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BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
NEW BOMBAY BENCH, NEW BOMBAY.

Tr. Application No.339/86.

Shri C.K. Sathe,
15, Narayan Peth,
Poona - 30.

.... Applicant

Vs.

1. Union of India
(Notice to be served on the
Secretary, Ministry of
Information and Broadcasting,
Government of India,
New Delhi.11.).
2. The Director General,
All India Radio,
Indraprastha Estate,
New Delhi.
3. The Station Director,
All India Radio,
Opp. M.L.A.'s Hostel,
Backbay Reclamation,
Bombay-20.

.... Respondents.

Coram: Hon'ble Member(A), Shri J.G. Rajadhyaksha,
Hon'ble Member(J), Shri M.B. Mujumdar.

Appearances:

The applicant in person
and Mr.M.I. Sethna, Counsel
for the Respondents.

Oral Judgment :

{ Per Shri M.B. Mujumdar, Member(J) } Dated : 6.11.1987.

The applicant had filed Regular Civil Suit No.694/84
in the Court of the Civil Judge, Senior Division Pune and the
same is transferred to this Tribunal under section 29 of the
Administrative Tribunal's Act, 1985.

2. The applicant was appointed as a Clerk Gr.II in the
All India Radio at Pune. In 1973, he was promoted as Clerk
Gr.I. While he was working in that capacity at Bombay, two
charges were framed against him on 19.5.1980. The first charge

was that while functioning as Clerk Gr.I, he had been absenting himself from government duty w.e.f. 26.11.1979 wilfully and in an unauthorised manner. He had neither applied for leave in time nor resumed duty on the date as informed by him. The second charge was that he had applied for Restricted Holiday on 24.11.1979 with permission to suffix Sunday the 25.11.1979. He however, failed to resume duty on 26.11.1979. He was directed to resume duty by the office telegram dt.29.11.1979 but he sent an application dtd.27.11.1979 stating that while on way to Pune Railway Station he was hurt having been dashed by a Pune Motor Transport Bus (P.M.T.) and that he could not attend duties at Bombay. He had requested for grant of commuted leave. The office directed him to produce a Medical Certificate for enabling him to get commuted leave and also to submit an application for regularisation of his earlier absence from 30.9.1979 to 21.11.1979. He however, failed to furnish the Medical Certificate and continued to remain absent without permission. Along with the charges, the necessary accompaniments were also sent to the applicant.

3. One Shri B.A. Sanadi, Extention Officer, Family Welfare, All India Radio, Bombay was appointed as Enquiry Officer by the Station Director of All India Radio, Bombay one Shri R.D. Vaity, was appointed as Presenting Officer. On 19.8.1980 applicant submitted a written admission of his defaults. On 22.8.1980 the Enquiry Officer explained the charges to the applicant and asked him whether he wanted to plead guilty or desired to say anything to defend himself. The applicant pleaded guilty and requested for pardon. In view of his statement the Enquiry Officer closed the enquiry and submitted his report to the Disciplinary Authority i.e. the Station Director of the All India Radio, Bombay. The Station Director accepted the report and imposed the penalty of Removal from service w.e.f. 15.10.1980, which would not be a disqualification

for future employment under the Government. Without preferring an appeal against that order the applicant filed this suit in the Court of Civil Judge, Senior Division, Pune.

4. Initially, the applicant had filed the suit on 22nd Oct., 1981 with a request to permit him to file the suit as an indigent person. That request was allowed by the Learned Civil Judge by the order dt. 31.3.1984. Thereafter, the suit was numbered as Regular Civil Suit No.494 of 1984.

5. The respondents have filed their exhaustive written statement when the case was pending in the Civil Court itself. In para 12 they have pointed out that the applicant was transferred from Aurangabad to Bombay and he was asked to join duty on 10.10.1979. The applicant however did not like the transfer and refused to join duty at Bombay. The applicant asked for leave on one pretext or another and then joined duty at Bombay for the first time on 22.11.1979. He worked there only for two days' i.e. on 22.11.1979 and 23.11.1979, but remained absent from 24.11.1979. During the period of his absence letters and Memos were sent to him. On 14.3.1980, a telegram was also sent to him calling upon him to join his duty at Bombay. But he did not take notice of the same. He, However, reported for duty at Bombay on 9.9.1980 and worked for 4 days only i.e. upto 12.9.1980. However, from 15.9.1980 he again absented himself and he was absent from his duty till he was removed from service.

6. In the plaint *the applicant is original* the plaintiff had challenged his plea of guilty on some grounds. According to him the Enquiry Officer had assured him that he would withdraw the charge-sheet immediately if he admitted the Charges by giving him a clean bill. Relying upon that assurance, he sent the letter dt.19.8.1980 addressed to the Enquiry Officer accepting the charges and requesting that he may be pardoned and further requesting him to recommend the withdrawal of the charges. In fact the letter of applicant dated 19.8.1980 has no

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such mention ~~of~~ ^{regarding} withdrawal of Charges. The applicant has further submitted that the Enquiry Officer has committed an error in accepting the letter. He further submitted that the Enquiry Officer had induced him to plead guilty. It is submitted by the applicant that the letter addressed to the Enquiry Officer was not proper and if he wanted to plead guilty he would have addressed the letter to the Station Director, who was the appointing authority.

7. We have just now heard the applicant in person. He did not state before us that he was given any promise by the Enquiry Officer for the purpose of pleading guilty. Moreover, as pointed out from the plaint the applicant had first sent a letter to the Enquiry Officer pleading guilty and subsequently on 22.9.1980 which was the date for hearing, he pleaded guilty to the charges. Hence we do not find any force in the submission of the applicant that his plea of guilty was invalid because it was taken by inducement. We may point out that apart from the fact that there is no such specific request to the Enquiry Officer even if one was made, the Enquiry Officer had no powers as such to withdraw the charges. Secondly, the submission of the applicant in the plaint that the plea of guilty contained in the letter addressed to the Enquiry Officer should have been acted upon by the Enquiry Officer is pointless. As already pointed ^{out} the Enquiry Officer has not relied only on the letter, but also on the oral plea made before him. Moreover, we do not think there is anything wrong in the letter being addressed to the Enquiry Officer because he was the authority who was holding the enquiry against the applicant. We, therefore, find no force in any of the submissions of the applicant.

8. Mr. Sethana, the Learned Counsel for the Respondents has today submitted a statement showing for how many days the applicant was absent from duty from 1976 to 1980. The statement shows that in 1976 the applicant remained absent for 162 days, in 1977 he remained absent for 227 days, in 1978 he remained absent for 164 days, in

1979 he remained absent for 79 days and in 1980 he remained absent for 180 days. The applicant did not dispute the correctness of the figures given in the statement, but he stated that during these years, he was not working in Bombay. It is immaterial where he was working. Hence after hearing the applicant and the Learned Counsel for the Respondents and considering all the facts, we do not think that the disciplinary authority has committed any error in awarding the sentence of removal from service to the applicant. We, therefore, dismiss the application (suit) with no order as to costs.

(J.B. RAJADHYAKSHA)
Member(A)

(M.B. MUJUMDAR)
Member(J).