also informed that "since he has not reported to the Civil Surgeon the period since his joining after medical leave is liable to be treated as unauthorised and willfull absents from duty."

I was also informed that unless I appear before Civil Surgeon Ahmedabad for Medical opinion, regarding his request for change of place of duty on health grounds, will not be considered.

I would like to respectfully submitted that these observations are neither facture nor can be carried out as per rules. Under C.C.S. (Leave) Rules 1972-1973, the discretion vested on the authority competent to grant leave to secure a second medical opinion in only in respect of Medical Certificate to grant leave and second medical opinion in regard to fitness certificate/remarks of Medical Authority is not contemplated. The Fitness certificate furnished is from the Medical Authority prescribed under rule 24(3)(c) of C.C.S.(Leave) Rules and may not be questioned. As regards the observations of the medical authority on the medical fitness certificate, I have neither control over it nor responsibility for it. Rules do not prohibit such

- 3 -

remarks, in fitness certificate. In this connection, Accountant General's kind attention is drawn to note below Rule 24 "A Government servant who had been suffering from Tuberculosis may be allowed to resume duty on the basis of fitness certificate which recommends light work for him". This note would clearly indicate and the implicitly recognised that medical authority can recommend light work avoidance of tour etc. taking into consideration, the health status of the treated person. I submit that normally Administrative authority follows the recommendations of the medical authority in regard to grant of leave on medical grounds and also accommodate the recommendations of the medical expert in regard to posting for a temporary period, as this involves human elements to be taken into consideration. As every human being would like to preserve his health and life in the nature of existence, I was also anxious about my health as the medical authority concerned informally advised me to avoid tour atleast for two months and hence at one stage of other I request Accountant General to help me in avoiding deterioration of my health. I do not think that in this respect I have committed any thing wrong.

Further I submit that as xxxxxxx directed by the administration to appear before Civil Surgeon, I went to the Civil Hospital, Ahmedabad and contacted the Medical authority who had treated me as directed by the R.M.O. Civil Hospital. I was informed by the Hospital authorities that the post of Civil Surgeon has been abolished and all powers of that post have been transferred and vested with the Medical Superintendent General Hospital, Sola. Since the certificate as per the Hospital regulations, as I understand, is to be issued by the Medical Officer who treated me, with great difficulty, I could obtain the fitness certificate, third time in which also the doctor recommended as in the earlier one after seeing my health status. Since there is no post of Civil Surgeon and Medical Superintendent was having the powers of Civil Surgeon as stated above, Medical Supdt. countersigned the certificate in confirmation of the fitness certificate along with Medical recommendation. In the circumstances, I hope that there is no room either to suspect the authority of fitness certificate ~~was~~ with recommendation for questioning the integrity of the

authority concerned. In this connection. I would also submit, if at all the second medical ~~certificate was~~ opinion was considered necessarily by leave sanctioning authority at his discretion (for which there is no provisions in the rules), then the procedure as contemplated under sub rule 3 of rule 19 of C.C.S. (Leave) Rules was required to be followed. According to sub rule 3, it is for the medical officer to require the Government servant to appear before himself or before a medical officer nominated by himself. I cannot approach any medical authority by a mere direction from the administration. The medical authority will not also entertain any voluntary submission to medical check-up without a clear letter to me addressed to the medical authority concerned by the administration mentioning clearly the requirement. This myself appearing before 3 non existing authority to satisfying the discretionary needs of the administrative authority would not arise. I submit therefore, that in not appearing before Civil Surgeon as directed by the office is not an act which is tantamount to misconduct for taking disciplinary action. In this respect I submit that Accountant General has erred in his judgement and therefore requires reconsideration.

I submit that another point for ~~xxxxxxxxxx~~ reconsideration is whether there was willful absence from duty. In my representation dated 14.8.92, I have clearly brought to A.G.'s kind notice the circumstances under which I fell ill, the opinion of the medical authority for consideration and request for posting at Headquarters for a temporary period in view of my health. The points mentioned there have been conveniently ignored by the administration without going into circumstances why I cannot directly present myself without following the correct prescribed procedure for medical examination and whether such an authority as Civil Surgeon is in existence or not. I have joined duty on 29.6.92 and I was attending office awaiting posting orders. As per C.C.S. (Leave Rules 24 (4) (a) and (b) I have to report to the leave sanctioning authority and await for orders. The original order issued normally lapses when the event of leave takes place and fresh orders taking the recent events into consideration will have to be issued. Since this was not

- 5 -

done as required under rule and my representation was pending final disposal I had per force to attend the HQ office only which I did. I still content that the posting order dated 25.5.92 cannot be operative unless fresh posting orders are issued in normal form. Thus there was no act of willful violation of orders regarding posting or willful absence from duty as alleged in administrative Memo dated 19.8.92. Accountant General had kindly indicated in various Memos that my representation would be considered provided the medical opinion is confirmed by Civil Surgeon by my appearance before him. When the procedure followed in directing me to appear before Civil Surgeon is not in conformity with normal procedure or rules and that too before a non-existing authority, it is not correct to conclude that I have disregarded the direction or removed willfully absent. Regarding the remarks in the certificate on which I have no control if the administration had felt something wrong, they should have taken up with the medical authority concerned and also could have arranged medical opinion from any other medical authority as they deemed fit (even though rules do not contemplate such a situation involve second medical opinion for issue of medical certificate) for which I was prepared. The reason for not following the proper procedure, especially in case, is best known to administration.

