

**CENTRAL ADMINISTRATIVE TRIBUNAL
JODHPUR BENCH; JODHPUR**

ORIGINAL APPLICATION NO. 278/2009

Date of order: 13.07.2011

CORAM:

**HON'BLE DR. K.B. SURESH, JUDICIAL MEMBER
HON'BLE MR. SUDHIR KUMAR, ADMINISTRATIVE MEMBER**

Bhola Ram 440153 S/o Shri Madan Lal, aged about 36 years, resident of village and post Jaitpura, via-Guddha Gaurji Ka, Distt. Jhunjhunu, at present employed on the post of conservancy Safaiwala (not being taken on duty) at Station Head Qtr, (Military Station), Sri Ganganagar.

...Applicant.

Mr. J.K. Mishra, counsel for applicant.

VERSUS

1. Union of India through Secretary to Govt. of India, Ministry of Defence, Raksha Bhawan, New Delhi.
2. Station Commander, Station Headquarter, Sri Ganganagar.
3. Administrative Commandant, Station Headquarter, Sri Ganganagar (Raj.).

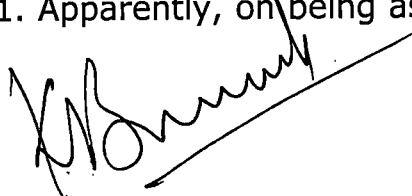
... Respondents.

Mr. M.S. Godara, proxy counsel for
Mr. Vinit Mathur, counsel for respondents.

ORDER

(Per Dr. K.B. Suresh, Judicial Member)

We have heard the learned counsels for both the sides, and examined the pleadings. It is the admitted case that even though, the applicant was appointed as conservancy Safaiwala in 1995. The applicant had been a regular absentee, and the respondents had ample number of occasions to regularize his absences, but thereafter in 1998, he went on leave and never came back on duty. Thereafter, it would appear that he reported for duty on 06.04.2001. Apparently, on being asked a reason for

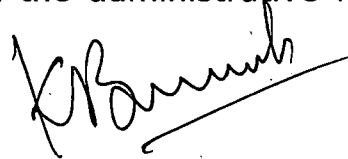


his absence, the applicant reported illness, and he had produced several medical certificates, which were conflicting with each other, and therefore more details were sought from him. It would, thereafter, appear that the applicant himself constituted a medical board and underwent an examination. The doctors found him fit but could not find out the reason, why and how he was sick earlier. In the absence of any other evidence to the contrary, we are of the view that the doctors could not find out any disease, even though he was so newly cured but could not find out what might have the reason for the diminishment of physical ability of the applicant, must be because of he being fit otherwise all along.

2. Thereafter, it would appear that the respondents had taken steps to charge-sheet him for un-authorized absence, and in challenge thereof, the applicant approached this Tribunal.

3. But it is pertinent to note that even on this date, a clear explanation that what is his sickness; is not forthcoming. We had specifically posed a question to the learned counsel for the applicant to explain in one word what was "his illness" and what was the medication, he was taking. No answer was forthcoming in this regard. Therefore, we have to come to a conclusion that there was no reason at all for the absence of the applicant for the last 13 years.

4. At this juncture, the learned counsel for the applicant would submit that to correct the administrative formality since



I
14

on earlier occasion the applicant was asked to report for duty and, thus, regularize his absence, he may be allowed a chance now to report for duty, and thereafter the charge-sheet against the applicant may be further proceeded. Even though, the request appears to innocuous in itself, the learned counsel for the respondents would point out that it will grant him an entry after absence of 13 years, and this is a clear case of abandonment which has crystallized that he is leaving his post voluntarily and by efflux of time became more settled. The pendency of the litigation, in the interregnum, may not have effect on justification for his absence, as even to this day, no justification is at all forthcoming. The Original Application is devoid of justice and reasonableness. Thus having found that the O.A. is devoid of any merit, it is hereby dismissed. No order as to costs.



(SUDHIR KUMAR)
ADMINISTRATIVE MEMBER



(DR. K.B. SURESH)
JUDICIAL MEMBER

kumawat