

CENTRAL ADMINISTRATIVE TRIBUNAL

ERNAKULAM BENCH

O.A.No.575/97

Friday this the 9th day of October, 1998.

CORAM:

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

R.K.Unnikrishnan,
Station Master,Grade-II,
Shornur Railway Station,
Residing at:
"Sakthi Murugan",
Kulapulli,
Government Press P.O.
Shornur -2.

..Applicant

(By Advocate Mr. T.C.G.Swamy)

vs.

1. Union of India through
The General Manager,
Southern Railway,
Headquarters Office,
Park Town P.O.,
Madras -3.
2. The Divisional Personnel Officer,
Southern Railway,
Palghat Division,
Palghat.
3. The Divisional Operations Manager,
Southern Railway,
Palghat Division,
Palghat.
4. The Station Manager,
Southern Railway,
Shornur Station,
Shornur.

..Respondents

(By Advocate Mr. K.V.Sachidanandan)

The Application having been heard on 18.9.98, the Tribunal on
9.10.1998 delivered the following:

O R D E R

The applicant is aggrieved by the order dated 4.3.97
of the 2nd respondent turning down the request of the
applicant for regularisation of the period from 24.12.96 to
6.1.97 as sick leave and the proposal to treat that



period as absence only on the ground that the 3rd respondent did not agree to his request. The facts are as follows.

2. The applicant working as Station Master Grade II at Shornur Railway Station of Palghat Division of the Southern Railway submitted a requisition for medical leave along with a private medical certificate issued by Dr.Ranganathan, Civil Surgeon under whom he allegedly underwent treatment for some illness from 24.12.96 onwards as he was residing away from the Railway Hospital .The applicant could not get a fitness certificate from Dr.Ranganathan as Dr.Ranganathan was involved in an accident and was admitted in a hospital at Coimbatore in a serious condition. When the applicant approached the Station Manager,Shornur on 6.1.97 reporting for duties, he was asked to report before the Senior Divisional Medical Officer, Shornur for examination and certificate of fitness. The Railway Doctor , however, advised the applicant that he should get the certificate of fitness first from a private medical practitioner and that he would be examined for fitness only thereafter. The applicant on the same day, on 6.1.97 obtained a certificate of fitness from Dr.Valsala, Assistant Surgeon, Government Hospital, Shornur and on production thereof, the Railway Medical Officer issued Annexure A6 certificate of fitness. The applicant joined duty and the pay for the period between 24.12.96 to 6.1.97 was also disbursed to him along with the wages for the period ending 10.1.97. However as in Annexure A6 the Railway Medical Officer had directed that the period of absence be covered departmentally, the applicant on 14.1.97 made a representation (Annexure A7) to the third respondent requesting that the period be treated as leave

due. Immediately on transmission of Annexure A7 representation the wages paid to the applicant for the period from 24.12.96 to 6.1.97 was recovered as overpayment from the applicant's salary for the period ending 10.2.97. On enquiry the applicant came to know of the impugned order dated 4.3.97 (Annexure A8) deciding to reject the request of the applicant for regularisation of the period as leave due and treating the period only as absence. It is aggrieved by that the applicant has filed this application for a declaration that, the applicant's medical leave from 24.12.96 to 6.1.97 is to be treated as leave on average pay(leave due) and for direction to respondents to pay to the applicant the pay and allowances for the period in question with interest at 18% per annum to be calculated from 14.2.97 upto the date of actual payment.

3. The respondents in their reply statement have contended that the applicant was not really sick during the period, that he got a medical certificate from a registered medical practitioner to obtain leave with a view to attend a meeting, that as per the rules, the competent authority has the discretion to reject medical leave on production of private medical certificate and that as the Senior Divisional Medical Officer, Shornur has not covered the period of absence as sick leave and had directed the competent authority to deal it departmentally, the decision taken and conveyed to the applicant by the impugned order Annexure A8 is perfectly in order.

4. I have perused the pleadings and the annexures to the O.A. as also the reply statement and have heard Sri Govindaswamy, the learned counsel appearing for the applicant and Sri Sachidanandan, the standing counsel appearing for the respondents. That the applicant was

residing 5 kilometres away from the Railway Hospital is not disputed in the reply statement. The fact that the applicant had on 24.12.96 itself forwarded his leave application along with the private medical certificate is also not disputed. The request for leave of the applicant was turned down on the ground that he was not really sick and that the Senior Divisional Medical Officer had not covered the period of absence as leave but had directed that it be covered departmentally. The procedure to be followed when a Railway servant residing outside the jurisdiction of the Railway Medical Officer applies for leave on private medical certificate as laid down in Rule 521 (2) of the Indian Railway Establishment Code, Volume I. Rule 521(2) reads as follows:

" (2) When a Railway servant residing outside the jurisdiction of a Railway Medical Officer requires leave on medical certificate, he should submit, within 48 hours, a sick certificate from a registered medical practitioner. Such a certificate should be, as nearly as possible, in the prescribed form as given in Annexure III, and should state the nature of the illness and the period for which the Railway servant is likely to be unable to perform his duties. The competent authority may, at its discretion accept the certificate or, in cases where it has reasons to suspect the bonafides, refer the case to the Divisional Medical Officer for advice or investigation. The medical certificate from registered private practitioners produced by Railway servant in support of their application for leave may be rejected by the competent authority only after a Railway Medical Officer has conducted the necessary verifications and on the basis of the advice tendered by him after such verifications.

