

CENTRAL ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH, MUMBAI

ORIGINAL APPLICATION NO. : 548/2000

Date of Decision : 5th October 2001

Z.J.Fouju Applicant

Shri A.I.Bhatkar Advocate for the Applicant.

VERSUS

Union of India & Ors. Respondents

Shri R.K.Shetty Advocate for the Respondents

CORAM :

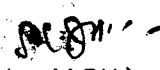
The Hon'ble Shri S.L.Jain, Member (J)

(i) To be referred to the reporter or not ?

(ii) Whether it needs to be circulated to other Benches of the Tribunal ?

(iii) Library

} No.


(S.L.JAIN)
MEMBER (J)

mrj.

CENTRAL ADMINISTRATIVE TRIBUNAL

MUMBAI BENCH, MUMBAI

OA.NO.548/2000

Dated this the 5th day of October 2001.

CORAM : Hon'ble Shri S.L.Jain, Member (J)

Zunj Jagdish Fouju,
Civilian Safaiwala,
Military Dental Centre,
Artillary Centre,
Nasik Road.

...Applicant

By Advocate Shri A.I.Bhatkar

vs.

1. Union of India
through the Secretary,
Ministry of Defence,
DHQ PO, New Delhi.
2. The Asstt. Director of
Medical Services (Adms.)
HQs. Maharashtra & Gujrat Area,
Colaba, Mumbai.
3. The Commanding Officer,
Military Dental Centre,
Nasik Road Camp, Nasik.

...Respondents

By Advocate Shri R.K.Shetty

ORDER

{Per : Shri S.L.Jain, Member (J)}

This is an application under Section 19 of the Administrative Tribunals Act, 1985 for direction to the respondents to allow the applicant to join his duties with Respondent No. 3 as Civilian Safaiwala, to pay the pay and allowances to the applicant for the period from November, 1999 till date and to grant earned leave, commuted leave for the periods applied for.

By -

..2/-

2. In view of Interim Order dated 14.9.2000, it was directed that the applicant shall be allowed to resume duties if he appears before the respondents within 7 days from today. It is stated by the parties that the applicant has joined duties in compliance of the same on 17.9.2000 and the respondents have taken him on duty.

3. Regarding payment of pay and allowances, it is stated by the respondents that the pay and allowances for November, 1999 has been taken in advance by the applicant on 3.11.1999. Further, pay and allowances were not paid - giving details of drawal, absence of the applicant, non collection of the same by the applicant and deposit of the same in the Treasury (Para 4 (a) (b) (c) of the W.S.).

4. On 14.9.2000 the applicant was served with the chargesheet for unauthorised absence and producing false medical certificate. In this respect, it is suffice to mention that the applicant has applied for leave on ground of sickness based on the medical certificate issued by Medical Officer, Bhagur Municipal Hospital & Dispensary, which according to the respondents is production of false medical certificate. The correspondence between the applicant and respondents, Notices, telegrams etc. commencing from 10.11.1999 till 14.5.2000 is on record. The said documents along with oral evidence, if any, are required to be considered during the course of the Departmental

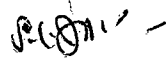
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Enquiry. The case of harrasment of the applicant as pleaded by him shall be taken into consideration while arriving to the conclusion in the said enquiry which is a disputed question of fact. Therefore, it is not necessary to record an opinion in this respect as it may prejudice the case of any of the parties.

5. Grant or refusal of leave is within the jurisdiction of the departmental authorities. The Tribunal certainly has jurisdiction to examine the matter in judicial review but Tribunal is not expected to decide the matter of grant or refusal of leave at the first instance.

6. In the result, OA. is disposed of - in respect of relief to allow to join the duties as infructuous, and OA. is dismissed for pay & allowances for the month of November, 1999 and in respect of leave applied for by the applicant. After the decision by the respondents, the applicant is at liberty to proceed in accordance with law. No order as to costs.


(S.L.JAIN)
MEMBER (J)

mrj.