To sum up, I submit below my brief contentions, on the points raised in the annexed sheet containing orders of Accountant General as communicated in Memo No. Estt(A)/GO/2/226/OW/297, dated 23.9.92. From 9.7.92 to 23.7.92 and from 8.8.92 to 27.8.92 I was present in the Headquarters office and there was no question for unauthorised absence as contemplated in F.R. 17(i). I have given on 29.6.92 the fitness certificate from Civil Hospital first in the form prescribed by State Government duly signed by the Resident Medical Officer with competent medical authorities, medical recommendation to avoid tour. When I was asked to furnish the fitness certificate in the prescribed form 5 the same was submitted by me duly signed by the Medical officer of the Civil Hospital as directed by the Resident Medical Officer, Civil Hospital. When I was asked to submit fresh fitness certificate from the

civil surgeon again, I had to go to the Medical Specialist of the Civil Hospital to obtain the same and since the Civil Surgeon's post is not in existence, I had to get the fitness certificate countersigned by the Medical Supdt., of Govt. Hospital Sola, to whom the powers of Civil Surgeon was stated to have been vested. As already stated earlier the discretionary powers vested under C.C.S(Leave) Rules to have second medical opinion. In the leave sanctioning authority is only for Medical Certificate for grant leave and no administrative authority has any discretionary powers to direct a Government servant returning from leave with fitness certificate contained medical authorities. because the said certificate contained medical authorities recommendation on which I have no control. If at all administrative authority had any doubt or any clarification to be sought it is upto the office to take up with the authority concerned. Even if a 2nd opinion is needed by office, the procedure followed is not correct. Under the rules, on the requisition by the administrative authority concerned to the concerned medical authority, it is upto that medical authority to direct the Government servant to appear before a designated Medical authority. Thus I am in no way responsible to follow irregular procedures and requirements not contemplated in the rules. Further I am the victim of disease and sufferer and as any human being, I am anxious about my health and therefore I have to follow the medical advice. Therefore, I had requested posting without tour which was pending to be cleared with the Accountant General, The stand taken up by the Accountant General, that since I did not obtain confirmation from the Civil Surgeon's which I am not required to do under the rules as regards medical opinion my request was turned down. What is factual position may have to be ascertained by administration from Medical authority and required action taken instead of directing me to Civil Surgeon which post is non existing.

The Fitness Certificate furnished by me is in accordance with the provisions of C.C.S(Leave) Rules as already stated and there is no provision to reject the same on any ground. Expert medical opinion is generally observed in taking

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administrative decision involving status of health of Government servant as administrative authority is not to sit judgement on medical recommendation and any deviation in this respect would be violative of natural justice and equity.

As regards issue of fresh reposting order as already stated I submit that the earlier order issued stand lapsed as soon as Government servant goes on leave. On his return from leave the Government servant will have to await fresh orders vide C.C.S.(L) rules 24(4(a) & (b). I would continue to be under the control of Accountant General Audit, I Ahmedabad till fresh office orders are issued taking into consideration the expert medical opinion and changed circumstances. I had represented to the Accountant General to post me at Headquarters for temporarily period on the basis of Medical advice. I have no reason to believe that my plea based on medical opinion will be rejected without any reason as there is no provision in the rules for a Government servant affected to get the opinion confirmed by any other authority. Therefore during the period 9/7/92 to 23.7.92 and 8.8.92 to 27.8.92 I was waiting for fresh order repeatedly pleading for posting according to medical expert opinion while I am under the control of A.G. Audit I. There are no valid reasons adduced for rejecting a medical opinion. The penalties involve breaking service affecting pensionable service and pension, increment etc. has been ~~natural justice~~ inflicted without ~~natural justice~~. ~~I sincerely believe that~~ the due process of proper procedure violating natural justice. I sincerely believe that Accountant General's action is unjustified, irrational and done without application of mind on the basis of actual situation and inadvertantly in the process going beyond the parameters of rules.

I therefore pray that Accountant General may kindly reconsider his decision and rescind the order inflicting the punishment of treating certain period as unauthorised absence and for the act of which I shall be grateful.

Yours faithfully,

(M. Rajendra)
Audit Officer.

TRUE COPY
(Advocate)

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Annexure - A/21

By Registered Post

Camp : Ahmedabad

Date : 19-12-92

To
The Comptroller and Auditor
General of India
10. Bahadurshah Zafar Marg
New Delhi-110 002.

