

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL: HYDERABAD BENCH
AT : HYDERABAD

O.A.No.582/89

Date of order: 1-1-1991

BETWEEN

M.L.V. Kumari .. Applicant

Vs.

1. Asst. Supdt. of Post Offices,
Vijayawada South Sub-division,
Vijayawada.

2. Senior Superintendent of
Post Offices, Vijayawada Division,
Vijayawada.

3. Postmaster General,
A.P. Circle,
Vijayawada.

4. Director General, Posts,
New Delhi.

5. K. Sivaramaprasad,
ED-BPM, Uppaluru,
Via Kankipadu.

.. Respondents

APPEARANCE

For the applicant : Mr. C. Suryanarayana, Advocate
For the respondents : Mr. N. Bhaskara Rao, Standing
Counsel for Central Govt.

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CORAM

THE HON'BLE SHRI J. NARASIMHAMURTHY, MEMBER (JUDICIAL)
THE HON'BLE SHRI R. BALASUBRAMANIAN, MEMBER (ADMN.)



(Judgement of the bench delivered by Shri R.Balasubramanian)
Hon'ble Member (Admn)

This application has been filed by Smt. M.L.V. Kumari, under Section 19 of the Central Administrative Tribunals Act, 1985 against the Asst. Supdt. of Post Offices, Vijayawada and four others. The 5th respondent Sri K.Sivarama prasad is a private respondent. The applicant was functioning as E.D. Sub-Postmaster, Uppaluru from 1.3.82 onwards. During the year 1986, the applicant was granted leave for 40 days without allowances for the period from 22.8.86 and thereafter she had been allowed other spells of leave. Subsequently, when the applicant applied for the grant of 6 months leave without allowances she was replied by letter dt.25.10.86 of the Asst. Supdt., of Post Offices, Vijayawada enquiring the nature of her illness requiring leave for a continuous period of 6 months. She ^{was} also required to submit a medical certificate in support of the leave application. Subsequently by a letter dt.9.1.87 the Senior Supdt. of Post Offices, Vijayawada informed the applicant that leave for 102 days from 21.10.86 to 30.1.87 was granted. He also intimated her that since leave beyond 30.1.87 would be in excess of 180 days in an year, she was liable to be terminated from the post of ED-BPM, Uppaluru. It is stated that the applicant was not in a position to rejoin duty till 11.2.87, and she was taken ^{on} ~~to~~ duty on 11.2.87 that is after an expiry of 190 days on medical grounds. She was allowed to function as B.P.M upto 5.3.87. On 6.3.87 she was put off duty and on 11.11.87 a charge-sheet was given to the applicant under Rule 8 of the P&T ED Agents (Conduct & Service) Rules, 1964. The applicant was charged with availing ^{of} leave for more than 180 days during the continuous period of 12 months from Feb.86 to Jan.87 and thereby attracted the provisions of Rule 5. The applicant submitted a reply indicating

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as to why she was absent for more than 180 days. Later by his memo dt.26.8.87 the Sr. Superintendent of Post Offices, Vijayawada issued the impugned order removing her from service with immediate effect. Later, on her representation the second respondent by his letter dt.14.9.88 informed her that she might apply afresh for the post of EB-BPM, Uppaluru through the Employment Exchange, from whom the applications are called for, to consider her case. On this selection the applicant did not get the job afresh but instead Respondent No.5 got the job. The applicant now prays that the order of removal by memo No. BE/339/ dt.28.6.88 be quashed and she be reinstated.

2. The application is opposed by the respondents. It is their point that the removal of the applicant from service was quite in accordance with the rules. Later they took up the filling of the post on a regular basis and after due process of selection they have appointed Shri K. Sivarama Prasad, Respondent No.5 as the ED-BPM, Uppaluru.