Note:- Ordinarily, the jurisdiction of a Railway Medical Officer will be taken to cover Railway servant.

residing within a radius of 2.5 kilometres of the Railway hospital or health unit to which the doctor is attached, and within a radius of one kilometer of a Railway station of the doctor's beat."

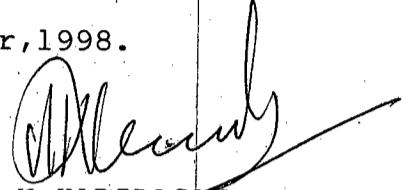
The copy of the certificate produced by the applicant along with his application for leave is Annexure A2. The certificate was issued by Dr.Ranganathan, Civil Surgeon, certifying that the applicant was suffering from low back ache and that a period of absence from duty of 12 days with effect from 24.12.96 was absolutely necessary for the restoration of his health. From Annexure A4 letter dated 6.1.97 issued by the 4th respondent to the Senior Divisional Medical Officer,Shornur, it is seen that the Divisional Medical Officer was requested to examine the applicant and advise whether he was fit for duty. At the instance of the Senior Divisional Medical Officer, the applicant first obtained the Annexure A5 medical certificate of fitness from the Govt. Medical Officer,Shornur on 6.1.97 to the effect that he had recovered from his illness and he was fit to resume duties . It was on the basis of that the Annexure A6 was issued by the Senior Divisional Medical Officer. From Annexure A6 it cannot be found that the medical certificate issued by Dr.Ranganathan(Annexure A2) was not genuine or that the applicant was not really sick during the period. It is true that in Annexure A6 it is written that "period of absence to be covered departmentally". But this does not amount to a statement that the applicant had obtained false medical certificate from Dr.Ranganathan and that he was not really sick during

the period. Even medical leave is to be granted by the competent authority in the department and the Medical Officer has no right to grant leave. Therefore the statement in Annexure A6 to the effect that the "period of absence to be covered departmentally" does indicate that the Sr.Divisional Medical Officer had opined that the claim of the applicant that he was sick during the period between 24.12.96 to 6.1.97 based on the Annexue A2 certificate was not genuine. As per the rules, the competent authority undoubtedly has the right to reject an application for leave on production of private medical certificate. But he can do so only if the genuineness of the claim of illness and the certificate is verified by the Railway Medical Officer and only in case the Railway Medical Officer opines that the private medical certificate was not issued bonafide. As the Sr.Divisional Medical Officer has not so opined in this case, I am of the considered view that the decision to reject the request for leave and to treat the period as absence contained in the impugned order is unsustainable.

5. In the result, the application is allowed declaring that the period of applicant's absence between 24.12.96 to 6.1.97 on account of illness covered by Annexure A2 medical certificate is to be treated as leave on average pay (leave due). I direct the respondents to issue order regularising the period between 24.12.96 to 6.1.97 as leave on medical grounds and to pay to the applicant the salary and allowances due to the applicant for the said period in

accordance with law. The claim for interest is disallowed. The above directions shall be complied with and payment made to the applicant within a period of one month from the date of receipt of a copy of this order. No costs.

Dated the 9th day of October, 1998.



A.V. HARIDASAN
VICE CHAIRMAN

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LIST OF ANNEXURES

1. Annexure A2: A true copy of the Medical Certificate dated 24.12.1996 issued by Dr.K.Ranganathan, Civil Surgeon, Shornur.
2. Annexure A4: A true copy of the letter No.SRR/1/SM dated 6.1.1997 issued by the fourth respondent.
3. Annexure A5: A true copy of the Fitness Certificate dated 6.1.1997 issued by Dr.P.M. Valsala, Assistant Surgeon, Government Hospital, Shornur.
4. Annexure A6: A true copy of the Duty Certificate No.40 dated 7.1.1997 issued by the Railway Medical Officer.
5. Annexure A7: A true copy of the representation dated 14.1.1997 submitted by the applicant to the third respondent.
6. Annexure A8: A true copy of the letter No.J/P 426/VIII/T IID dated 4.3.1997 issued by the second respondent.

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