Sir,

I am enclosing a representation submitted to the Accountant General, Gujarat (Audit- I), Ahmedabad on 13-10-92 as per Ministry of Personnel P.G. and Pension Deptt. of Personnel & Training OM No. 35014/2/89 Est (A) dtd. 10-10-90 for justice, as I am the President of All India Association of Indian Audit and Accounts Officers Association.

I very much regret to inform you, that Accountant General, has not taken any action so far and you may kindly direct him to release my salary unjustifiably withheld. For this act I and my family will be grateful to you.

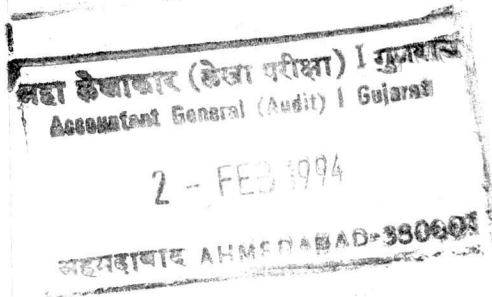
Your faithfully,

Encl : One.

M. Rajendran

Audit Officer and President of the
India Audit & Accounts Officers
Association
O/O The Accountant General(Audit)
M.S. Building, Lal Darwaja,
Ahmedabad-388001.

TRUE COPY
(Associate)



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(I)

DCF/11

BEFOR THE HON'BLE CENTRAL ADMINISTRATIVE TRIBUNAL
AHMEDABAD BENCH

ORIGINAL APPLICATION NO. 576 OF 1993

shri M. Rajendran

.. Applicant

v/s.

The Union of India & Ors.

.. Respondents

Written Reply on behalf of
the respondents

I, M.Y. Vajnapurkar working as
Dy. Accountant General (A) with respondent No. 3
herein, do hereby state in reply to the above appli-
cation as under:

1. That I have perused the relevant papers and files pertaining to the above matter and I am conversant with the facts of the case and I am authorised to file this reply on behalf of the respondents.
2. At the outset I say and submit that the application is misconceived, untenable and requires to be rejected.
3. At the outset I say and submit that no part of the application shall be deemed to have been

Reply/Response/Written Submission
Filed by Mr. Akil Kureshi
Advocate for petitioner/
Present with second set
of papers/Not served a copy side

Presented by
Mr. Akil Kureshi

Adv
24/2

24022

24-2-94
Registrar C.A.T. (I)
Ahmedabad Bench

admitted by the respondents unless specifically stated so herein. All the statements, averments and allegations contained in the application shall be deemed to have been denied by the respondents unless specifically admitted by me herein.

4. The applicant Shri M. Rajendran, Auditor Officer was posted in field duty vide office order No. Admn'Aud)/85 dated 25.5.1992. He was unwilling to carry out this order and represented that the order was vindictive and that he cannot be transferred as he is the President of the Group-B Officers' Association. As per Headquarters Office letter No. 668-N.4/89-91 dated 30.10.1982, only the General Secretary and any one of the members of the Executive Committee are to be exempted from the field duty. Accordingly his request was not considered. The applicant was posted to field duties strictly in accordance with the principles followed for posting of Audit Officers for field duties and he was not discriminated in any manner. In fact, since his promotion as Audit Officer on 10.7.1979 he was on field duty only during the period 17.12.1979 to 6.5.1981. Since then his orders of posting to OAD Civil field in May 1992, he was either in headquarters sections or on deputations upto 17.9.1989. From 18.9.1989, Shri Rajendran (applicant was posted as AO/CASS Loan with the charge of RAO/KPF and he visited Kandla Port for

only 33 days during the period 9/89 to 5/92. However, when his request for revocation of the posting order to the field duty was not accepted, he proceeded on medical leave from 26-5-92 to 26-6-92. On his return from leave, he brought a medical certificate from a doctor recommending light duty i.e. avoid touring duty for 2 months. As the Leave Rules do not provide for conditional fitness certificate or suo mottu recommendation for change of place of duty, Shri Rajendran was directed to appear before the Civil Surgeon for medical opinion on 9-7-1992. Shri Rajendran did not act accordingly and approached this office on 9-7-1992 that the existing fitness certificate should have been accepted. This was examined and he was directed on 12-7-1992 to appear before the Civil Surgeon. Shri Rajendran did not carry out this instruction on the ground that the direction was not based on Government of India orders. However the rules position was again clarified to Shri Rajendran but he did not carry out the instructions of the administration and replied on 20-7-1992 challenging the instructions. It was therefore clear that Shri Rajendran ^{at all} ~~was at~~ ^{was} ~~not~~ cost trying to avoid the orders of the administration and unnecessarily engaged himself and the administration in prolonged correspondence.

