

7

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
BOMBAY. Bench.

O.A.No. 342/91 199  
T.A.No.

DATE OF DECISION 14.12.1993

Shri S.M. Sonawane Applicant(s)

Versus.

Union of India & Anr. Respondent(s)

( For Instructions )

1. Whether it be referred to the Reporter or not? NO
2. Whether it be circulated to all the Benches of the Central Administrative Tribunal or not? NO

M.R. KOLHATKAR  
MEMBER (A)

( M. S. DESHPANDE )  
CHIEF MEMBER / VICE CHAIRMAN /  
Member

8

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL

BOMBAY.

Original Application No.342/91.

Shri S.M.Sonawane. .... Applicant.

V/s.

Union of India & Anr. .... Respondents.

Coram: Hon'ble Shri Justice M.S.Deshpande, Vice-Chairman,  
Hon'ble Shri M.R.Kolhatkar, Member(A).

Appearances:-

Shri D.V.Gangal for the  
applicant.  
Shri V.S.Masurkar, for the  
Respondents.

Oral Judgment:-

[Per Shri M.S.Deshpande, Vice-Chairman] Dt. 14.12.1993.

The applicant challenges his removal from service as a result of an inquiry held for his alleged unauthorised absence for the period from 14.3.1986 to November, 1986. The Enquiry was held between 25.8.1987 and 9.9.1987 ex parte as the applicant did not appear before the Enquiry Officer.

2. The applicant's contention is that he was suffering from Schizoaffective <sup>or bipolar</sup> and has produced a certificate dt. 7.6.1986 at 'Annexure - E' to the application which shows that Dr.Manjit Singh Palahe, M.D. Consulting Psychiatrist found him suffering from anxiety with depression and that he was under his treatment <sup>from</sup> since 6.3.1986 onwards and that he was fit to resume duties from 9.6.1986. The Respondents contention is that the applicant did not produce any medical certificates regarding his ailment in the year 1986 or during the enquiry and the only certificate which was produced was one by the said Doctor which was issued on 7.6.1986 certifying that the applicant was suffering from Schizoaffective <sup>or phrenia</sup>, disorder with depressive features and tha

he was under his treatment since 10.3.1986 and that he had made and advised to join duties from 8.1.1987. This certificate would cover the period of the absence. It is true that the applicant should have produced a proper certificate when the inquiry was being held, but considering the mental condition of the applicant it would not be proper to lay much emphasis on the omission to produce a proper certificate. Normally <sup>were</sup> ~~when~~ <sup>to</sup> we find that the applicant had a good reason for not being present at the inquiry and the proceedings resulted in his removal from service we would have directed a de novo inquiry. <sup>But</sup> having regard to material before us. ~~However~~, we do not think that such a course would be advisable because  Shri Gangal, counsel for the applicant stated before us that the applicant would be willing to forego all the wages for the period of his absence, if continuity in service is given to him and is allowed to resume his duties.

3. In the result, we quash the findings recorded by the Disciplinary Authority and the Appellate Authority and the order of removal passed and direct the authorities to permit the applicant to join his duties within one month from the date of the communication of this order. The reinstatement will be without backwages, but with continuity in service.

*M.R. Kolhatkar*

(M.R. KOLHATKAR)  
MEMBER(A)

*M.S. Deshpande*

(M.S. DESHPANDE)  
VICE-CHAIRMAN

B.