

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

Original Application No. 449/2009

This the 21st day of December, 2009

Hon'ble Dr. A.K. Mishra, Member-A

Dinesh Pandey, S/o late Sri R.N. Pandey, Telecom Technical Assistant (TTA), Office of Sub-Divisional Engineer (Electronic Exchange), Sultanpur presently R/o 485 EWS ADA Colony, Preetam Nagar, Allahabad.

.....Applicant

By Advocate: Applicant in person.

Versus

1. Bharat Sanchar Nigam Limited, Corporate Office, Statesman House, New Delhi through its Chairman-cum-Managing Director.
2. Chief General Manager, Telecom, U.P. East, Telecom Circle, Lucknow.
3. General Manager, Telecom District Sultanpur.

.....Respondents

By Advocate: Sri G.S. Sikarwar.

ORDER

Aggrieved by the order dated 16.10.2009 in which his application dated 23.7.2009 was rejected on the ground that he had not taken prior permission for the proposed study, this application has been made with a prayer to set-aside the rejection order and to issue a direction to the respondent no.3 to consider sanctioning the study leave/Extra Ordinary Leave (EOL) for the full tenure as required for completion of the course.

2. The applicant, who is working as Telecom Technical Assistant(TTA) with Bharat Sanchar Nigam Limited (BSNL) applied to the General Manager Telecom District, Sultanpur on 23.7.2009 intimating him that the applicant had been selected in SEE-UPTU-2009 for a B.Tech three year course and that he wanted to take admission in K.N.I (Group) Engineering College, Sultanpur. He requested sanction of study leave from 1.10.2009 to 30.9.2011 and EOL from 1.10.2011 to 30.5.2012 to complete the course. This application was forwarded by the Sub-Divisional

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Engineer (Electronic Exchange), Sultanpur to General Manager Telecom, Sultanpur. The applicant had enclosed a copy of the counselling letter issued by the U.P. Technical University, Lucknow. His application was forwarded from the office of General Manager to the Deputy General Manager Administration in the office of Chief General Manager (East), U.P. Telecom Circle, Lucknow. On 18.8.2009 the office of the Chief General Manager (East) informed General Manager, Telecom Sultanpur over FAX that the post of TTA belonged to Secondary Switching Cadre (SSA) cadre and the General Manager was the competent authority. The applicant was informed that Rules 50 to 63 of the CCS (Leave) Rules 1972 were applicable in respect of study leave.

3. Since the applicant had to appear for counselling on 19.8.2009, he sought for station leave permission and Casual Leave on 20/21.8.2009 to participate in the scheduled counselling. His application was sanctioned by the General Manager.

4. It is not disputed by the respondents that the B.Tech course would be in the nature of further development of the technical capacity of the applicant and will be beneficial to the organization. The applicant claims that he is fulfilling all the conditions necessary for grant of study leave and EOL. The reason given in the impugned order in turning down his request is that prior permission had not taken by him before sitting in the entrance examination. The applicant submits that neither in the Study Leave Rules, nor in the Conduct Rules, is there any requirement of taking prior permission for sitting in the entrance examination. Since he was declared qualified and invited to attend counselling programme, he intimated the authorities and sought specific sanction of Casual Leave as well as permission to attend to the counselling. Admittedly, on 19.8.2009 the General Manager has granted the permission, who is also the authority to sanction the study leave. Subsequently, he was also granted Casual Leave on

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5.9.2009 to attend to the admission formalities. In anticipation of his study leave, he has taken admission in the course and would be seriously affected, now that his leave application has been rejected.

5. At the time of hearing, the learned counsel for the respondents placed before me the circular of DOP&T which requires prior permission before taking up academic studies beyond office hours. On examination, it was found that this circular related to the employees taking admission in courses in which studies are imparted beyond office hours. The case of the applicant is entirely different. He is seeking study leave/EOL in order to devote full time to the B.Tech course. It was further argued on behalf of the respondents that the applicant had earlier taken prior permission before prosecuting AMIE course. The applicant has denied this in his Rejoinder Affidavit and has stated that on the earlier occasion also, the permission was granted to him only after he got admission and registration in the AMIE course.

6. The grounds advanced by the learned counsel for the respondents for rejection of the said leave application are as follows:

- (i) prior permission had not been taken by the applicant before he sat for the entrance examination;
- (ii) B.Tech course was for duration of three years and maximum two years study leave could be sanctioned; and
- (iii) there was shortage of technical staff and the applicant could not be spared for a such long duration.

7. As has been mentioned, according to the applicant, there was no requirement for taking prior permission before sitting in the entrance examination. Such a permission would have become meaningless if the applicant would not have qualified in the test. The real

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contingency for taking permission arises. only when the applicant is selected in the entrance test and is qualified for counselling. It is not disputed that the applicant has kept the authority intimated at every stage since his selection and has requested for formal permission to appear in the counselling and also to attend the admission formalities. The second ground also does not appear to have much force. At the time of hearing the applicant clarified that although the tenure of B.Tech Course was for three years for all practical purposes, this time because of delay involved in the admission and other administrative reasons, it is being curtailed 2 years and seven months; therefore, he has applied for study leave of two years and balance seven months of EOL. Now, the only ground left is about availability of required number of technical personnel in the circle. It is well known that every cadre has got a leave reserve. Generally, extra employees are engaged in order to meet the specific contingencies arising out of vacancies created on account of leave and training needs. Therefore, rejection of leave application merely on the ground that there would be shortfall during his study leave absence is not justified. In reply to the Supplementary Affidavit filed on behalf of respondents, it has been mentioned at paragraph 7 that the absence of the applicant for three years will amount to desertion of job in which he has been appointed and having requisite qualification. I am afraid, such a statement is wholly unjustified. If such a view would be permitted to be taken, there will be hardly any occasion to sanction study leave for any employee, and the statutory provisions of Study Leave Rules would be become wholly redundant.

8. Therefore, it is difficult to sustain the impugned order dated 16.10.2009 which is, accordingly, set-aside. The applicant was particularly anxious that he should be permitted to appear in some internal examination relating to course starting from 24.12.2009. Therefore, the matter is remanded to the respondent no.3, who is the competent



authority, to reconsider the decision rejecting the application for study leave/EOL of the applicant. Till a final decision is taken, he may be permitted to appear in the internal examination. The final decision may be taken before the end of this month.

9. The application is disposed of with the aforesaid observations. No costs.

A. K. Mishra 21/12/09
(Dr. A.K. Mishra)
Member-A

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