He was also not performing any duty during this period. Since Shri Rajendran was seen to be malingering, he was intimated on 23-7-1992 that the period since expiry of his medical leave will be treated as unauthorised and wilful absence and therefore again directed to report before the Civil Surgeon. Shri Rajendran reported back on 28-7-1992 with a certificate from the doctor who had earlier issued the medical certificate recommending change of place of duty, with the countersignature of the Medical Superintendent of the Central Hospital, Sola. His request for change of place of duty was rejected as Shri Rajendran did not intimate the reason as to why he could not appear before the Civil Surgeon. He was further directed to report for duty as per orders dated 25-5-1992. He intimated on 10-8-1992, requesting for issue of a posting order to keep him at headquarters. He met the AG on 11-8-1992 and Shri Rajendran was told that the orders of 25-5-1992 posting him to OAD Civil was not cancelled and he was to carry out that order. This was indicated to him in writing. Shri Rajendran did not carry out this order and represented on 14-8-1992 that apart from his health problem, his family circumstances did not permit him to leave Ahmedabad and requested for a posting in ITRA wing. He also informed that he could not go to the Civil Surgeon as the post has been abolished.

In view of his request, he was advised on 19-8-1992 that he should represent for posting at Ahmedabad only

after joining OAD Civil, as per the posting order dated 25-5-1992. Thus till 14-8-1992, he neither informed the Administration the reasons for not going to the Civil Surgeon nor did he carry out the orders of administration posting him to field duties.

Since his act was seen to be a deliberate attempt to avoid field duty and he was not performing his duties on various grounds, he was issued a notice under proviso to FR 17 (i) as to why the period of his absence from duty from 29-6-1992 will not be treated as unauthorised absence. His reply furnished on 27-8-1992 was carefully considered by the AG and the following periods were treated as unauthorised absence under FR 17(i) vide order dated 14-9-1993.

(a) 9-7-92 to 23-7-92 (b) 8-8-92 to 27-8-92

From a copy of the order of AG dated 14-9-1992 and from the history of the case as narrated above, it may be seen that Shri Rajendran was avoiding performance of his duties in the field as Audit Officer on various grounds. Initially he took the plea as President of AO's Association he cannot be put on field duty. Then he shifted his grounds and produced a medical certificate recommending light duty (to avoid touring duty). When it was pointed out that such recommendation can only come

on the basis of specific request from the leave sanctioning authority, he challenged this Government of India order. However, when he was ultimately told that the period of his not performing duty will be treated as unauthorised absence, he acted as per the orders of the administration. Even then when he found that the post of Civil Surgeon was abolished, he did not care to report the matter to the administration. He on his own went to the same doctor who recommended light duty earlier. This his intention was clearly malafide. He was given chance to explain why the period will not be treated as unauthorised absence under FR 17(i). But he failed to give any cogent reply to the charges. After due consideration of his reply, the competent authority took a decision under FR 17 (i) to treat ~~xxxx~~ certain periods as unauthorised absence from duty.

5. In reply Para 1 and 2 of the application, The paras are not related to the present prayer of the applicant Shri M.Rajendran. They are the subject matter of another application No.335/1993 filed in the Honourable Central Administrative Tribunal by him for which the Affidavit in reply has already been filed on 16/08/1993.

6. In reply to Para 3 of the application, These matters are on record.

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7. In reply to Para 4 of the application, Factually incorrect. In the first instance the medical fitness certificate furnished by Shri M.Rajendran was returned to him under letter No.Estt (A)/G.A/2(226)/1132 dated 03/07/1992 as it was not signed by the applicant himself in the space earmarked for it. His statement that the certificate was returned to him because it was not signed by the Civil Surgeon is therefore misleading. Since the certificate produced by Shri Rajendran was not signed and was incomplete it was returned as action can not be taken on an unsigned application.

No harassment was intended. The Government servant has mis-represented the facts. There was no arbitrariness or illegality in the official action.

8. In reply to Para 5 of the application, The contentions of the Government servant are misleading and wrong. The applicant was not required to sit in the office and or to sign the attendance register (Muster). During the period from 09/07/1992 to 23/07/1992 and 08/08/1992 to 27/08/1992 he persistently refused to carry out the orders of the administration to go to the field as per the posting order dated 25/05/1992 under which he was posted to field duty. He was clearly informed again and again that this order was to be carried out by him.

Therefore his claim of remaining present in the Head Quarters in disregard of these orders instead of in the field was tantamount to his being absent from field duty. His action in signing the muster was arbitrary as he had no authority to do so. In fact, in his order of 14/09/1992 the competent authority duly considered the period spent by Shri Rajendran in contacting the Civil Surgeon and time taken by Administration in replying to his letters as period on duty. For the remaining period applicant was deleberated violating the order of the competent authority to go to field duty and was therefore treated as unauthorised absent for such periods i.e. 09/07/1992 to 23/07/1992 and from 08/08/92 to 27/08/1992.

