

CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

DATE OF DECISION: 10-11-1989

PRESENT

HON'BLE SHRI S.P.MUKERJI, VICE CHAIRMAN
&
HON'BLE SHRI A.V.HARIDASAN, JUDICIAL MEMBER

ORIGINAL APPLICATION NO.517/89

K Narayanan - Applicant

V.

1. The Administrator,
Union Territory of Lakshadweep,
Kavaratti.

2. The Superintendent of Police,
Kavaratti,
U.T. of Lakshadweep.

3. The Deputy Superintendent of
Police, Kavaratti,
U.T. of Lakshadweep.

- Respondents

Mr PK Aboobacker

- Counsel of the
applicant

Mr PVM Nambiar, SCGSC

- Counsel of the
respondents

O_R_D_E_R

(SHRI S.P.MUKERJI, VICE CHAIRMAN)

In this application dated 24.8.1989, the applicant who has been working as a Circle Inspector under the Union Territory Administration of Lakshadweep on the island of Androth has prayed that the impugned order at Annexure-D directing him to join on duty on transfer to Agatti Airport, before he is paid salary, and the impugned order at Annexure-K dated 2.8.1989 rejecting his leave application should be set aside and that the second respondent be directed to sanction the eligible leave applied for by

him on the basis of the medical certificates at Annexure-A, Annexure-G and Annexure-H. The brief material facts of the case can be recounted as follows.

2. The applicant has ^{been} working as Inspector on the island of Androth since 21.11.1986 and was transferred to the island of Agatti by an order dated 9.5.1989.

The applicant was extremely unhappy about this transfer and ^{wanted} ~~was~~ to move an application before this Tribunal.

When his representation for reconsideration of the order of transfer was rejected by a wireless message dated

11.5.1989, he applied for 10 days casual leave with permission to leave headquarters immediately thereafter, but he was directed by the second respondent, i.e. the Superintendent of Police, Kavaratti to appear before him.

Instead of appearing before him, the applicant without properly handing over the charge of the Police Station on 16.5.1989 and without a proper sanction to leave the island, left the island to mainland on 21.5.1989, in anticipation of the sanction of the leave. Thereafter,

from the mainland, he got a medical certificate from the Senior Medical Officer, Government Ayurvedic Hospital, Cherukunnu of Cannanore District and applied for casual leave and commuted leave on medical ground from 5.6.1989

to 4.7.1989. In his application dated 5.6.1989 at Annexure-B, ^{he referred to} his message dated 14.5.1989 by which he

the
applied for 10 days casual leave and/telegram dated
27.5.1989 to approach a Court of law against the order
of transfer, but admitted that the applied leave had not
been sanctioned to him till 21.5.1989. He ~~has~~ also
indicated that he was compelled to leave the headquarters
of
to approach a Court/law at mainland in anticipation of
the approval and sanction of the respondents. He further
indicated that after meeting the advocate for filing a
writ petition, he left for his native place at Cannanore
on 2.6.1989, whereafter, according to him, he fell ill.
Enclosing the medical certificate he applied for earned
leave and commuted leave in that very letter from 17.5.1989
to 4.7.1989. His request for leaving headquarters was
rejected and he was informed accordingly. The respondents
have stated that his leave on medical ground could not be
sanctioned as he had proceeded on leave unauthorizedly.
They have also indicated that without his joining the
post of Inspector at Agatti, they could not draw his
leave salary and all these facts were communicated to
him vide message dated 15.6.1989 at Annexure-D. In that
message he was directed to report for duty at Agatti.
The respondents have stated that he has been unauthorizedly
absenting ^{himself} from duty and therefore his leave salary could
not be paid. While the applicant has argued that he is
entitled to get the leave salary, the respondents have
stated that his application for leave on medical ground

was not genuine as he could have got the medical treatment by the local Government Medical Practitioner at Androth itself. They have also referred to the gross indiscipline indulged into by the applicant, a member of the disciplinary force by disobeying the orders of the superiors and ^{leaving} ~~left~~ his post without proper sanction. Ultimately the respondents in their counter affidavit dated 6.11.1989 indicated that the applicant can be paid his salary only after his joining at Agatti Airport.

3. We have heard the learned counsel for both the parties and gone through the documents carefully.

4. It is clear from the conspectus of facts and circumstances that the applicant has been disobeying the orders of his superiors and left the island without proper sanction or permission to leave the island for the mainland. He had also not made sure that the casual leave had been sanctioned to him. He came to the mainland to file an application before the Tribunal and thereafter, according to him, he fell ill for which he submitted the medical certificates.

5. The limited question before us is whether the applicant should be granted the leave and leave salary as applied for by him. The medical certificate of the Senior Medical Officer, Govt. Ayurvedic Hospital of Cherukunnu cannot be deemed to be a false or forged one

nor is ^{this} the case of the respondents. The respondents are prepared to grant him the leave salary, provided he joins duty at Agatti. The learned counsel for the applicant before us stated that the applicant has since joined duty at Agatti. If that be the case, we see no reason why the applicant should not now be granted the leave and leave salary as due to him ^{in accordance with law} on the basis of his application and medical certificates.

6. In the circumstances, we allow this application only to the extent of directing the respondents to pay to the applicant the leave salary on the basis of his leave and Medical Certificates at Annexure-A, G and H application/for the period from 5.6.1989 to 23.8.1989 *in accordance with law.* *6*

We make it clear that this order of the Tribunal will not preclude the respondents from taking such disciplinary or other administrative action, in accordance with law, that they may ~~deem~~ ^{*alleged*} fit for any ~~disobedience~~ ^{*disobedience*} or indiscipline on the part of the applicant indulged into by the applicant. *6*

Amend

(A.V.HARIDASAN)
JUDICIAL MEMBER

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(S.P.MUKERJI)
VICE CHAIRMAN

10-11-1989

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