

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, JAIPUR BENCH, JAIPUR

O.A.NO.980/92

Dt. of order: 28.6.94

Prem Chand

: Applicant

Vs.

Union of India & Ors.

: Respondents

Mr.P.D.Khanna

: Counsel for applicant

Mr.U.D.Sharma

: Counsel for respondents

CORAM:

Hon'ble Mr.Justice D.L.Mehta, Vice Chairman

Hon'ble Mr.O.P.Sharma, Member(Adm.)

PER HON'BLE MR.JUSTICE D.L.MEHTA, VICE CHAIRMAN.

Heard the learned counsel for the parties and perused the records. The applicant proceeded on 7.4.82 on Casual Leave. He submitted an application Annx.A-2 dated 11.5.84 and submitted the Medical Certificate of the Doctor alongwith his application stating therein that he remained absent from duty w.e.f. 23.4.82 to 17.4.84 due to his sickness. The Railway Doctor issued the certificate of fitness Annx.A-7 dated 23.4.84. The applicant was chargesheeted for his willful absence from duty w.e.f. 15.4.82 to 25.4.84. A penalty of removal was imposed by the disciplinary authority which was converted by the Appellate Authority as a penalty of compulsory retirement.

2. Admittedly, the applicant has not stated in his reply to the charge sheet Annx.A-2, that he remained absent from 15.4.82 to 25.4.84 on account of his sickness. This fact goes to show that he does not rebut the allegation of willful absence in this period. He has come with a case that he remained absent and was sick w.e.f. 23.4.82 to 17.4.84 which is the second part of absence, while the first part is he has not controverted even in his reply.

3. As far as the second part is concerned, it is evident from Annx.A-2, the reply filed by the applicant that he submitted the Medical Certificate on 11.5.84 i.e. after 2 years. No reason is forthcoming why he has not intimated the authorities earlier and why he has not stated the same in his reply.

4. The applicant's contention is that he was sick. The Tribunal wanted to know about the sickness certificate which has not produced before the Tribunal. The learned counsel for the applicant submits that he has submitted the same before the Railway Authorities. The burden lies on the applicant to show that he was suffering from a particular illness. Mr. Khanna is ignorant about the illness from which the applicant was suffering. It was the duty of the applicant to apply for the production of the certificate which he says he submitted after 2 years of the sickness. Apart from that he has not mentioned in his application or in the document about the disease from which the applicant was suffering. Thus, it cannot be said that it was a reasonable cause for his absence from duty. The respondents have considered the matter in detail. Admittedly the applicant was absent from 15.4.32 to 25.4.34. It is for the applicant to show that it was not on account of willful absence but due to sickness he remained absent. The burden to prove lies on the applicant and he failed to discharge it. During the course of arguments the learned counsel for the applicant is not able to show what type of ill he was suffering from. In fact the applicant has failed to discharge his own burden and we do not find any force in the O.A. The O.A. is dismissed accordingly with no order as to costs.

(O.P. Sharma)  
Member (Adm).

(D.L. Mehta)  
Vice Chairman.