The allegation that Administration was behind the applicant and that he was not allowed to perform his duty are totally incorrect. As a matter of fact, the last medical certificate produced by him was not from the authority from which he was directed to obtain. It was from the same medical authority from whom he brought the earlier certificate and to whom no reference was made by this office in this regard. Thus the fitness certificate furnished by Shri.Rajendran was not as per the rules. As per rules Leave sanctioning authority has the right to obtain opinion of appropriate medical authority when a Government servant approached the authority for change of place of duty on health Grounds. In this case Shri Rajendran applied for posting in Head Quarters from field duty thus the leave sanctioning authority rightly asked

for a second medical opinion.

His contention that in his case since the member, Medical Board signed the certificate it was not necessary to obtain it from the Civil Surgeon in view of the provisions contained in 19(3) ^{of CCS (Leave) Rules, 1972} is without any basis. This rule is not applicable in his case. The Medical officer while signing the medical certificate did not sign the certificate in the capacity of a member of the Medical Board. Therefore the ~~present~~ averement made by the applicant is not accepted.

9. In reply to para 6 of the application, There was no harassment of the applicant by the Senior Deputy Accountant General (A) as alleged. Since the certificate as required was not brought by the Government servant, his request was not accepted.

No remarks regarding the contents of the Government servant's letter dated 10/08/1992. Except that the Government servant was not authorised to sign the muster. He did it on his own and therefore his claim of attending duty is totally baseless.

10. In reply to para 7 of the application, The contentions of the applicant in this para are misleading and not accepted. Shri M.Rajendran,

Audit Officer was posted to field duty under Officer Order No. Admn (AU)/85 dated 25/05/1992. Immediately thereafter, he sent an application dated 30/05/1992 requesting for Earned Leave for 04 days from 26/5/1992 to 29/5/1992 and Commuted leave in continuation from 30/05/1992 to 12/06/1992. This was duly sanctioned. He extended his leave upto 26/6/1992 and reported for duty on 29/06/1992 (FN) with a fitness certificate which was not in the prescribed form No.V applicable to Gazetted Officers. When this was pointed out he submitted the certificate in the prescribed form. On this basis he was sanctioned leave from 26/05/1992 to 26/06/1992 with suffix on 27/06/1992 and 28/06/1992.

However, as the fitness certificate recommended 'light duty (avoid tour)' it was found necessary to refer him to the Civil Surgeon, Civil Hospital, Ahmedabad to decide whether any change in the posting of Shri Rajendran is called for. Accordingly under letter No. Esst (A) OG.O/2(226)818 dated 9/7/1992 he was referred to another medical authority. But he did not carry out this order in spite of clarifications given to him from time to time. The Sr. Deputy Accountant General (A)'s letter dated 17/07/1993 mentioned to him inter alia, the following:

" He may please note that in terms of Note 2 below Form-3 leave Rules (Page 88 of Swamy's Compilation of FRs & BRs Part-III leave Rules),

a certifying officer is not at liberty to certify whether the Government Servant requires a change from or to a particular locality. Such a certificate should only be given at the explicit desire of the Administrative Authority concerned, who is also competent to decide as to which medical authority the Government Servant should appear before deciding the matter. This office had not made any request to the medical authorities for such an advice. However, since he has requested the Administration for change of place of duty (i.e. avoidance of tour), he has now been requested to appear before the Civil Surgeon, Ahmedabad who is the competent medical authority".

On 23/07/1992 he was intimated that since he has not carried out the orders the period since his reporting after leave will be treated as unauthorised absence. He was also again directed to appear before the Civil Surgeon. Shri Rajendran raised further irrelevant points in reply to this letter. However ultimately he produced a Medical certificate on 28/07/1992 from the same Medical Officer who has earlier issued him Medical Certificate when he reported for duty after expiry of leave on 28/06/1992.

This was duly examined and was not found as per rules. Therefore his request for posting in Head quarters was categorically rejected

and he was advised to report to place of his duty the vide letter of 27th August 1993.

He did not carry out the order and represented on 14/08/1992 that he should be posted to field duty in another wing i.e. Income Tax Revenue Audit. He informed that he could not go to the Civil Surgeon as there is no post of Civil Surgeon. This was duly considered and on 19/08/1992 it was reiterated that his posting order of 25/05/1992 remains in force that he may represent about his difficulties only after reporting to OAD field. Till 29/08/1992 he did not carry out this orders.

It will thus be seen that by his refusal to go to the Civil Surgeon initially and then by not reporting to the Administration about the abolition of post of Civil Surgeon he do not give the Administration an opportunity to direct him to the proper authority.

As brought out in Para 05, he was not permitted to attend the office or sign the muster as claimed by him. According to posting order dated 25/05/1992 he was to go to field and therefore his presence in the Head quarters was tantamount to his absence from field duty.

His contention that a fresh posting was necessary in his case is also not acceptable as he did not bring any clear medical certificate. Neither did Shri Rajendran appear before the appropriate medical authority as directed by the leave sanctioning authority under the rules.

(64)

it is denied

11. In reply Para 8 of the application, [~~we deny~~] that the applicant was present in his duty during the periods ~~from~~ 09/07/1992 to 23/07/1992 and 08/08/1992 to 27/08/1992. He utterly disregarded the orders of the competent authority and did not report to field duty and at his own volition went on signing the Muster in violation of office order.

