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CENTRAL ADMINISTRATIVE TRIBUNAL
BOMBAY BENCH

Original Application No: 121/92.

Transfer Application No:

DATE OF DECISION 10.12.1993

Shri H.V.Marulkar.

Petitioner

~~xxxx~~ Shri B.Ranganathan.

Advocate for the Petitioners

Versus

~~Union of India & Ors.~~

Respondent

Shri R.C.Kotiankar.

Advocate for the Respondent(s)

CORAM:

The Hon'ble Shri N.K.Verma, Member(A).

The Hon'ble Shri

1. Whether Reporters of local papers may be allowed to see the Judgement?
2. To be referred to the Reporter or not?
3. Whether their Lordships wish to see the fair copy of the Judgement?
4. Whether it needs to be circulated to other Benches of the Tribunal?

N.K.Verma
(N.K.VERMA)
MEMBER(A).

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BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL,

BOMBAY BENCH, BOMBAY.

Original Application No.121/92.

Shri H.V.Marulkar.

.... Applicant.

V/s.

Union of India & Ors.

.... Respondents.

Coram: Hon'ble Shri N.K.Verma, Member(A).

Appearances:-

Applicant by Shri B.Ranganathan.

Respondents by Shri R.C.Kotiankar.

JUDGMENT :-

[Per Shri N.K.Verma, Member(A)]

Dt. 10.12.1993

The applicant in this Original Application a *Junior* Telecom Officer who has assailed the legality of the impugned orders treating him absent on various dates during the year 1990-91 for which no pay and allowances have been paid to him, The absence being treated as dies non. The facts of the case are that the applicant while working as a Junior Telecom Officer in the O/o. The Fountain Telecom Building had absented himself from duty on many days and was a habitual late comer. He was denied the right of marking his attendance on the attendance register after having been warned on several occasions by his Supervisory Officers and the occasions of late attendances was converted into absence without permission and accordingly treated as dies non. This action was taken by the Respondents in view of the fact that earlier he had resorted to the practice of marking his attendance on the attendance register even when he was late in attending the office or when he had actually not attended the office by making entries of attendance on a subsequent date. The applicant

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thereafter alleged that he has been marked as not present by the Supervisory Officers by not allowing him to have the access to the attendance register and has illegally denied him the pay and allowances. The Respondents in their written reply stoutly refuted the averments of the applicant.

2. The matter was heard at length and the learned counsel for the applicant reiterated that if attendance register was not made available to the applicant to indicate his presence in the office on a particular date he had to mark his presence by resorting to entries into log books/fault registers etc. Even that liberty was denied to him subsequently and the applicant was left with no alternative regarding marking his attendance in the office. The authorities have therefore been arbitrarily converting his so called absence as dies non and denied him the pay and allowances for those dates. The learned counsel for the Respondents brought to our notice that on several occasions the applicant was warned that he had not attended the office and yet he marked his presence on the attendance register, while the attendance register was available to him. The attendance register was kept in the room of the Assistant Traffic Superintendent in his cabin at all times for the applicant to make an entry, but the applicant himself voluntarily refused to make any entries in the attendance register with the actual time of having attended the office and instead he resorted to making entries in other registers like log book etc. In token of having attended the office. Several letters were addressed to the applicant during the year 1990-91 intimating him the position regarding his late attendance, non-attendance and marking of atte-

N. K. Singh

ndance register in a highly irregular fashion etc. Since the applicant did not desist from his habit of not attending the office in time or absenting himself without prior permission the authorities ^{were} left with no alternative but to treat his late attendance and non-attendance as dies non for which no pay and allowances can be disbursed. The respondents denied that they have passed indiscriminate orders treating him as not on duty and as dies non. In many instances ~~of the~~ explanations of the applicant were called for to which he appears to have replied vide Annexure A-1, A-2 and A-3 of the OA which are all addressed to the Chief General Manager rather than to his immediate Supervisor.

3. I have given the matter the fullest consideration and come to the inevitable conclusion that the applicant had behaved in a most irresponsible fashion of not complying with the minimum decorum and requirement of an Office where he ^{has} supposed to mark his attendance on the attendance register without any corrections and interpolations. The authorities of the office could not have allowed him to manipulate/interpolate the attendance entries by leaving the attendance register in an unsecured and unguarded manner. The Assistant Traffic Superintendant who was the immediate Supervisory Officer was within his rights to keep the attendance register in his own cabin where the applicant had permission to mark his attendance without any let or hindrance. This kind of Supervisory action cannot be termed as arbitrary or ~~indiscriminatory~~ in nature. The authorities had given him full opportunities to explain his conduct which he was not able to do satisfactorily. The orders converting his absence/late attendance into dies non are covered by the Fundamental Rule ~~No.~~ 17 and the Provisions of P & T ~~Manual~~ ^{Manual}. Therefore, there

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is nothing illegal about the action of the respondents.

4. In the circumstances, the application fails and is dismissed. There will be no order as to costs.

N. K. Verma

(N.K.VERMA)
MEMBER (A).

B.