

(7)

CAT/J/12

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

NEW BOMBAY BENCH

O.A. No. 47/89
~~xxxxxx~~

198

DATE OF DECISION

12.4.91

Dasrath Anandi Prasad Yadav Petitioner

Mr.D.N.Deshmane Advocate for the Petitioner(s)

Versus

Union of India and one another Respondent

Mr.A.I.Bhatkar for Mr.M.I.Sethna Advocate for the Respondent(s)

CORAM

The Hon'ble Mr. M.Y.Priolkar, Member(A)

The Hon'ble Mr. J.P.Sharma, Member(J)

1. Whether Reporters of local papers may be allowed to see the Judgement ? *Ys*
2. To be referred to the Reporter or not ? *Yh*
3. Whether their Lordships wish to see the fair copy of the Judgement ? *no*
4. Whether it needs to be circulated to other Benches of the Tribunal ? *no*

J.P.Sharma

(J.P.SHARMA)
Member(J)

(8)
BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
NEW BOMBAY BENCH

O.A.47/89

Dasrath Anandi Prasad Yadav,
Kailas Nagar, Quarter No.38,
Pimpri Colony,
Pune - 411 017.

.. Applicant

vs.

1. Officer I/C
Military Farm,
Secundrabad,
Post.Bompalli,
Secundrabad - 11.

2. Union of India
Ministry of Defence,
New Delhi - 110 011.

.. Respondents

Coram: Hon'ble Member(A) Shri M.Y.Priolkar

Hon'ble Member(J) Shri J.P.Sharma

Appearances:

1. Mr.D.N.Deshmane
Advocate for the
Applicant.
2. Mr.A.I.Bhatkar
for Mr.M.I.Sethna
Advocate for the
Respondents.

JUDGMENT:
(Per J.P.Sharma, Member(J))

Date: 12.4.89

The applicant was employed as a Gawala in the Military Farm at Pimpri, Pune. In the year 1981 ~~the~~ the applicant went on casual leave for three days with effect from 7th May, 1981 and he suffered from schizophrenia. After the applicant recovered he reported for duties on 12-4-1986 with a certificate of medical practitioner Dr.Bhalchandra C.Mhaswade. But he was not allowed to join the duties and was asked to be medically examined by Military Doctor.

9

He was directed to military hospital at Secundrabad but there he was not entertained being a non army personnel. So he was directed to report to Gandhi Hospital, Secundrabad but thereto he was not entertained. So he was asked to report ^{to the} Superintendent Mental Hospital, Hyderabad. The hospital authorities wanted him to take as indoor patient but since there was a marriage of the daughter of the applicant he did not go for medical check up and after the marriage of his daughter he again came to join the Military Farm in May, 1986 but he was not allowed to join. So he made representations one after another and finally he was replied in 16th March, 1988 by the following letter:-

- "1. Refer to your application dtd. 20 Feb. 88 addressed to the DD MF, endorsing copy to this HQ amongst others -
2. On perusal of records of this HQ/ MF Secunderabad, it reveals that you have remained absent from duty wef 10 May 81 without intimation after availing three days C/Leave wef 07 May 81. When you reported back on 17 Apr 86, you submitted a medical certificate issued by a RMP to the effect that you were on treatment and was suffering from 'Schizophrenia' during the period of your absence. To ascertain your medical fitness since the illness was categorised as some sort of mental illness and was for a prolonged period, you were detailed to MH Secunderabad for the purpose where from you were ultimately asked to ~~xxxx~~ report to Supdt., Hospital for Mental Diseases, Hyderabad but you never reported there and is again absent since then. You are therefore once again advised

6

in your own interest to comply with the orders given by OIC MF Secunderabdd.

3. Please ack. "

2. The applicant has filed this application for the following reliefs:

- (a) the applicant may be allowed to rejoin with all the back wages without second medical examination;
- (b) his services may be continued by amending the rules and regulations; and
- (c) in the alternative the Tribunal may be pleased ~~to~~ to direct the respondents to get the applicant examined at Pune hospital.

3. Relief No.(a) and (b) have not been pressed by the learned counsel for the applicant nor any argument has been advanced on that point.

4. The respondents have opposed the application and filed ~~and filed~~ the reply contending that the applicant was employed in 1960 and was absorbed subsequently on permanent basis but he absented from 7th May, 1981 till 16-4-1986 and when he came to join his duties he filed a certificate showing some mental illness for which he was directed to get himself examined from a Civil Surgeon as per Rule 19 of the FR & SR Rules. The applicant did not produce any such certificates so he was not taken to duty nor allowed to join again. By the letter dated 16th March, 1988 the applicant was again directed to get himself medically examined and bring fitness certificate but he has not done so and filed this application

before this Tribunal.

5. We have heard the learned counsel of the parties at length and have gone through the record of the case. It is evident from the record that the applicant absented due to some mental ailment with effect from 7-5-1981 and when he reported for duty on 17-4-1986 he filed a certificate of Registered Medical Practitioner on which the respondents were not satisfied and the applicant was directed to get himself examined at Kirkee by their letter dtd. 19-4-1986. Subsequently he was sent to Military Hospital, Secunderabad but thereto he was not entertained so he was sent to Gandhi Hospital Secunderabad on 23rd April, 1986. The said hospital advised the applicant to report to the Superintendent Hospital for Mental Disease, Hyderabad as there was no Psychiatry department in Gandhi Hospital. The applicant was asked by the hospital authorities to admit himself for proper examination but he did not comply with the same. The applicant has been advised off and on by the department i.e. in April, 1986 and May, 1986 to bring the medical certificate from the Superintendent, Hospital for Mental Disease, Hyderabad but the applicant did not file any such fitness certificate and for that the applicant himself is to be blamed. Thus the applicant ^{has} ~~has~~ not made out any case that he was not ~~xxxxx~~ allowed to join duties deliberately by the respondents or he was unnecessarily harassed but it is evident that the applicant himself avoided filing a fitness certificate from the Superintendent, Hospital for Mental Disease, Hyderabad

to which he was ultimately referred to.

6. Thus this is not a case where an interference is called for reinstating the applicant. Moreover the applicant has been absent for about five years from 7-5-1981 till he reported with a certificate of Registered Medical Practitioner on 17-4-1986. He very much ~~had~~^{held} himself liable for disciplinary proceedings under CCS(CCA) Rules, 1965 because he could have sent an application for leave along with medical certificate which he did not do.

7. In any case since the learned counsel for the respondents has conceded that the respondents are still prepared to take him on duty if the applicant furnishes the fitness certificate from the Superintendent, Hospital for mental disease, Hyderabad so a direction can be issued in that regard only.

8. The application therefore is disposed of in the manner that the respondents shall give letter of request addressed to the Superintendent, Hospital for Mental Disease, Hyderabad to examine ^{him} regarding the fitness of the applicant for the government service and in case the applicant has been recommended medically fit and he has not attained the age of superannuation then in that case the applicant may be taken on duty but without any backwages. The period of break i.e. from 7-4-1981 till the date of joining shall be treated as break in service for all the purposes even for the