

CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

DATE: 10.8.93

O.A. 267/93

P.A. Karappan
S/o P.A. Ayyappan
Assistant Light Keeper
Light House, Minicoy

Applicant

vs.

1. The Director (Regional)
Light Houses and Light Ships
Kochi
2. Union of India represented by
Secretary to Government,
Deptt. of Light House and Light
Ships, Ministry of Surface
Transport, New Delhi

Respondents

Mr. M.R.Rajendran Nair

Advocate for
applicant

Mr. T.K. Venugopalan, ACGSC

Advocate for
respondents

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THE HON'BLE MR. N. DHARMADAN JUDICIAL MEMBER

JUDGMENT

MR. N. DHARMADAN JUDICIAL MEMBER

The question arising in this case is whether the action of the Director can be sustained on the basis of Annexure-IV order granting Extra Ordinary Leave as a penal action taken against the applicant.

2. The applicant while working as Assistant Light Keeper in the Minicoy Island left station on 4.9.92 availing three days casual leave from 4.9.92. Since he could not return and rejoin duty on 7.9.92 as expected, he applied for extension of leave from 8.9.92 to 22.9.92. He also produced medical certificate. But the leave was not sanctioned; in the alternative he was given Annexure-II memorandum calling on him to show cause why his absence should not be treated as unauthorised absence. He filed Annexure-III representation explaining the reason for extension of leave. This was disposed of by Annexure-IV order which reads as follows:

"Reference his letter No. nil dated 27.10.92. Sri P.A. Karappan, ALK (JS) Minicoy LH is hereby granted 19 days EOL w.e.f. 4.9.92 to 22.9.92".

3. The further representation^{submitted by him} was also rejected taking the stand that there is no ground for re-opening the matter. The applicant submitted that he has got 35 days of E.L. and 135 days of half pay leave to his credit and that has been admitted by the respondents in Annexure-VI.

4. It appears that the impugned order has been passed as a penal action without considering the contentions raised by the applicant. So long as the medical certificate produced by the applicant has not been rejected, the decision in Annexure-IV cannot be sustained particularly^{in the light of} provisions of Rule 32 of CCS (Leave) Rules. The relevant portion is extracted below:


- "(1) Extraordinary leave may be granted to a Government servant (other than a military officer) in special circumstances-
- (a) when no other leave is admissible;
 - (b) when other leave is admissible, but the Govt. servant applies in writing for the grant of extraordinary leave...."

5. The argument of the learned counsel for applicant is that so long as leave is in his credit, Extraordinary leave cannot be granted by Government unless he makes a request in writing for grant of EOL. In the instant case, the applicant has not submitted any request for EOL even according to the respondents. It appears that this is a penal action without considering the contentions raised by the applicant. Since the respondents have admitted in Annexure-VI that applicant has in his credit 35 days E.L., there is no justifiable reason to deny the applicant leave for the period from 4.9.92 to 22.9.92 on the basis of his own request made for grant of the same.

6. Having regard to the facts and circumstances of the case, I am of the view that the impugned order cannot be sustained in the light of the clear provision under Rule 32 of CCS (Leave) Rules. Therefore the impugned order Annexure-IV is quashed and the application is allowed. However, this will not prevent the first respondent from taking any appropriate action if so desires against the applicant in accordance with law.

12

7. The application is allowed on the above lines.
8. There shall be no order as to costs.


(N. DHARMADAN)
JUDICIAL MEMBER
10.8.93

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List of Annexures

1. Annexure-IV : Impugned order dated 20.11.92
2. Annexure-II : Memorandum dated 13.10.92
3. Annexure-VI : Order of Director dated 18.12.92