Considering his persistent refusal to carry out official order and absence from duty at the appropriate place, he was issued a Show-cause notice under FR 17(1). The Government servant is mis representing the facts and circumstances of the case by stating that he was not given any posting order after he joined from leave. He was repeatedly instructed to appear before the appropriate authority to enable the office to decide on his request in change of place of duty from field to Head Quarters. He initially refused to carry out this order and later on when he found that the post of Civil Surgeon was abolished, went to a doctor of his choice, instead of seeking further direction from the office. Ultimately when he submitted the fitness certificate, it was not considered acceptable. It was reiterated on 25/07/1992 that he should report to field as per earlier order.

12. In reply para 9 of the application, The para is repetition of what is submitted in Paras

04 to 08 and therefore no comments are offered.

13. In reply Para 10 of the application, It is evident from the facts of the case submitted in paras 04 to 09 that Shri Rajendran did not carry out the orders of Administration despite repeated ^{directions} ~~warnings~~ and did not report to field duty according to orders dated 25/05/1992. Since his act was seen to be a deliberate attempt to avoid field duty and ~~[he was not performing his duties on various grounds]~~ he was performing his duties on various grounds he was issued a notice under provision to FR 17 (1) as to why the period of his absence from duty from 29/06/1992 ^{Should} ~~[will]~~ not be treated as unauthorised absence. His reply furnished on 27/08/1992 was carefully considered by the Accountant General. After considering all the facts of the case and the period spent by Shri Rajendran in contacting the Civil Surgeon and time taken by Administration in having only such periods when he was violating the order of the competent authority to go on field duty the two spells viz. (i) 09/07/1992 to 23/07/1992 and (ii) 08/08/1992 to 27/08/1992 were treated as unauthorised absence under FR 17 (1) under orders of Accountant General dated 14/09/1992. Shri Rajendran represented under his letter dated 13/10/1992 against the order dated 14/09/1993 of the competent authority. This was forwarded to next higher authority viz. Deputy Comptroller & Auditor General New Delhi for his decision. The aforesaid authority

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rejected the representation vide his orders dated 29/10/1993. Shri Rajendran was conveyed these orders under letter No.Admn (Au) G.O/2(226)/1935 dated 13/12/1993.

His case of treating the unauthorised absence for the purpose of pension etc.was also considered by the competent authority. Accordingly, it has been decided that the following period of unauthorised absence (09/07/1992 to 23/07/1992 and 08/08/1992 to 27/08/1992) will not constitute break in service or interruption in service for the purpose of pensionary benefits. These orders have been communicated to Shri Rajendran under Admn (Au)/G.O/226/1946 dated 14/12/1993.

Thereafter he represented under his letter dated 19/12/1993 for grant of Earned leave for the periods treated as unauthorised. This has been considered by the Accountant General and he said periods i.e. (i) 09/07/1992 to 23/07/1992 and (ii) 08/08/1992 to 27/08/1992 have been regularised by grant of Earned leave. This has been communicated to him under letter No.Admn (Au)/ 2(226)/2068 dated 2./12/1993.

Thus it may be seen that at every stage action was taken strictly as per rules. The Government Servant was given due and adequate opportunity to present his case. The representations

was duly considered and action was taken accordingly. There is no harassment or mala fide performance of duty in this case.

14. In reply Para 11 and 12 of the application, The contention that the unauthorised absence ordered under FR 17 (1) is a major penalty is totally wrong. Action under FR 17 (1) are distinct and not included in the list of penalty for which separate set of Rules (OCCS/CCS/ Rules 1965) are to be followed. There is no provision of holding any inquiry in this case. The action under FR 17 (1) was taken

correctly and also strictly as per rules. The applicant was afforded an opportunity to show cause and action under FR 17(1) was taken only after considering his reply to the show cause notice.

In view of this grievance, if any does not exist and the prayer of the applicant falls.

15. In reply Para 13 of the application, There is no penalty involved in this case. Circumstances leading to action under FR 17 (1) has been narrated in details in earlier paras.

16. In reply Para 14 of the application, The absence from duty for the periods i) 09/07/1992 to 23/07/1992 and ii) 08/08/1992 to 27/08/1992 treated as unauthorised in respect of the applicant will not put any infirmities as regards to his

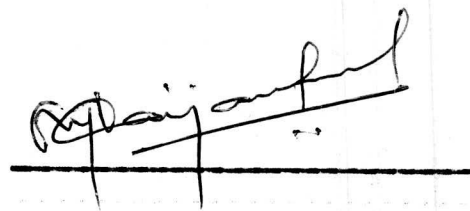
pensionary benefits leave Travel concession etc., Even it will not affect his future increments since he has already reached maximum of his pay scale including stagnation increment from 01/04/1992. He presently draws Rs.3600/- in the scale of Rs.2375-75-EB-100-3500. His two spells of unauthorised absence viz. i) 9/7/92 to 23/7/92 and ii) 08/08/1992 to 27/08/1992 have since been regularised by Grant of Earned Leave under the Accountant General's orders dated 21/12/1992 conveyed him under Admn (Au)/ 2(226)/ 2068 dated 24/12/1993.

