

(21)

Central Administrative Tribunal

HYDERABAD BENCH : AT HYDERABAD

O.A. No. 416/87.

T.A.No. -

Date of Decision : 11.10.1991

B.E.Reddy

Petitioner.

Shri C. Suryanarayana

Advocate for the
petitioner (s)

Versus

The Suptdg. Surveyor, I/c. No.53 Party (PMP), Respondent.
Survey of India, Uppal, Hyderabad-500039 & 3 others

Shri N. Bhaskar Rao,
Addl. CGSC

Advocate for the
Respondent (s)

CORAM :

THE HON'BLE MR. R.Balasubramanian : Member(A)

THE HON'BLE MR. S.Santhanakrishnan: Member(J)

1. Whether Reporters of local papers may be allowed to see the Judgement ? Yes
2. To be referred to the Reporter or not ? Yes.
3. Whether their Lordships wish to see the fair copy of the Judgment ?
4. Whether it needs to be circulated to other Benches of the Tribunal ? No
5. Remarks of Vice Chairman on columns 1, 2, 4
(To be submitted to Hon'ble Vice Chairman where he is not on the Bench)

HRBS
M(A).

HSSK
M(J).

3. The respondents have filed a counter affidavit and oppose the application. It is their case that the applicant was found to be in the habit of staying away from work on many occasions. On 23.7.85 also he absented himself without proper permission from the concerned officer. In fact, an enquiry was conducted and it was found to be unauthorised absence and hence the order of "dies-non" against him.

4. We have examined the case and heard the learned counsel for the applicant and the respondents. In the course of hearing the learned counsel for the applicant stated that "dies-non" amounts to recovery of pay and the procedure laid down in the C.C.S.(C.C.A.) Rules should have been followed. We do not agree with this contention since "dies-non" is not a statutory punishment and the elaborate procedure laid down in the C.C.S.(C.C.A.) Rules is not required to be followed in this case. However, the basic principles of natural justice require that before deciding how to treat the absence ^{of one hour,} a notice should have been given to the applicant, his explanation obtained and a decision should have been taken only after due consideration of his representation. We find that in this case on 24.7.85 a letter has been addressed to him stating that in view of his unauthorised absence for the above period the same was being treated as "dies-non" on 23.7.85. This was followed ^{immediately by} ~~by an~~ office order dated 25.7.85 stating that his absence for one hour on 23.7.85 was treated as "dies-non". We thus find that the applicant was not given an opportunity before a hurried decision on the absence was taken. We ^{therefore hold} also find that the decision of the respondents is not sustainable and, therefore, quash the order treating 23.7.85 as "dies-non". There is no order as to costs.

R.Balasubramanian
(R.Balasubramanian)

Member(A).

Dated: 14th October, 1991.

S.Santhanakrishnan
(S.Santhanakrishnan)

Member(J).

Dr. R. Venkateswara
(Dr. R. Venkateswara)