

CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

OA No.143/2003

Dated Wednesday this the 26th day of February, 2003.

C O R A M

HON'BLE MR.T.N.T.NAYAR, ADMINISTRATIVE MEMBER
HON'BLE MR.K.V.SACHIDANANDAN, JUDICIAL MEMBER

Dr.N.Muthukoya
Chief Medical Officer
Community Health Centre
Andrott.

Applicant.

(By advocate Mr.P.Gopinath Menon)

Versus

1. Union of India represented by
Its Secretary
Ministry of Health and Family Welfare
Department of Health
Nirman Bhavan
New Delhi.
2. The Administrator
Union Territory of Lakshadweep
Kavaratti.
3. The Director of Medical & Health Services
(Directorate of Medical & Health Services)
Union Terrotiry of Lakshadweep
Kavaratti.

(By advocate Mr.C.Rajendran, SCGSC for R1)
By Mr.S.Radhakrishnan for R2&3.

The application having been heard on 26th February, 2003,
the Tribunal on the same day delivered the following:

O R D E R

HON'BLE MR.T.N.T.NAYAR, ADMINISTRATIVE MEMBER

The applicant in this case is aggrieved by A-5 order dated 18th April, 2002 whereby the first respondent rejected the applicant's request for regularization of his absence from duty for the period from 5.3.87 to 8.10.2001 on account of prolonged treatment for illness and treated the period of absence as 'dies non'. The brief facts of the case are as under:

2. While working as a Senior Medical Officer, Beedi Workers Welfare Fund Dispensary, Kondotty, Kerala under the Ministry of Labour, the applicant fell ill and sought medical leave by making periodical applications duly supported by medical certificates. It would appear that during the period of leave, the applicant had been promoted as Chief Medical Officer by order dated 12.5.88. On return from his leave, the applicant had been advised to report at Delhi for posting and subsequently he was accommodated at Lakshadweep in the capacity of Chief Medical Officer under the Administrator. His request for regularization of the period of absence between 5.3.87 and 8.10.2001 was not favourably considered and by A-3 letter dated 18.12.2001 the applicant was asked to show cause why the period of the allegedly unauthorized absence should not be treated as 'dies non'. Applicant gave A-4 reply dated 18.12.2001 enclosing therewith copies of medical certificates as also copy of the leave regularization order of the earlier period of absence or leave on medical grounds between 5.12.86 and 4.3.87. Annexure A-4 was rejected by the impugned A-5 order. On receipt of A-5 order, the applicant made a detailed representation - Annexure A-6 addressed to the first respondent highlighting the factual background of his case and requesting the authorities to consider regularization of the period of his absence for 116 days as commuted leave and the remaining portion of leave as EOL on medical grounds. This representation apparently had been processed by the controlling officer - The Director of Medical & Health Services, Kavaratti by A-7 letter dated 20.7.2002 addressed to the first respondent, with the recommendation that having regard to the medical certificates furnished by the

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applicant, the period of absence from 5.3.87 to 8.10.2001 might be regularized as per rule. However, the representation of the applicant is still to be disposed of by the first respondent. The inaction on the part of the respondents has made the applicant file this OA praying for the following reliefs:

- (i) Call for the records leading up to Annexure A-5 and quash the same.
- (ii) Declare that Annexure A-5 order is illegal, arbitrary and violative of provisions of FR 17(A).
- (iii) Direct the 1st respondent to consider and pass orders on Annexure A-6 having due regard to Annexure A-7 recommendation made by the 3rd respondent.
- (iv) Grant such other reliefs which this Hon'ble Tribunal may deem fit and necessary in the circumstances of the case and,
- (v) To award the cost of these proceedings to the petitioner.

3. When the matter came up for admission, learned counsel for the applicant submitted that during his absence from duty the applicant had been furnishing the details of his immovable property and other returns as are enjoined by the Civil Service Rules, that his name was in the seniority list and that the higher authorities were gracious enough to grant permission during the period of absence. It was further stated that the applicant's case had never been referred to a Medical Board or such institution and there was no doubt about the genuineness of his claim. The learned counsel of the applicant would point out that the first period of leave on medical ground had subsequently been regularized and as such there was no reason why the remaining period should not have been regularized. He was allowed to join at Kavaratti on account of his medical history, the learned counsel would urge. The counsel, therefore,

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submitted that the present application be disposed of by directing the first respondent to judiciously consider A-6 representation along with A-7 recommendatory letter and pass appropriate orders within a reasonable time. Shri C.Rajendran, learned Senior Central Government Standing Counsel who took notice on behalf of the 1st respondent and Shri S.Radhakrishnan, learned counsel for respondents 2 & 3 have no objection to such a course of action being taken.

4. Recording the above statements made by the learned counsel on either side, this application is disposed of directing the first respondent to sympathetically consider A-6 representation along with A-7 recommendatory letter and all other circumstantial facts and give the applicant an appropriate reply within a period of three months from the date of receipt of the copy of this order. No order as to costs.

Dated 26th February, 2003.



K.V. SACHIDANANDAN
JUDICIAL MEMBER

aa.



T.N.T. NAYAR
ADMINISTRATIVE MEMBER