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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL: ADDL.BENCH  
AT HYDERABAD

O.A.NO.992 of 1993

Between ... Applicant

R.Harishankar

and

1. The Ordnance Factory Board,  
represented by the Director General of  
Ordnance Factories-cum-Chairman,  
10-A Auckland Road, Calcutta-700 001.
2. The General Manager,  
Ordnance Factory Project,  
Eddumailaram, District, Medak. ... Respondents.

COUNTER AFFIDAVIT FILED ON BEHALF OF ALL THE RESPONDENTS

I, V.V.S.Rao, S/o. Shri V.Punnaiah Naidu,  
aged about 56 Years, Occupation: Government Service, do  
hereby affirm and state as follows:-

1. I am Respondent No.2 herein, and as such I am  
fully acquainted with all facts of the case. I am filing  
this Counter Affidavit on behalf of all the Respondents  
as I have been authorised to do so. The material aver-  
ments in the O.A. are denied, save those that are express-  
ly admitted therein. The applicant is put to strict proof  
of all such averments except those that are specifically  
admitted hereunder:

2. Although the applicant had preferred an appeal  
to the appellate authority viz. OF Board against the  
order imposing the penalty by the Disciplinary Authority  
he has rushed to the Tribunal without waiting for the  
decision and as such his contention that he has exhausted  
all departmental remedies before filing the O.A. is not  
correct.

ATTESTOR

*Mohanty*

P. MOHANTY  
WORKS MANAGER/ADMIN

*V.V.S.Rao*  
DEPONENT  
(V.V.S. Rao)  
Addl. GM./Admin.

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3. In reply to the contents of para 4 of the O.A. the respondents submit as follows:

a) It is admitted that the applicant joined Ordnance Factory Project on 4.3.86 as Pharmacist and completed his probationary period on 3.3.1988. He has been confirmed as Pharmacist w.e.f.1.4.88.

b) On the basis of a report submitted by the Senior Medical Officer Incharge of OF Hospital, Medak regarding unauthorised absence of the applicant from his place of duty on 25.3.1992 from 14.45 Hrs. to 16.00 Hrs. disciplinary action under Rule 16 of the CCS(CCA) Rules 1965, was initiated against him by the Disciplinary Authority, namely General Manager, Ordnance Factory, Medak (Respondent No.2). His written statement of defence dated 13.4.1992 was carefully considered by the Disciplinary Authority and after considering the averments made by him in the written statement of defence, and all other aspects relevant to the case, the minor penalty of withholding of Increment for one year without cumulative effect was imposed on him vide the Order No.02/00058/Est., dated 24.1.1992.

c) The averment of his applicant that he is the President of the Para Medical Association and has gone to the factory for collection of Factory Orders relating to Washing Allowance for Hospital Staff, etc., cannot be accepted firstly, because the Para Medical Association is not a recognised service association and secondly, the applicant being an essential service personnel and employed in a public utility service namely Hospital was duty bound to be present in his place of duty during the working hours.

*Mohanty*  
ATTESTOR

P. MOHANTY  
WORKS MANAGER/ADMN

*Devere*  
DEPONENT  
(V.V.S. Rao)  
Addl. GM/Admn.

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and in case it becomes inevitable for him to leave the place of duty, to intimate his superior authorities namely the SMO I/c of OFPM Hospital and obtain his permission before doing so, so that alternative arrangement could be made to provide coverage to the post during the interim period. The contention of the applicant that he had informed the Store-Keeper about his leaving the place of work obviously cannot be accepted as the Storekeeper has no locus standi in this regard.

The contention of the applicant that he left the place of work during the lean hours also cannot be accepted, because, ~~there are no lean hours~~ the Hospital is concerned, as any emergency cases can occur at any time. The statement made by the applicant herein that Pharmacists are required to work for more than 8 hours, etc., have no relevance to the present case and making a mention of this irrelevant point in the application which pertains to the disciplinary case is ostensibly without a ~~view~~ to confuse the main issue.

d) The Disciplinary Authority i.e. General Manager had given due consideration to the averments made by the applicants in his written statement of defence dated 13.4.1992 before deciding the quantum of penalty to be imposed on him as will be evident from a perusal of the disciplinary case file. The applicant being a para-medical staff was duty bound to stay in his duty post during the working hours because any emergent situation <sup>treatment</sup> requiring ~~statement~~ of serious patients could arise

ATTESTOR

*Mohanty*  
P. MOHANTY  
WORKS MANAGER/ADMN

*Umesh Rao*  
DEPONENT

(V.V.S. Rao) / ..  
Addl. GM./Admin.

any time. His deserting the duty post without informing his superior authorities therefore is a ~~grave~~ <sup>grave</sup> misconduct. As such the contention of the applicant that the disciplinary authority summarily rejected his written statement is not correct and is not borne out by the facts on record.

e) The applicant had preferred an appeal to the Appellate Authority viz., the Ordnance Factory Board vide his appeal dated 29.12.1992. He has however, not waited for the reply from the Appellate Authority and has rushed to the Hon'ble Tribunal to file the O.A. It is mentioned that the decision of the Appellate Authority has been received by the Respondent No.(2) on 4.10.1993, but since the applicant had by the time filed the O.A., before the Hon'ble Tribunal, the order of the Appellate Authority has not been served on him.

In reply to the ground made out by the applicant in Para 5 of the O.A. it is submitted that the order of the Disciplinary Authority dated 24.11.92 has been passed after following the procedure outlined in Rule 16 of the CCS(CCA) Rules 1965 and after considering the written statement of defence submitted by the applicant and all the documents relevant to the charge alleged against him. Therefore the contention of the applicant that impugned order is illegal, violative of the principle of natural justice, etc, have no basis whatsoever.

ATTESTOR

*Mohanty*  
P. MOHANTY  
WORKS MANAGER/ADMN

*Leesha*  
DEPONENT

(V.V.S. Rao)  
Addl. GM./Admin.

Received

Sr. 1205/93

(25)

① Date of attachment  
Should be furnished  
in due time

21/12/93  
For DRG

In the C. A. T.  
Hyd. Bench

Objection Complied with

Today  
28/12  
B.N.R. Devaraj  
Sr. 2

OA 992/93

Counter Affidavit



23/12/93

✓ 21/12/93

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✓ 25/12/93

Filed by: —

N.R. DEVARAJ  
Advocate & Central Govt  
Sr. Standing Counsel for Railways,  
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