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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH: CUTTACK

ORIGINAL APPLICATION NO: 562 of 1993

Date of decision: October 18, 1993

Shri Harish Chandra ... applicant
Versus
Union of India & Others ... Respondents

(For Instructions)

1. Whether it be referred to the reporters or not? ^{no}
2. Whether it be circulated to all the Benches of the ^{no}
Central Administrative Tribunals or not?


(H. RAJENDRA PRASAD)
MEMBER (ADMINISTRATIVE)

18 OCT 93


(K. P. ACHARYA)
VICE CHAIRMAN

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CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH: CUTTACK

Original Application No. 562 of 1992

Date of decision: October 18, 1993

Shri Harish Chandra ... Petitioner

Versus

Union of India and others ... Respondents

For the applicant ... M/s. B. Nayak, R.N. ACHARYA,
Advocates

For the Respondents ... Mr. Ashok Mishra,
Senior Standing Counsel
(Central)

C O R A M:

THE HONOURABLE MR. K.P. ACHARYA, VICE CHAIRMAN

A N D

THE HONOURABLE MR. H. RAJENDRA PRASAD, MEMBER (ADMIN.)

J U D G M E N T

K.P. ACHARYA, V.C.

This case is fixed for Admission today. With the consent given by the counsel for both sides, we have heard this case on merits and propose to dispose of the matter finally instead of unnecessarily keeping the matter pending.

2. In this application under section 19 of the Administrative Tribunals Act, 1985, the petitioner prays to quash Annexure 8 with a direction to the Opposite parties to allow the petitioner to resume his duty

for 12th

forthwith without prejudice to the claim of either parties for the period from 26.6.1992 till the date of filing of this application.

3. Shortly stated the case of the petitioner is that he is a Horticultural Assistant Grade II and was posted at Temple Garden Bishnupur in the District of Bankura (West Bengal). It was alleged against the petitioner that he had availed unauthorised leave for a particular period after filing the Casual Leave application from 6.4.1992 to 24.4.1992 and Medical Leave from 25th April, 1992. There were some adverse remarks passed against the petitioner and therefore, the petitioner approached this Bench with an application under section 19 of the Administrative Tribunals Act 1985 praying for a direction to the Opposite Parties to regularise the period of absence. On the basis of the medical certificate granted by the treating physicians, this formed subject matter of Original application No. 313 of 1993 which was disposed of on 30th August, 1993. While summing up his conclusion the learned Single Judge observed as follows:

"(1) The petitioner should produce a certificate of fitness for rejoining his duties from a qualified medical practitioner (including the one under whose treatment he claims to have been)

(2) that the same be accepted by the respondents for admitting him to duty".

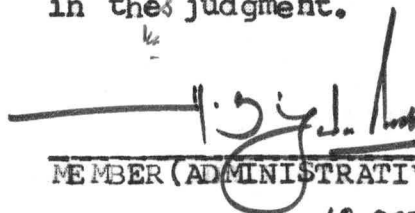
4. It was contended by Mr. Nayak learned counsel appearing for the petitioner that though the petitioner has filed a medical fitness certificate from the same treating physician which is dated 25.6.1992, the concerned authority is not honouring the said certificate but directs that his present medical fitness certificate should be filed by the petitioner. In other words the authority wants a certificate from the Doctor mentioning the date on which he grants the certificate. After hearing Mr. Nayak learned counsel for the petitioner and Mr. Ashok Misra learned Senior Standing Counsel (Central), we are of opinion that no doctor ^{can} ~~was~~ ever grant a certificate on a particular date mentioning the illness or the medical fitness after lapse of one year. Therefore, in compliance with the directions given by the learned Single Judge in his judgment in the Original application no. 313 of 1993, the concerned authority is directed to accept the medical certificate granted by the treating physician which is dated 25.6.1992 and further more, the concerned authority should accept the joining report to be given by the petitioner in the office of the Deputy Superintending Horticulturist Archaeological Survey of India, Bhubaneswar, Opposite Party No. 2. The Opposite Party No. 2, Deputy Superintending should execute an acknowledge ⁱⁿ ~~in~~ favour of the petitioner delivering the same to him acknowledging the receipt

of the joining report. Thereafter the petitioner will take further directions from the appropriate authority (if it is the Deputy Superintending, Opposite Party No.2) as to the place where the petitioner will discharge his duties. After receiving this order, the petitioner shall physically join his duty ⁱⁿ to the place decided by the appropriate authority. The Petitioner should give his joining report before the Deputy Superintending Opposite Party No.2 within two days from today. Within seven days therefrom the petitioner will file a representation before the Opposite Party No.2 namely Deputy Superintending as to the manner in which the period of absence of the petitioner for duty ^{has} to be treated. We do not feel inclined to give any direction ⁱⁿ to the Deputy Superintending on this issue. The matter is left entirely to the discretion of the Opposite Party No.2 to pass a reasoned order on the representation of the petitioner as per rules.

5. Thus, the application is accordingly disposed of. No costs.

6. The Registry is directed to issue a certified copy of the judgment to Mr. B. Nayak learned counsel for the petitioner which should ~~also~~ ^{be} presented by the petitioner before the Deputy Supdt. and on the basis of the certified copy of the judgment to be presented before the Deputy Supdt. Horticulturist, Opposite Party No.2, ~~he~~ would act according to the directions contained

in the judgment.


 MEMBER (ADMINISTRATIVE)
 18 OCT 93


 18/10/93
 VICE-CHAIRMAN

Central Administrative Tribunal,
 Cuttack Bench, Cuttack/K: Mohanty/
 18.10.93.