

2 (2)

(A) OA-364/95-

Serial No. of Order	Date of Order	Order with Signature	
03	24 ⁰⁸ / ₀₁	Adjourned to 05.09.01.	order no. 1.4.295- Notice may be sent to all respondents by Regs/AD Post. <i>24/8</i> Membh (J). 17.07.95 SO(g)
04	5.9.2001	<p>In this case on O.A.6.8.2001 it was submitted by Shri D.P.Dhalasamant that the applicant had taken away the brief and he reported no instruction. In view of this, giving an opportunity to the petitioner to make alternative arrangement the matter was adjourned to 24.8.2001, on which day none appeared for the petitioner and therefore the matter was adjourned to this day. When the matter was called neither the petitioner in person nor any counsel representing him appeared. As this is a matter of the year 1995 it would not be possible ^{is not possible} for granting adjournment indefinitely. We have, therefore, heard Shri B.Pal, learned senior counsel appearing on behalf of the respondents and also perused the records.</p> <p>In this O.A. the petitioner has prayed for quashing the order dated 25.6.1994 vide Annexure-3 passed by the Disciplinary Authority stopping one increment raising his pay from Rs.1030⁵1050/- in the scale of Rs.950-1500/-</p>	<p>counter filed + copy served. Rejoinder not filed. Pala Bench 315- Rejoinder not filed. Pala Bench 317 Counter filed. For hearing Pala Bench 318</p>

NOTES OF THE REGISTRY

ORDERS OF THE TRIBUNAL

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Patra
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A. M.
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Counter filed.
For hearing.

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Bench

For hearing.

Bench

Patra
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V. S.

for one year without cumulative effect. There is also another prayer for quashing the order dated 27.8.1994 (Annexure-5) of the Appellate Authority rejecting his appeal. Respondents have filed their counter opposing the prayer of the applicant. No rejoinder has been filed.

For the purpose of considering this petition it is not necessary to go into too many facts of this case. The admitted position is that at the relevant time the applicant was working as Fitter, Gr-III in Carriage Repair Workshop at Mancheswar. He was injured while on duty. Under the advice of Divisional Medical Officer he was kept as injured on duty from 8.6.1993 to 26x 12.6.1993. On 16.6.1993 he was discharged for obstructing his treatment. The report of the Medical Officer discharging him for obstructing treat^{ment} is at Annexure-R/1. Respondents have stated that the applicant remained absent unauthorisedly without any intimation from 13.6.1993 to 3.4.1994. For such unauthorised absence minor penalty proceedings was initiated against him and after considering his explanation the impugned order of punishment was passed and the appeal filed by him was also rejected in the impugned order of the Appellate Authority. Applicant has stated that the Chief Medical Officer, Mancheswar, while discharging him on 16.6.1993 advised him bed rest and also advised him to undertake homeopathic treatment. He has further stated that he was under treatment of Railway Homeopathic Doctor from 3.4.1994. The fitness certificate was issued by the

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Homeopathic Doctor on 22.3.1994, but without taking this into consideration the disciplinary proceedings were initiated against him.

In a disciplinary proceedings matter the scope of interference by the Tribunal is very limited. We find that the explanation of the applicant was called for and was considered. The Disciplinary Authority has held that the applicant did not produce any record ^{or} of evidence showing that he was ever advised bed rest for this period and that he was advised by the Chief Medical Officer to undertake Homeopathic treatment. In view of this the contention of the applicant cannot be accepted. Even if it is taken to be granted for argument sake that on the advice of the Railway Homeopathic Doctor he was undergoing homeopathic treatment and was advised bed rest, the applicant has not indicated in his petition that he did inform of his absence from time to time to the departmental authorities. The applicant has ~~ja~~ made a bland statement that he had informed about his absence to the authorities during the above period. He has not indicated anything ^{ask} to whom he sent such letter of intimation for his absence and for what period. In view of this, we hold that there is no illegality in the action of the Disciplinary Authority in imposing minor punishment on the applicant. We also find that the Appellate Authority has considered his representation fairly and rejected the same. We also find no illegality in this.

Before parting with this case it has

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to be mentioned that the applicant has stated that he was given salary for the months of June, July and August/93. Respondents have stated that even though the applicant was absent unauthorisedly the salary for the above three months was paid to him. They have further stated that from September, 1993 onwards salary was not disbursed to him and the salary for the above three months would be recovered from the applicant. There is no averment if in the meantime salary, as stated by the respondents to be recovered, has been recovered from the applicant or not. As the departmental authorities have already paid salary to the applicant such payment should have been made after verifying the ~~px~~ Attendance Register of the applicant at the Workshop. As payment of salary has already been made to the applicant for the above three months, while rejecting this O.A., we direct that if the salary for the months of June, July, and August, 1993 has not yet been recovered then the same should not be recovered by the respondents.

The O.A. is disposed of as above. No costs.

MEMBER (JUDICIAL)

V. Venkatesh Kumar
VICE-CHAIRMAN
S. 9. 2000

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