

Central Administrative Tribunal, Lucknow Bench, Lucknow

Original Application No. 93/2010

This the 21st day of March, 2010

Hon'ble Dr. A.K.Mishra, Member (A)

Dinesh Pandey aged about 31 years son of late Shri R.N. Pandey working as Telecom Technical Assistant (TTA) r/o C/o Office of Sub-Divisional Engineer, (Electric Exchange) Sultanpur.

Applicant

By Advocate: Sri Praveen Kumar

Versus

1. Union of India through its Secretary, Department of Telecommunications, Sanchar Bhawan, New Delhi.
2. Bharat Sanchar Nigam Limited, Corporate Office, Statesman House, New Delhi through its Chairman-cum-Managing Director.
3. Chief General Manager, Telecom U.P. East, Telecom Circle, Lucknow.
4. The General Manager, Telecom District- Sultanpur.

Respondents

By Advocate: Sri G.S.Sikarwar for R.No. 2,3 and 4
Sri K.K.Shukla for R.No.1

ORDER

Hon'ble Dr. A.K. Mishra, Member (A)

This application has been filed with a prayer to quash the order dated 17/18-2-2010 in which the applicant's application for grant of study leave has been rejected and consequentially to give a direction for sanction of study leave and Extra Ordinary Leave (EOL) for a period of 2-1/2 years to enable the applicant to prosecute his studies in B.Tech. course in Electronics discipline.

2. Earlier, he had filed O.A. No. 449/2009 in which similar prayer was considered and a reasoned order was passed taking into consideration all the grounds taken by the respondents in not permitting the applicant to prosecute his higher studies. In the impugned order dated 17/18-2-2010, the respondents No.4 has reiterated almost the same grounds. As seen from the impugned order, the prayer of the applicant for study leave was re-examined but rejected on the ground that he had not observed the departmental rules governing sanction of study leave and further that there was shortage of employees in the department and it was not in the interest of department to grant such study leave.



3. Both two grounds were covered in paragraphs 6 and 7 of my judgment dated 21.12.2009 in O.A. No. 449/2009. These two paragraphs are extracted for ready reference:-

"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 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 counseling and also to attend to 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 to 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 the 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 become wholly redundant. "

4. Learned counsel for the respondents submits that B.Tech course which the applicant intends to prosecute is not required in the field of duty he is discharging at present. He is a diploma holder and this educational qualification is sufficient for him to discharge his present duty as Telecom Technical Assistant (TTA). He drew my attention to Rule 50 of CCS (Leave) Rules governing the conditions for grant of study leave. Sub Rule (1) reads as follows:-

"(1) Subject to conditions specified in this Chapter, study leave may be granted to a Government Servant with due regard to the exigencies of public service to enable him to undergo, in or out of India, a special course of study consisting of higher studies or specialised training in a professional or a technical subject having a direct and close connection with the sphere of his duties."

It says that study leave may be granted to enable a Govt. Servant to undergo higher studies for special course of higher studies or specialised training in a professional or a technical subject having a direct and close connection with the sphere of his duties. It is not disputed that B.Tech course in electronics has a direct and close connection with the sphere of duties of the applicant. As a matter of fact, the Rules for recruitment of management trainees both internal and external makes it mandatory that the internal



candidate should have a Bachelor of Engineering / Technology degree in any of the following disciplines:-

1. Telecommunication;
2. Electronics;
3. Computer/I.T;

In addition to having 4 years working experience within BSNL.

5. The applicant has been selected for a B.Tech course in electronics. It cannot be denied by the respondents that this course is relevant to the sphere of duties of the applicant. This fact was also stated in paragraph 4 of my order dated 21.12.2009. It was observed that 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. Therefore, the plea of the respondents that the study leave applied for by the applicant does not satisfy the conditions of study leave is without any basis. Study Leave Rule 50 ((ii)(iii) goes to the extent of saying that even for the studies which may not be closely or directly connected with the work of a Government Servant, but which are capable of widening his mind in a manner likely to improve his abilities as a civil servant and to equip him better to collaborate with those employed in other branches of the public service, leave may be sanctioned. As I have already observed, the leave applied for is directly connected with the duties of the applicant and has a relevance for his future career progression.

6. The other ground taken in the counter reply is that the applicant had not taken NOC from the employer before seeking admission in the engineering course. The applicant has placed before me two of his applications:-


- i) regarding sanction of casual leave to enable him to attend the counselling for engineering;
- ii) his application for sanction of casual leave and permission to attend to the admission in Engineering College in B.Tech Stream.

First application was positively recommended by his immediate superior and the second application has also been seen by the authorities. It is his case that the authorities never discouraged him from participating in the



counselling activities of selection agency and subsequently to take admission in B.Tech course. Therefore, it was not correct on the part of the respondents to make an averment that they were in the dark about the steps being taken by the applicant. It is further argued by the learned counsel for the applicant that any ground specifically not taken in the impugned order cannot be relied on to justify the action of the respondents. He places reliance on the case ***Mohinder Singh Gill and another Vs. Chief Election Commissioner, New Delhi reported at AIR 1978, 851 decided by the Supreme Court.***

7. Be that as it may, I find that no new ground has been mentioned in the impugned order in which his prayer for sanction of study leave/ EOL was rejected on reconsideration. It is undisputed that B.Tech course in electronic would be helpful not only for the applicant in his career progression but also to the organization. In the circumstances, the impugned order dated 17/18-2-2010 is set aside and the respondents No. 3 and 4 are directed to reconsider the leave application of the applicant ^{by within 15 days} in the light of the observations made in the foregoing paragraphs. No costs.


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

HLS/-