Thus no interim relief is necessary and the application is required to be withdrawn by the applicant.

17. In view of what has been stated above, I say and submit that the application is totally misconceived, untenable and requires to be rejected. I further say that the applicant is not entitled to any relief, either interim or final and this Hon'ble Tribunal be pleased to reject the application forthwith with costs.

Ahmedabad,

Dt. 21-2-1994.

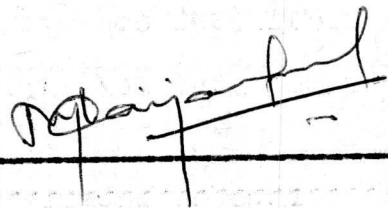


: VERIFICATION :

I, M.Y. Varjnapurkar
working as Dy. Acct. General (A) with respondent
No. 3 herein, do hereby verify and state that what
is stated above is true to my knowledge, information
and belief and I believe the same to be true. I have
not suppressed any material facts.

Anmeabad,

Dt. 21-2-1994.



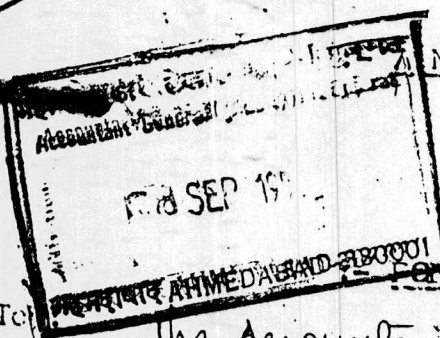
R 3 17
25/6/98

JIA

Revised

64/4

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ANNEXURE - I - :

As referred to in Para 4 of O.M.
No.45/86/97-P&PW(A) + Part-IV
dt.8th May-1998.

Form of APPLICATION :-

To: The Accountant General (Audit) Gujarat
Adm Section (Pension Cell)
Office of A.G. Audit
Multistoried Building, Laldarwaja, Ahmedabad
(PENSION SANCTIONING AUTHORITY) i.e. Head of Deptt./
Office.

Sub :- Revision of family pension in terms of Department of
Pension and Pensioners Welfare Office Memorandum No.45/
86/97-P&PW(A)-Part-IV dt.8th May-1998.

Sir,

Kindly revise my family pension entitlement shown in my
PPO(Phote copy enclosed) in terms of the Department of Pension
and Pensioners Welfare Office Memorandum No.45/86/97-P&PW(A)-
Part-IV dt.the 8th May-1998.The requisite particulars are given
below.

Name of the Applicant in Block letters and full Postal Address. Mrs. CHINNAMA RATENDRAN
B-32 SOMESHWARA ROAD HOUSE-II
Nr. BIDIWALA PARK, SATELITE ROAD
JODHPUR, AHMEDABAD -380015

Name of the deceased Govt.servant/pensioner. M. RATENDRAN

3. Date of retirement/death of the Govt. employee. 30th APRIL-1994 / 11th APRIL-1998

4. Date from which family pension is being drawn. 12th APRIL-1998

5. Pension payment order (PPO) No. 637359400096

6. Office/Department/Minis-try in which the pensioner/Deceased Govt. servant (Pensioner) served last and the post held by him. Office of the Accountant General (Audit) Gujarat, Ahmedabad
Audit Officer

7. The scale of pay of the post last held and the last pay drawn. 2375-75-3200-100-3500
Rs 3700/-

8. Name of the authority which issued PPO. Pay and Accounts officer (A&E)
IA&AD. Ahmedabad

9. Name of the Pension Dis-bursing Authority (with Saving Bank Accounts Number, Wherever applicable). BANK OF INDIA
Lalmalal Park branch
Ahmedabad
A/c no.4372

C. Rajendran

Date. 7. 9. '98

(SIGNATURE OF PENSIONER/FAMILY PENSIONER)

* Applicable only in cases where the applicant is a family Pensioner.
Chowhand.

Tr. 1190 / 3.6.44

Office of the Accountant General (A&B)
Ahmedabad Branch, Ahmedabad.

SIGNATURE - I

BY REGD. POST

Under Spl. Seal Authority.

Deptt./Ministry.

To,
The Officer On Special Duty (Pension),
Central Pension Accounting Officer,
Trikoot II, Complex,
Bhikaji Cama Place,
(Behind Hotel Hyatt Regency),
New Delhi - 110 066.

Family.

Subject :- Revision of Pension of

Smt. Chhinnamma Rajendran W/o

Late Shri M. Rajendran holder of PPO No.

637359400096

200/1321, 2nd Floor - 110009 - 110009

I request you to make arrangement for carrying out the
modification in both halves of the said PPO as detailed below.

