

**Central Administrative Tribunal, Lucknow Bench, Lucknow**

**Original Application No. 280/2009**

This the 4th day of November, 2009

**Hon'ble Ms.Sadhna Srivastava, Member (J)**  
**Hon'ble Dr. A.K.Mishra, Member (A)**

Arvind Kumar Sharma aged about 29 years son of Babu Lai Sharma, r/o Village Ratauli, Post Jatikhera (Banthara)District-Lucknow. .

Applicant

By Advocate: Sri A.P. Singh

**Versus**

1. Union of India through the Secretary, Ministry of Defence, Govt. of India , New Delhi.
2. Command Hospital, Central Command, Signal Regiment, Lucknow-226002.
3. Admn. Officer, Central Command, Signal Regiment, Lucknow.

Respondents

By Advocate: Sri Deepak Shukla

**ORDER (ORAL)**

**Hon'ble Ms. Sadhna Srivastava, Member (J)**

The applicant is aggrieved by the inaction of the respondents in not accepting the joining report of the applicant and also not permitting him to perform his duties as Cook.

2. The facts in brief are that the applicant was appointed as a Cook in the Central Command, Signal Regiment, Lucknow in October, 2001. On 15.9.2005, he proceeded on medical leave. Thereafter, as alleged in the O.A., he became mentally ill and after fitness, he approached the respondent No. 2 and 3 on 13<sup>th</sup> June, 2009 with a request to permit him to join the duty on the post of Cook. According to the applicant, since then he has been regularly attending the office of respondent No.3 but he is not permitted to join duty till date.

3. The respondents have filed written statement stating therein that earlier also, the applicant absented himself from duty w.e.f. 26.7.2004 to 24.12.2004 without any intimation to



the competent authority. The Commanding Officer, Central Command, Signal Regiment, Lucknow awarded the punishment of Censure to the applicant for the aforesaid absence and regularized the aforesaid absence as extra ordinary leave. Subsequently, he resumed his duties. Thereafter, again on 15<sup>th</sup> September, 2005, he applied for 2 days casual leave. However, he never rejoined duties and absented w.e.f. 17<sup>th</sup> September, 2005. The respondents issued a show cause notice dated 4.10.2005 by registered post to the applicant at his home address. A telegram for re-joining was also issued on 29.11.2005 at his home address. FIR in police station Sadar Bazar, Lucknow Cantt. was also lodged on 5.4.2006. Notice was sent to the District Magistrate on 28<sup>th</sup> April, 2006 to trace out the missing employee. A missing FIR in police station on 3.5.2006, 6.7.2006 and 21.7.2006 was also lodged. Besides, the aforesaid, an advertisement was published of missing persons in daily newspaper "Times of India" and "Dainik Jagran". However, respondents alleged that on 13<sup>th</sup> June, 2009, the applicant approached in person before respondent No. 3 to re-join duty after absence of about 3 years 10 months and 10 days. It is also submitted by the respondents that the applicant sent a letter along with medical certificate of local doctor certifying his medical illness. The case of the applicant was referred vide letter dated 17<sup>th</sup> July, 2009 to the appointing authority i.e. Headquarters, Central Command (Signal) for further direction in the matter, on which, the appointing authority directed that the action as per CCS (CCA) Rules may be initiated against the applicant.

4. Heard the counsel for the parties.

5. Admittedly, no disciplinary action has been taken against the applicant as yet. However, the appointing authority has



taken a decision to initiate departmental action against the applicant. According to the respondents, the applicant has reported for duty only on 13<sup>th</sup> June, 2009. Thereafter, he never reported for duty physically and the applicant's case is that the respondents did not permit him to join the duty.

6. Keeping in view, the rival pleadings, we are of the view that this O.A. can be disposed of with a direction that the applicant be present before the respondent No. 3 within a week from today and respondent No. 3 is directed to permit the applicant to join the duty as Cook and thereafter, the respondents may take action in accordance with rules. With this observation, O.A. is disposed of. No costs.



(Dr. A.K. Mishra)  
Member (A)



(Ms. Sadhna Srivastava)  
Member (J)

HLS/-