

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

PATNA BENCH
(CIRCUIT COURT AT RANCHI)

Registration No.0A-740 of 1995

(Date of order: 10th August 2001)

versus

1. The Union of India through the Secretary
Ministry of Home Affairs, Govt. of India,
New Delhi.
2. The Joint Director, Subsidiary Intelligence Bureau,
Jamshedpur.
3. The Deputy Director, Subsidiary Intelligence Bureau,
Jamshedpur.
4. The Joint Assistant Director-cum-Enquiring Officer,
Subsidiary Intelligence Bureau, Ranchi, No.1 Booty
Road, District Ranchi.

Coram: Hon'ble Mr. Justice S. Narayan, Vice-Chairman
Hon'ble Mr. L.R.K.Prasad, Member (Administrative)

O R D E R

Justice S. Narayan, V.C.

The applicant being Security Assistant (General), in the Subsidiary Intelligence Bureau, Ministry of Home Affairs has impugned an order dated 11.11.1994 Annexure-A/ issued by the disciplinary authority i.e. the Deputy Director, Subsidiary Intelligence Bureau (Respondent No.3) as a result of the disciplinary proceedings. By this order the applicant was punished by way of reduction to the

minimum of his time scale of pay with effect from the date of the order for a period of three years without cumulative effect and without adversely affecting his pension. It was also ordered that his period of absence be treated as on leave without pay without amounting to a break in service. Since the departmental appeal preferred against this order was also dismissed, the relevant order dated 22.3.1995 Annexure-A/2, passed by the appellate authority was also challenged by the applicant.

2. The disciplinary authority, ~~filed his~~ ^{by issuing a} memorandum of charges dated 9.6.1993, proceeded against the applicant under Rule 16 of the CCS (CCA) Rules, 1965. The gist of allegation by which there was imputation of misconduct and misbehaviour of the applicant was that he, in defiance of the order dated 31.12.1992 of his transfer, willfully absented himself from his duties from 3.1.1993 to 21.12.1993 without submitting any application and obtaining permission from the concerned authority. The applicant did participate in the inquiry, wherein his statements were recorded together with the defence set up by him and, ultimately, on the basis of the inquiry report, submitted by the inquiring officer, the disciplinary authority, giving him a chance to represent, passed the impugned order of punishment on 11.11.1994 as contained in the order Annexure-A/1, already referred to above. The appellate authority, by his order dated 22.3.1995, Annexure-A/2, upheld the punishment awarded by the disciplinary authority, and the appeal was rejected. There was thus, the necessity for the applicant to come up with the instant OA.

[Signature]

3. Even though it was urged on behalf of the applicant that the proceeding against him was not properly conducted and that his plea of defence ought to have been accepted there was no positive material suggested on the record so as to substantiate this sort of plea. In fact, it was significant to note that the applicant did not set up any defence excepting a mercy appeal to condone his absence ^{from} ~~for~~ the duties. It has been abundantly demonstrated on the record in the light of whatsoever ~~plea~~ raised by the applicant that he was admittedly absent from the duties during the period from 3-1.1993 to 21.12.1993. There was no leave application made for the absence. It would not be out of place to mention here that during the period of his absence the authority concerned in the office of the respondent sent registered letters once on 3.3.1993 as at Annexure-B and again on 15.4.1993 as at Annexure-C, requesting the applicant to join his duties forthwith ^{at} ~~and~~ his new place of posting. All the more significant was to note that only a day or two earlier i.e. on 31.12.1992, the applicant was served with a letter of transfer by which he was relieved from Hazaribagh so as to join at Giridih. Since there was no response from the side of the applicant, it was but natural ~~for~~ the authorities concerned to have reasonably believed that the applicant absented himself from duty in defiance of the order of transfer. However, in any view of the matter, the long absence of the applicant from his duties was the hard truth and not even denied by the applicant.

Sanjay

4. All that was submitted on behalf of the applicant was that he did not intimate his office about his absence because he was sick and he was not in a position to perform his duties or even to send any intimation to his office.

He also took a plea having been mentally upset by the sickness. This sort of plea cannot but be termed to be quite vague and this, in our considered opinion, cannot be supposed to be acceptable.

5. In context of the plea raised by the applicant in regard to his admitted long absence, we have taken note of the fact that he was a retired staff of the Indian Air Force. Accordingly, it was expected of him to be more responsible and disciplined than a common man and he, even in exercise of due diligence, was expected to have atleast informed the office about his sickness from time to time. The failure on his part would certainly depict misconduct so as to hold him guilty of the charges levelled against him.

6. Now, as to the punishment inflicted, it was urged that it does not commensurate with the gravity of the allegation and that the punishment was excessive. Here again, keeping regard to the long absence i.e. to say about a year, from the duties, we are unable to concur with the submission that the punishment was excessive. Learned counsel for the applicant urged that besides reduction of pay for a period of three years without cumulative effect, there was also a direction to treat the absence as a leave without pay. Since the absence was definitely unauthorised, we are of the view that there was no option left with the authority concerned to treat the absence as on leave without pay. In fact, the respondents have taken care with further direction that the leave as such would not amount to a break of service. Further, the reduction of pay also was not to adversely affect the applicant's pension. In this view of the matter we ~~are~~ ^{could} not to be persuaded even to interfere with the extent of punishment awarded.

Sanjay

7. In the result, this O.A was devoid of merit and, accordingly, it is dismissed with ~~no~~ order as to costs.

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(L.R.K.Prasad)
Member (A)

Sax 10/8/2001
(S.Narayan)
Vice-Chairman

MAA