- (a) Revised Pension Rs. 21,000/-
(Rupees 21,000/-)
Effective from 1.1.44
- (b) Revised Pension Computed Rs. 10,000/-
(Rupees 10,000/-)
- (c) Revised Reduced Pension (after commutation) Rs. 1,000/-
(Rupees 1,000/-)
Effective from 1.1.44
- (2a) Differential computed value paid or being arranged through pay and Accounts Officer. Rs. 4,000/-
- (b) Differential Computed Value of Pension payable by the bank. Rs. 4,000/-
(Rupees 4,000/-)

(a) or (b) whichever is applicable should be filled up. The Other column should be marked as 'Not Applicable'.

200/1321, 2nd Floor - 110009 - 110009
200/1321, 2nd Floor - 110009 - 110009
200/1321, 2nd Floor - 110009 - 110009

....2....

3. Additional amount of death cum retirement Gratuity payable by the bank due to revision (this column is to be prominently marked as not applicable if additional amount of gratuity is arranged through pay and Accounts Officer concerned or no death/Retirement Gratuity is payable as a result of revision). Rs. _____
(Rupees _____)

4. Revised Family Pension

(a) At enhanced Rate of Rs. 4231/- P.M. w.e.f. 12/4/98 to 15/4/2001

(b) At normal rate of Rs. 2348/- P.M. from 16/4/2001 till her demise or death, whichever is earlier.

5. Details of Disbursing Bank

- (i) Name of Bank Bank of India
(b) Branch and Code No. Himmatlal Park Branch
A'69d
(c) Account No. ~~40227~~ S.B. A/c. no 4372
(d) Department. ~~010~~ o/o the A.G. (Audit I) A'69d
(e) State. Gujarat

Yours faithfully,

sd/-
PAY & ACCOUNTS OFFICER/IAD.

Copy to :-

- (1) The ~~Dr.~~ Accounts Officer/Audit Officer, Adm Section with Service Book
(2) Shri/Smt. Chinnappa Rajendran
B-32 Someshwary Row House II
Mr. Bidiwala Park.
Satellite Road.
Jodhpur A'69d - 380015.

V. B. B. B. B.
PAY & ACCOUNTS OFFICER/IAD.

Kittoooooo....

ms
2/6/21

Statement reckoning consolidation of family pension in respect of Late.M.Rajendran, Audit Officer retired on 30/4/94 and died on 11/4/98 in term of Government of India Department of Pension and Pensioners Welfare O.M.45/86/97 P&PW part IV dated 8-5-98 readwith O.M. 45/10/98 P & PW 17/12/98 & 15/12/98

Date of Birth	16-04-36
Date of joining	11-12-58
Date of Superannuation	30-04-94
Date of Death	11-04-98

Pension fixed Rs.1805 on 1-5-94 as per P.P.O.

Pension revised to Rs.5348 on 1/1/96 as per O.M. 45/86/97 P & PW Part II dated 27/10/97

OR

50% of Basic pay Rs.7500 =Rs.3750

(Minimum of corresponding pay scale Rs.7500-250-12000

recommended by Vth Pay Commission)

Pension fixed Rs.5348 w.e.f. 1/1/96 subject to adjustment of Commutation of pension Rs.601 paid.

Family pension

Pay last drawn Rs.3700 in the pay scale Rs.2375-75-3500 recommended by IVth Pay Commission

Family pension fixed at

Normal rate	Rs.600	from 16-4-2001
Enhanced rate	Rs.1200	upto 15-4-2001

Consolidated family pension at enhanced rate Rs.3626 and normal rate Rs.1838 as per O.M.45/86/97 P & PW Part II dated 27/10/97.

Family pension admissible :-

1. Family pension admissible at the
rate in force.

600

2. Enhanced family pension.

1200

3. Consolidated family pension :-

a) Normal rate

1838

b) Enhanced rate

3626

4. (a) Family pension admissible

@30% of pay.

1110

(b) Enhanced family pension.

1805

(ltd. to pension)

5. (a) Additional family pension

admissible on 1-1-96.

$(1110 - 600) = 510$

(b) Enhanced additional

$(1805 - 1200) = 605$

family pension.

6. (a) Total family pension

$(1838 + 510) = 2348$

admissible (normal rate)

on 1/1/96

OR

30% of Basic pay Rs. 7500.

2250

(minimum of pay scale Rs. 7500-250-12000)

(b) Total enhanced family

$(3626 + 605) = 4231$

pension on 1-1-96.

Pension of Rs.4747(5348-601) is admissible from 1/1/96 to 11/4/98 . Enhanced family pension of Rs.4231 is admissible from 12/4/98 to 15/4/2001 thereafter Rs.2348 is admissible till her death or remarriage whichever is earlier subject to adjustment of pension paid. Pensioner intends to draw pension through "Bank of India " Himatlal Park Branch, Ahmedabad A/C.no4372.

7th
Sr. Audit Officer
(Pension Cell)

clearance
[Signature]