

CENTRAL ADMINISTRATIVE TRIBUNAL
LUCKNOW BENCH
LUCKNOW

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Original Application No. 427 of 1990

Ram Kishore Shukla Applicant
Versus

Union of India & others Respondents

Hon'ble Mr. S.N. Prasad, Judicial Member
Hon'ble Mr. V.K. Seth, Admn. Member

(By Hon. Mr. V.K. Seth, Admn. Member)

In this application the applicant has approached this Tribunal under section 19 of the Central Administrative Tribunal Act 1985. The applicant who is an Auditor in the office of Superintendent Local Audit Office, Armed Force Medical Supply Depot (S.L.A. AFMSD), Lucknow, has prayed for quashing of the order dated 9.11.90 passed by Controller Defence Accounts, Lucknow (who is respondent No. 3) treating the period from the 19.7.90 to 10.8.90 as 'Dies-non' without pay and allowances.

2. The respondents in their Counter affidavit have inter alia contended that A.F.M.S.D., Lucknow is a high security Defence Formation and for security reasons a Register is maintained and after location of the office of the S.L.A. inside A.F.M.S.D. ~~xxx~~ instructions were issued on 26.6.90 that the members of office of S.L.A. have to comply the security requirements and have to sign on the security register. It is also asserted that on 19.7.90 ~~xxx~~ the members of the S.L.A. refused to sign and in concerted manner the security register ~~xxx~~ wilfully/stopped attending the office from that date. It is further stated that after his explanation was called-for on 20.7.90, the applicant has managed to obtain the medical certificate dated 24.7.90 subsequently to cover-up his absence, and he

put the date 21.7.90 below his signature on the medical certificate. The applicant on the other hand asserts that he was well present in the office on 19.7.90 and 20.7.90 and had been on leave on 21.7.90 to 10.8.90 on Medical grounds. It is also asserted that there was no security register prior to 19.11.90.

3. We have carefully considered the records of the case and the arguments of the learned counsel for the parties.

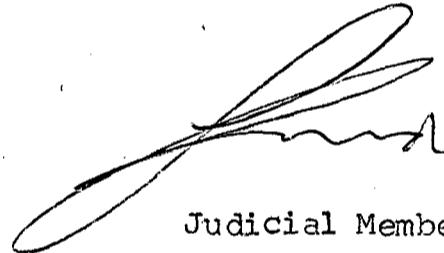
4. It is noticed that in para 6 (c) of the O.A. the applicant has referred to his representation dated 20.11.90 addressed to Controller Defence Accounts, Lucknow (who is respondent No. 3) and his representation dated 8.12.90 addressed to respondent No. 2 and he has also attached copies of the representations as Annexures A-7 & A-8 to his petition. Neither in their Counter affidavit nor during the course of hearing the receipt of these representations has been denied by the respondents. It is only mentioned in the Counter affidavit that the applicant has not exhausted the alternative remedy available to him. It is noticed that the applicant has approached this Tribunal on 27.12.90 while the representation to the Controller General of Defence Accounts, New Delhi (respondent No. 2) was submitted only on 8.12.90, thus, allowing the respondent insufficient time to take a decision in the matter which is against the spirit of Section 20 of the Administrative - Tribunal Act.

5. In view of the foregoing we are of the view that it would meet the ends of justice if suitable direct are issued in the matter to the respondents to decide the representation of the applicant. We accordingly direct respondent No. 2 namely Controller General of Defence

Accounts, New Delhi to take a decision on the representation of the applicant dated 8.12.90 by means of a speaking order. For this purpose he may obtain a fresh copy of the representation dated 8.12.90 from the applicant if the one submitted earlier is not readily traceable in his office. Further respondent No. 2 is directed to take a decision on the representation by means of a speaking order within a period of 2 months from the date of its receipt. If the applicant is still aggrieved by the decision of respondent No. 2 he will be free to approach this Tribunal again by means of a fresh Original Application.

6. In the facts and circumstances of the case there will be no order as to costs.

W 
Admn. Member


Judicial Member

Girish/-

Lucknow; Dated : 26/11/93