

CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

OA No.50/2002

Dated Monday this the 29th day of March, 2004.

C O R A M

HON'BLE MR.A.V.HARIDASAN, VICE CHAIRMAN
HON'BLE MR.H.P.DAS, ADMINISTRATIVE MEMBER

Manju K.S.
Sub Divisional Engineer
Telecommunications, BSNL
Thevara, Ernakulam.

Applicant.

(By advocate Mr.G.D.Panicker)

Versus

1. Union of India
Department of Personnel & Training
Rep. by Secretary in the
Ministry of Personnel & Training
New Delhi.
2. Chief General Manager
Telecommunications
B.S.N.L.Thiruvananthapuram.
3. The Principal General Manager
Telecommunications, BSNL
Ernakulam.

Respondents

(By advocate Mr.Dinesh R.Shenoy)

The application having been heard on 29th March, 2004 the
Tribunal on the same day delivered the following:

O R D E R

HON'BLE MR.A.V.HARIDASAN, VICE CHAIRMAN

The grievance of the applicant, a lady Sub Divisional
Engineer, Telecommunications, BSNL, is that her application for
Maternity Leave for 45 days on account of miscarriage had been
rejected on the ground that she did not produce the Medical
Certificate from an Authorized Medical Attendant despite the fact
that the applicant had to seek treatment in a private hospital
under an emergent situation. The applicant filed this
application seeking to set aside A2 & A4 orders. Her request had

✓

been turned down solely on the ground that the medical certificate was not issued by an Authorized Medical Attendant as required under Rule 19 of the Leave Rules. She has sought to set aside the offending part of Rule 19 of the CS MA Rule which prescribe that Gazetted Government servants should produce medical certificates from AMA while such a requirement is not prescribed in the case of non-Gazetted government servants as also the Government of India Decision No.4 under Rule 19 on the ground that the said classification is arbitrary and discriminatory.

2. The brief facts of the case are that on 27.2.2000 the applicant had severe stomach pain and bleeding, that when her condition got aggravated the next day on 28.2.2000, she had to be rushed to Sree Ramakrishna Asram Charitable Hospital where she had an emergent D & C and abortion, that she submitted her leave application for 45 days on account of the abortion, that as the situation was emergent, she could not get a certificate from an Authorized Medical Attendant, that finding that her leave application was not honoured on the ground that the Medical Certificate was not issued by an AMA, she submitted A-3 representation requesting to give an objection letter so that she could have the Medical Certificate countersigned by an AMA, that this request had also not been acceded to and that according to the applicant, the action on the part of the respondents in not granting the Maternity Leave on account of abortion was wholly unsustainable. Therefore the applicant seeks to set aside the impugned orders A-2 and A-4 and for a direction to the

✓

respondents to grant the applicant Maternity Leave for 45 days as already applied; for declaring that A-5 & A-6 are discriminatory to the extent they discriminate Gazetted Officers in the matter of production of Medical Certificates for grant of leave.

3. The respondents in their reply statement contend that the requirement of production of medical certificate under Rule 19 of the Leave Rules has not been relaxed and that the applicant's leave application and the medical certificate had been rejected for non-compliance of the provisions of this Rule. The respondents contend that there is no hostile discrimination or unreasonableness in the rules.

4. We have heard the learned counsel on either side. We have perused the material on record especially the certificate of the doctor. The applicant had to go to a private hospital for D&C and abortion under emergent situation when she could not have gone in search of an AMA. However, in terms of Rule 19 of CCS (Leave) Rules, the application for leave by a Gazetted officer should be accompanied by a Medical Certificate issued by an AMA. The certificate of the private doctor could have been countersigned by an Authorized Medical Attendant but it is alleged in the application that such a countersignature would be made only if a letter of objection was issued from the department. Under these circumstances, we are of the considered view that the interests of justice would be met if the second respondent is directed to have the objection letter issued for acceptance of the Medical Certificate issued by the private

doctor with which the applicant can approach an AMA for counter signature and if the applicant produces such a medical certificate with countersignature of AMA, the respondents shall accept the certificate as valid and consider the application for maternity leave accordingly.

5. In the light of what is stated above, we dispose of this application directing the second respondent to have an objection letter issued on the Medical Certificate on the ground that it has not been countersigned by the A.M.A. within a month from the date of receipt of the copy of this order. The applicant shall produce the objection letter and have the Medical Certificate issued by the private doctor countersigned by an AMA and produce the same before the competent authority in the Department within two weeks after obtaining the objection letter. The respondents are directed that once the Medical Certificate has been countersigned by the AMA the applicant's application for Maternity Leave on account of abortion shall be considered and appropriate orders issued within a period of two weeks thereafter.

Dated 29th March, 2004.

H.P.DAS
ADMINISTRATIVE MEMBER

aa.



A.V. HARIDASAN
VICE CHAIRMAN