

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL HYDERABAD BENCH AT HYDERABAD

Mon DAY THE Seventh DAY OF September
ONE THOUSAND NINE HUNDRED AND EIGHTY SEVEN

And The Hon'ble Mr. Justice K. Madhava Reddy: Chairman.
THE HON'BLE M. B. N. JAYA SIMHA: VICE-CHAIRMAN
AND
~~THE HON'BLE MR. D. SURYA RAO: MEMBER.~~

ORIGINAL APPLICATION NO. 545/87.

Between:-

B. Venkateswara Rao,

-Applicants.
- 1) The Director, South Central circle, Survey of India,
Barkatpura, Hyd - 27 - A.P.
 - 2) Officer Incharge, No. 78 party (SCC) Survey of India,
Uppal, Hyderabad - 991, A.P.
 - 3) The Surveyor General of India,
Post Box No. 37, Hathibarkala,
Dohra Dun, Uttar Pradesh,
India.
-Respondents.

Application under Section 19 of the Administrative Tribunals Act, 1985 praying that in the circumstances stated therein the Tribunal will be pleased to call for the records relating to the impugned proceedings NO.C-2748-S(3) A90, Dt. 15-11-84 of the first respondent removing the applicant from service without holding framing any charges and without holding any enquiry and quash the same by holding that the said proceedings are illegal, arbitrary and unsustainable as they are violative of Article 311(2) read with rules 14 and 19 of the Central Civil Services (CCA) Rules 1954.

(ORDERS OF THE TRIBUNAL)

The principal grievance of the applicant, whose services have been terminated by an order dated 15-11-1984, is that the order of removal is arbitrary and without any enquiry whatsoever. According to him, he went on leave, which was sanctioned upto 31-5-1982. Thereafter, in view of his domestic circumstances, he applied for extension of leave, but did not receive any reply. This removal order is, therefore, unsustainable.

2. On notice, the Learned Counsel for the Department, Sri Devaraj, has produced record to show that the applicant did not join duty on expiry of leave and enquiry was held into his wilful absence from duty, as wilful absence without sanctioning of leave, amounts to misconduct ^{and} ~~in~~ contravention of the provisions of Rules 3(1)(i) and 3(1)(ii) of the Central Civil Services (Conduct) Rules, 1964. Notice of this enquiry was sent to the applicant at the address furnished by him, But the notice was ^{returned unserved.} ~~not received by~~

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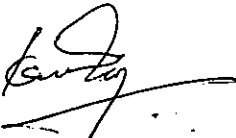
~~now~~. The registered cover containing departmental communication ^{was} ~~has been~~ returned with the endorsement that "party out of station". Thereafter, it was ^{sought} ~~tried~~ to be served through the police authorities.

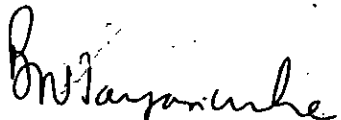
The police authorities also could not trace his whereabouts. The only method left for the Department to serve the applicant was to publish a notice in the local daily and that was published on 6-9-1984 informing that in the circumstances referred to above, it is not reasonably practicable to hold the enquiry as prescribed under the CCS (CCA) Rules, 1965 and that the disciplinary authority has provisionally come to the conclusion that the applicant is not a fit person to be retained in service and that he should be removed from service. He was called upon to report to duty within thirty days from the date of publication of the notification and state why the said penalty should be imposed, failing which, orders will be issued giving effect to the removal order. He did not respond even to this notification leaving

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no option to the respondents except to give effect to the orders of removal. The order of removal made in these circumstances does not call for any interference. In the circumstances, the application is dismissed.


(K. MADHAVA REDDY)
CHAIRMAN.


(B.N. JAYASIMHA)
Vice-Chairman.

7th Sept., 1987.

RSR°