

CENTRAL ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH

O.A.No.410/99

Dated this Thursday the 28th Day of February, 2002.

Hon'ble Shri Justice Birendra Dikshit, Vice Chairman
Hon'ble Shri Gopal Singh, Member (A).

Harishchandra B. Satve,
C/o.Shri L.B. Satve,
T/41/3 Transit Camp,
Homi Baba Road,
Navy Nagar, Colaba,
Mumbai - 400 005.

.. Applicant.

(By Advocate Shri Suresh Kumar)

Versus

1. Union of India, through
Secretary, Ministry of Defence,
South Block, New Delhi.
2. The Major General,
The General Officer Commanding
Officer, Headquarters
Maharashtra and Gujrat Area,
Colaba, Mumbai-400005.
3. Brigadier,
Commander Headquarters,
Mumbai Sub Area,
Colaba, Mumbai-400005.

.. Respondents.

(By Advocate Shri R.K. Shetty)

ORDER (Oral)
{ Per : Shri Gopal Singh, Member (A) }

In this application under Section 19 of the AT Act, 1985, the applicant Shri Harischandra B. Satve has prayed for quashing the impugned order dated 13.12.1997 and 16.12.1999. It is also prayed by the applicant that issuance of charge sheet for unauthorised absence be declared illegal when deciding the leave of the applicant. The applicant's case is that he had proceeded

Gopal Singh

...2..

on 30 days earned leave with effect from 23.10.1996 to 22.11.1996 and further 20 days medical leave was granted with effect from 22.11.1996 to 12.12.1996. Subsequently the applicant had submitted a certificate from St. George Hospital, wherein rest for 4 weeks was recommended. Thereafter the applicant had submitted medical certificate from various doctors for the period of his absence. The applicant has been served with a charge sheet for absenting himself unauthorisedely from duty from 13.12.1996. On ~~an~~^h conclusion of the enquiry, the penalty of dismissal from service has been imposed upon the applicant vide respondents order dated 13.12.1997 (Annexure A-I). An appeal filed by the applicant against the order of the disciplinary authority was rejected by the respondents vide order dated 16.2.1999 (Annexure A-2). Contention of the applicant is that he had submitted medical certificate for this period of absence and he did not receive any reply from the respondents department. Because of his illness he could not participate in the departmental proceedings also and the enquiry officer had ~~again~~^h conducted enquiry exparte. He had submitted an appeal to the appellate authority but the appeal has been summarily rejected without giving detailed reasoned order, hence this application.

Copels of

...3...

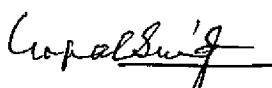
2. We have heard learned counsel for both the parties and have gone through the record carefully. We find that the applicant has submitted a long appeal running into 6 pages but the rejection of the appeal is in 4 lines only. We considered it proper to reproduce the Appellate Order dated 16.2.1999 as below:-

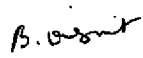
"1. I have perused the appeal dated 19 Jan 98 submitted by Shri HB Satve against the order dated 13 Dec 97 passed by Cdr Mumbai Sub Area. The punishment awarded to Shri HB Satve is reasonable, fair and just.

2. The appeal is devoid of merit and substance and, I, therefore, reject the same."

It is clear that the Appellate Order is a non speaking order. It is also seen that the Appellate Authority has not given any personal hearing to the applicant though asked for. We do not consider ^hthis Appellate Order as a reasoned one and therefore we are of the view that such an order is liable to be set aside. In the circumstances of the case, we are of the view that the case be remitted back to Appellate Authority for passing fresh reasoned order. Accordingly, we pass the order as under:-

This O.A. is partly allowed and the Appellate Order is set aside. The case is remitted back to the Appellate Authority with a direction to dispose of the appeal of the applicant by passing a reasoned speaking order after providing him personal hearing opportunity, within 3 months from the date of receipt of copy of this order. No costs.


(Gopal Singh)
Member (A)


(Birendra Dikshit)
Vice Chairman.