3. We have heard the learned counsel for the applicant Shri C. Suryanarayana and Shri N. Bhaskara Rao, Standing Counsel for Central Govt., The main question before us is whether being absent for more than 180 days could automatically result in removal. Admittedly the petitioner has availed of more than 180 days during the 12 months period from Feb.'86 to Jan.'87. She had exceeded this limit by just 10 days and had reported for duty on 11.2.87. Her absence was on medical grounds and out of this upto 30.1.87

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the leave had been duly sanctioned. It is only ^{the} 10 days period ~~in~~ during Feb.'87 that remains uncovered because the respondents could not sanction leave in excess of 180 days. After being taken on duty she had functioned nearly one month before being put off ~~her~~ duty on 6.3.87. The charge-sheet was issued on 11.11.87 and it was not difficult to establish the charge of absence of more than 180 days during a year since there was adequate documentary evidence. On the question whether leave in excess of 180 days can be granted or not, we have two cases to be referred to, ~~the~~, (a) The case of Abdul Rahman Vs. Union of India reported vide 1987 SLJ Vol.II P 212 and (b) Galla Nancharayya Vs. Director of Postal Services, Eastern Region, Vijayawada (O.A. No.411/86). In the case before us the petitioner availed of more than 180 days leave during the 12 months period from Feb.'86 to Jan.'87. It is also admitted that no leave was sanctioned for the period from 31.1.87 to 10.2.87. The contention of the applicant that the leave availed of ^{was} on medical grounds had not been ~~contraverted~~ ^{controverted} by the respondents. No doubt the applicant knew that absence beyond a total of 180 days would lead to termination of service. But then the applicant was not in a position to join duty due to medical reasons. In the two cases referred to, it had been held that absence from duty on the part of an official beyond 180 days more so when it is on genuine grounds of illness could not lead to termination of service. In both the cases the termination order was quashed. Following these judgements in the ^{instant} ~~instand~~ case also we quash the memo No. BE/339 dt.26.8.88 of the Senior Superintendent of Post

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Offices, Vijayawada Division. The respondents are directed to reinstate the applicant in service within a period of three months from the date of receipt of this order. As regards the period from 6.3.87 till the date of reinstatement the applicant will not be entitled to any allowances. There is no order as to costs.

MS
(J. NARASIMHA MURTHY)
MEMBER (JUDL.)

R. Balasubramanian
(R. BALASUBRAMANIAN)
MEMBER (ADMN.)

Dt. 1st January 91.

Deputy Registrar (Judl)
Deputy Registrar (Judl)

To

1. The Assistant Superintendent of Post Offices,
Vijayawada South Sub-Division, vijayawada.
2. The Senior Superintendent of Post Offices,
vijayawada Division, vijayawada.
3. The Postmaster General, A.P.Circle, vijayawada.
4. The Director General, Posts, New Delhi.
5. One copy to Mr.C.Suryanarayana, Advocate.
6. One copy to Mr.N.Bhaskar Rao, Addl.CGSC.CAT.Hyd.Bench
7. One copy to Hon'ble Mr.R.Balasubramanian, Member(A) CAT.Hyd
8. One copy to Hon'ble Mr.J.Narasimha Murthy; Member(J) CAT.Hyd
9. One spare copy-

pvm

24/9
CHECKED BY
TYPED BY

APPROVED BY
COMPARED BY

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH AT HYDERABAD.

THE HON'BLE MR. B. N. JAYASIMHA : V.C.
AND

THE HON'BLE MR. D. SURYA RAO : M(J)
AND

THE HON'BLE MR. J. NARASIMHA MURTY : M(J)
AND

THE HON'BLE MR. R. BALASUBRAMANIAN : M(A)

DATE: ~~24-9~~ *11/9*

ORDER- / JUDGEMENT:

M.A. / R.A. / C.A. / No.

in

T.A. No.

W.P. No.

O.A. No. *582/89*

~~Admitted and Interim directions~~
~~issued.~~

Allowed. ✓

Dismissed for default.

Dismissed as withdrawn.

Dismissed.

Disposed of with direction.

M.A. / Ordered / Rejected.

No order as to costs.

