

CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

O.A.No.355/99

Monday, this the 9th day of July, 2001.

CORAM;

HON'BLE MR A.M.SIVADAS, JUDICIAL MEMBER

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

Dhanasekharan,
Bearer,
Departmental Canteen,
O/o the Chief General Manager,
Telecom, Trivandrum. - Applicant

By Advocate Mr G Sasidharan Chempazhanthiyil

Vs

1. Chief General Manager Telecom,
Kerala Circle,
Trivandrum.
2. Telecom Circle Office Canteen
rep. by its Secretary,
O/o the Chief General Manager,
Telecom, Trivandrum.
3. Assistant Director(General),
Secretary Telecom Circle Office Canteen,
O/o the General Manager,
Telecom, Trivandrum.
4. Union of India rep. by its
Secretary,
Ministry of Communications,
New Delhi.
5. Bharath Sanchar Nigham Ltd.
rep. by its Chairman,
New Delhi. - Respondents

By Advocate Mr SK Balachandran, ACGSC

The application having been heard on 9.7.2001, the Tribunal on the same day delivered the following:

O R D E R

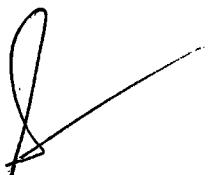
HON'BLE MR A.M.SIVADAS JUDICIAL MEMBER

Applicant seeks to quash A-7 and also A-8 to the extent it does not contain the name of the applicant, to declare that he is entitled to be treated as Central Government employee with effect from 1.10.91 and to regulate his service accordingly with all consequential benefits.

2. Applicant was appointed as Bearer as per A-1. As per A-7, there is no provision in the rule for regularising him and appointing him as a Government employee in the canteen. Consequently, in A-8, his name does not figure. A-7 is illegal. Changing the status without notice and without disciplinary action is against the principles of natural justice. Refusal to treat him as Central Government employee is discriminatory. He has sought for leave supported by medical certificate for the period of his absence from 7.6.93 to 29.4.96.

3. Respondents resist the O.A. contending that the applicant while working in the Cooperative Canteen remained absent unauthorisedly with effect from 7.6.93. He has not submitted any leave application or any intimation regarding his illness. He did not submit any joining report.

4. A-7, one of the impugned orders says that the period of absence from 4.4.95 to 29.4.96 is also not covered by any Medical Certificate/ Fitness Certificate when he reported again for duty and it cannot be accepted that the applicant was under medical treatment during the said period.



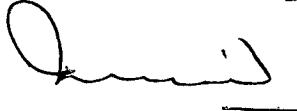
5. Applicant is relying on A-3. A-3 dated 6.4.97 says:

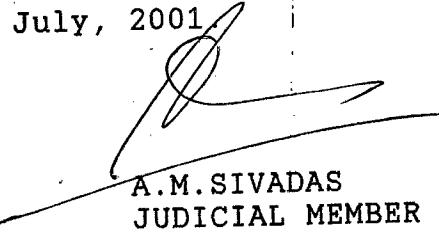
"This is to certify that the abovenamed was under my treatment for Neurotic Depression during the period from 7.7.93 to 29.4.96 also."

At the very outset it is to be stated that this is not in the proper form. There is a prescribed form for issuing Medical Certificate. Apart from that, there is absolutely no material to show that this A-3 was produced before the authority concerned at any point of time. Even if A-3 is accepted as a valid medical certificate, that alone is sufficient. A person who recovers from the illness is bound to produce a fitness certificate. There is absolutely no case for the applicant that he has produced fitness certificate. That being the position, the stand taken by the respondents in A-7 is only to be accepted. Therefore there is no ground to interfere with A-8.

6. Accordingly the O.A. is dismissed. No costs.

Dated, the 9th July, 2001


T.N.T. NAYAR
ADMINISTRATIVE MEMBER


A.M. SIVADAS
JUDICIAL MEMBER

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LIST OF ANNEXURES REFERRED TO IN THE ORDER:

1. A-1: True copy of the Appointment order No.GM/TV/Canteen/ESL dt.24.11.84 issued by the 2nd respondent.
2. A-3: True copy of the Medical Certificate dt.6.4.97 issued by Dr.Nicholas Christy.
3. A-7: True copy of the Order No.STB/54-5/97-II dt.6.11.98 issued by the 1st respondent.
4. A-8: True copy of the Order No.WLF/189-10/93. Pt.II dt. 20.10.93 issued by the 2nd respondent.