

(135)

In THE CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH :
AT HYDERABAD

O.A. No. 1085 of 1993.

Between :

K. Hameeduddin. ... Applicant.
and

Supdt. of Post Offices,
Sangareddy. ... Respondent.

REPLY AFFIDAVIT FILED ON BEHALF OF THE RESPONDENT

I, V.S. Krishna Murthy, S/o Sri Satyam, R/o Hyderabad, aged about 54 yrs, do hereby solemnly affirm and state as follows :

1. I am working as Asst. Director in the O/o the Post-master-General, Hyd. Region and as such I am well acquainted with the facts of the case. I am filing this reply affidavit on behalf of the respondent as I have been authorised to do so. I have read the OA under reply and deny all the material averments made therein save those which are specifically admitted hereunder.

2. The brief history of the case is submitted as under :
The applicant while working as PA/SPM at Admn. Buildings (BHEL) PO is involved in heavy frauds of CTD/RD A/cs to the tune of Rs.27,206.60. Further investigation made at ICRISAT PO revealed that he received six NSC Certificates from one Smt. K. Kamala, W/o Late Sri Lakshminarayana on the plea that he would sanction the claim and subsequently fraudulently discharged NSCs for Rs.2,000/- and disposal of three NSCs for Rs.3,000/- is not forthcoming from him. A charge sheet under Rule-14 was issued and inquiry is under progress. He credited an amount of Rs.1686.50 on 1.10.91 voluntarily at ICRISAT PO. He also credited a sum of Rs.3594.25 on 23.11.91 voluntarily towards his share in the fraudulent payment of CTD/RD/ A/cs. 25608, 53085 & 53087. He


Attestor
Accounts Officer ICO (SB) HR & CPU
o/o Post-Master General,
5th Floor, Dak Sadan,
Hyderabad-500 001



Deponent

was placed under suspension on 24.4.93 pending Disc. proceedings against him. He is evading to face preliminary inquiry. He refused to give his statement to the IPO(C), % the SPDs, Sangareddy on 30.9.93, 1.10.93 and promised give his statement in the third week of Oct. 93, but so far he did not give his statement.


3. It is submitted that he played an active role in the fraudulent payments of CTD/RD amounts and in order not to tamper with the evidence he was shifted from ICRISAT PO to Zahirabad HPO and he was relieved on 3.10.91 A/N. But the applicant instead of joining at Zahirabad HO applied for leave on medical grounds for one year and two months and joined at Zahirabad HPO on 4.12.92. He applied for leave on medical grounds and the leave due admissible was granted to him. He demanded to grant LND (leave not due), which is to be adjusted from the HPL to be earned by the applicant in future, but it was refused by the competent authority, since he did not satisfy the condition of accruing of HPL in his future service.

4. In reply to para 4(1) of DA, it is submitted that the contention of the applicant that he was discharging duties with utmost devotion and sincerity is not correct in view of facts stated in the above para.

5. In reply to para 4(ii) of DA, it is submitted that the allegation of the applicant that he was asked to join at Zahirabad HO as PA on the next day without availing joining time is baseless and far from truth. The applicant was transferred to Zahirabad HPO in order not to tamper with the evidence on the A/N of 3.10.91. But he applied for leave on medical grounds upto 23.11.92 and joined at Zahirabad HO on 4.12.92 after one year and two months. The applicant had applied for grant of EL for the period from 3.2.92 to 16.2.92 on M.C., He was directed to appear


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before Supdt. HQrs. Hospital, Sangareddy for second medical opinion on 10.2.92. The applicant did not attend so, as seen from the report of Medical Supdt. Sangareddy, dt. 14.2.92.

6. It is further submitted that the applicant further extended leave from 17.2.92 to 26.2.92 for grant of EL on MC. He was again directed for second medical opinion and appear before the Supdt. Govt. Dist. HQrs Hospital, Sangareddy vide the respondent Lr.No.B2-798, dt.20.2.92, subsequently he desired to convert the leave applied for from 3.2.92 to 26.2.92 as LND. He applied for LND from 2.5.92 to 30.6.92 and from 18.7.92 to 23.11.92. He was asked by the respondent's letter dt.17.11.92 to apply for eligible leave since LND could not be granted to him as there is no guarantee that he would even HPL in his future service to adjust LND and further he is involved in heavy CTD/TO frauds. The applicant was again addressed on 2.12.92 and 21.12.92 to apply for eligible leave as the request for grant of LND could not be acceded to. The applicant vide his letter dt. 26.11.92 replied that he was not having any other kind of leave at his credit and requested for grant of LND only for which he is not entitled. As per Rule-7(1) of CCS (Leave) Rules, 1972 leave cannot be claimed as a matter of right. As the applicant was not having any other kind of leave, he was granted EXOL for the spells from 3.2.92 to 26.2.92, 2.5.92 to 30.6.92 & 18.7.92 to 23.11.92. The respondent denies the version that he was meeting the respondent requesting to grant 'leave not due' and he promised to grant the same, and the respondent says that it is a mischievous and concocted story.

7. In reply to para 5(i) of OA, it is submitted that the applicant cannot claim leave as a matter of right vide Rule-7(1) of CCS (CCA) Rules, 1972. As per Rule-7(2) ibid, the applicant felt that the leave cannot be altered by the leave sanctioning.


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authority. It is said that the "leave due and applied for" should not be altered. Since no leave was due to him, the next course of action is to grant only EXOL. The 'leave not due' cannot be taken as leave due, since it is to be adjusted from the HPL to be earned by the applicant in his futures service.

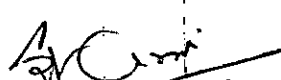
8. In reply to para 5(2) of OA, it is submitted that as per Rule-31 of CCS (Leave) Rules, 1972 the leave sanctioning authority should satisfy that the applicant would return duty for granting 'leave not due'. The applicant said that he returned to duty on 4.12.92 and therefore LND may be granted to him. But the leave sanctioning authority did not satisfy that the official would earn his HPL to wipe out the LND accumulations, since the applicant is involved in the CTD/RD frauds to the tune of Rs.27,206.60 and NSCs fraudulent encashment of Rs.2,000/-. The respondent is vested with the power and discretion of sanctioning the leave due and admissible and the applicant cannot demand to get the LND granted, when the respondent did not satisfy that he would accumulate HPL to wipe out LND to be granted to him.

9. In view of above submission, there are no merits in the OA, and it may be dismissed with costs.

Deponent 
Assistant Director of Postal Services
O/o. The Postmaster-General,
Hyderabad Region, Hyderabad-500 001

Solemnly affirmed and state that
above contents are true and correct
and signed his name on this  day
of Feb, 1994.

Before me


Attestor.
Accounts Officer ICO (SB) HR & CPU
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HYDERABAD BENCH : HYDERABAD.

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... Respondent.



Received copy
K. Hameeduddin
27/1/94
Adv.

E.S.
10/2

may be filed
3/2/94

Filed by: —

N.V. Ramang
Adl. - 2