

**CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH**

O.A. NO. 544 OF 2009

Friday, this the 14th day of August, 2009.

CORAM:

HON'BLE Dr.K.B.S.RAJAN, JUDICIAL MEMBER
HON'BLE Mr.K.GEORGE JOSEPH, ADMINISTRATIVE MEMBER

Salim Babu P.K.,
Sub Divisional Engineer (Intl-II),
Bharat Sanchar Nigam Ltd.,
Kayamkulam, residing at
Kanjirathil Cheravally, Kayamkulam.

... Applicant

(By Advocate Mr. Manzoor Ali. K.A.)

versus

1. Bharath Sanchar Nigam Ltd., rep. by
Chief General Manager, Trivandrum-33.
2. The General Manager, BSNL, Alappuzha.
3. Divisional Engineer, BSNL, Kayamkulam.
4. Area Manager, BSNL, Alappuzha. ...

Respondents

(By Advocate Mr. George Kuruvilla)

The application having been heard on 14.08.2009, the Tribunal on the same day delivered the following:

ORDER

HON'BLE Dr.K.B.S.RAJAN, JUDICIAL MEMBER

The applicant, functioning as SDE (Intel-II) in B.S.N.L. was earlier posted at Alappuzha was, by Annexure A-1 order dated 4th June 2008 posted to Kayamkulam. After the applicant had joined the said post on 15th June 2009, there was a re-scheduling of the functional responsibilities of SDE at Kayamkulam, vide Annexure A-2 order dated 16th June 2009. The applicant has entered into some correspondence with Respondent No. R2, keeping R3 also posted of the same and certain documents were called for. The fact remains that the applicant did not take over the charge with rescheduled

functional responsibilities and by Annexure A3 order, dated 26th June 2009, the applicant was issued with a show cause notice to explain his conduct. It was indicated therein that it was proposed to treat the period of absence as dies-non. According to the applicant, he submitted his explanation to the said notice vide Annexure A-3, to which, he had not received any reply. Another representation was sent by him to the fourth respondent, vide Annexure A4 dated 6th July 2009. According to the applicant, he reported for duty on 21st July 2009 vide Annexure A-5 and the 3rd respondent compelled the applicant to take over the charge of SDE (Intel II). His pay slip for July 2009 reflected Nil amount due to him. Annexure A-6 refers. This lead to the applicant moving a representation, vide Annexure A-7 dated 31st July 2009. It is also the case of the applicant that he had availed of commuted leave on medical grounds from 29th June 2009 to 19th July 2009. for which also there was no pay and allowances. Hence, this OA seeking a direction to the respondents to draw pay and allowances of the applicant for July 2009 and also to consider and dispose of the representations filed by the applicant after affording an opportunity to hear the applicant in the interest of justice.

2. When the case came up for admission, on observing that there has been no reply to the representations preferred by the applicant, it was felt that the application is premature. Counsel for the applicant pleaded that the applicant has not been paid his pay and allowances for the month of July 2009 though major part of this period was covered by his application for grant of commuted leave on medical grounds.

3. Counsel for the respondents has submitted that the respondents would consider the case of commuted leave also when it considers the

representation. That the application is pre-mature has been emphasized by the counsel for the respondent.

4. We have heard the counsel on admission hearing. The applicant would have furnished his earned leave on medical grounds for a particular period. It is not known whether he had joined duties and started functioning after redistribution of the functional responsibilities of JDO. Lest he should continue to be away from office, it was felt appropriate that this OA be disposed of with a direction to the respondents to permit him to join duties if not already done and also consider his request for payment of salary for the period the applicant was on leave on medical grounds. For the rest of the period when the applicant was not performing his duties, the same should be decided after considering the explanation, and if so felt necessary by the competent authority, by giving the applicant an opportunity of being heard. Payment of salary during the period of leave on medical grounds may be made within a period of 2 weeks from the date of communication of this order (in view of the approaching of the major festival here) while consideration for treatment of the rest of the period within a period of four weeks from the date of communication of this order. It is made clear that no opinion on the merit of the case is expressed. No cost.

(Dated, the 14th August, 2009.)



K. GEORGE JOSEPH
ADMINISTRATIVE MEMBER



Dr.K.B.S.RAJAN
JUDICIAL MEMBER