

(24)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH
AT HYDERABAD.

O.A.No.399/93.

Date of Judgement : 8.2.1995

Smt. P.Anand Kumar

.. Applicant

Vs.

1. The Telecom. Dist. Manager,
Dept. of Telecommunications,
Govt. of India,
Visakhapatnam-20, A.P.

2. The Divl. Engineer (SBP),
Telecom. Dept.,
Visakhapatnam, A.P. .. Respondents

Counsel for the Applicant :: Shri P.Venkateswarlu

Counsel for the Respondents:: Shri N.V.Raghava Reddy

C O R A M

Hon'ble Shri A.V.Haridasan : Member(J)

Hon'ble Shri A.B.Gorthi : Member(A)

J u d g e m e n t

[As per Hon'ble Shri A.B.Gorthi : Member(A)]

The Applicant was charged for being absent without leave and, after a departmental disciplinary inquiry, was awarded the penalty of reduction of pay to the minimum in the time-scale of pay of Rs.975-1160 for a period of 3 years. Her appeal against the penalty was rejected; hence this O.A. with a prayer that the penalty be set aside with all consequential benefits.

2. The Applicant joined service as a Telecom. Office Assistant on 6.5.1968. After she had served for about 18 years, she was served with a charge memo on 7.10.1986 for absence without leave w.e.f. 22.8.1986. The disciplinary proceedings concluded with the imposition of the penalty of

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reduction of pay to the minimum in the time-scale of pay for two years. Notwithstanding the same, she was again served with a charge memo on 22.8.1987. The article of charge read as follows:-

"That the said Smt. P. Anand Kumar while functioning as T.O.A. TRA Branch, O/o TDE VM was absent from duty w.e.f. 22-8-86 without prior sanction and without intimation and thus contravening Sub-Rule 1(ii) of Rule 3 of CCS (Conduct) Rules, 1964. In spite of the fact that a punishment was awarded to her vide this office letter No.E.30/PAK/86/5 dt. 29.11.86 the official continues to be absent."

3. The Applicant explained that she was continuously ill for a long period, that she delivered a child on 2.6.1987 and that for all the periods of her absence she was requesting for leave supported with medical certificates. Whenever she became fit and wanted to report for duty, she was denied permission and was directed to report to the Supdt., King George Hospital, Visakhapatnam for appearing before a medical board. Despite her several efforts, the Supdt., of the Hospital did not convene the medical board till October, 1989. The Applicant's contention is that her absence was due to her ill-health and was not wilful.

4. The Respondents have asserted that the Applicant became a habitual absentee and that during the preceding 10 years, she attended office for about 500 days only. Although she was punished on 29.11.1986 for being absent w.e.f. 22.8.1986, she continued to be absent without leave. An inquiry was therefore held as per rules and she was once again awarded a penalty.

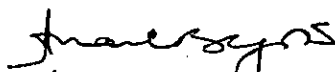
5. Learned counsel for the Applicant urged that the charge was bad in law, as for the same offence of being punished on 29.11.1986. There can be no doubt that the

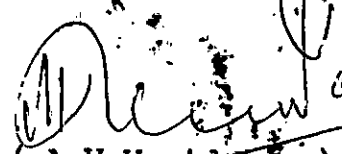
article of charge was not satisfactorily worded. Nevertheless it shows that the fresh accusation against her was for the continued absence despite being punished earlier for absence commencing from 22.8.1986.

6. It was strongly urged before us that the absence of the Applicant was for reasons beyond her control. It was stated that she generally remained unwell and that this fact was supported by the opinion of the Medical Board. The report of the Medical Board, however, does not state that it found anything clinically wrong with her. The Medical Board actually found her fit for resumption of duty. The observation by the Medical Board that the medical certificates given ^{to} by her earlier seemed to be genuine would not establish that she continually remained sick. Moreover, there is also no explanation why leave applications could not be submitted timely. In any case, there cannot be any dispute about the actual absence of the Applicant. The only question was whether or not such absence was wilful and culpable and on this aspect the competent authority having come to a definite conclusion after due inquiry, we cannot hold to the contrary particularly in the absence of any justifiable grounds.

7. Another plea put forward by the Applicant's counsel is that the Applicant was not in a position to proceed to her new station of posting and that her request for voluntary retirement was rejected by the ~~Board~~ ^{competent authority} on the ground that she had not completed the requisite qualifying service for pension. As her period of absence was treated as DIES NON, she landed herself in this unfortunate situation. The facts of the case disclose that the Applicant had invited the situation with her own acts of commission and omission.


8. In the aforestated circumstances we find that she is not entitled to the reliefs claimed. The O.A. is therefore dismissed, but without any order as to costs.


(A.B.Gorthi)
Member (A).


(A.V. Haridasan)
Member (J).

Dated: 8 Feb., 1995.

br.


DEPUTY REGISTRAR(J)

To

1. The Telecom District Manager,
Dept. of Telecommunications,
Govt. of India, Visakhapatnam.
2. The Divisional Engineer, (SBP),
Telecom Department,
Visakhapatnam.
3. One copy to Mr.P.Venkateswarulu,
Advocate, CAT, Hyderabad.
4. One copy to Mr.N.V.Raghava Reddy,
Addl.CGSC, CAT, Hyderabad.
5. One copy to Mr. Library, CAT, Hyderabad.
6. One spare copy.

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APPROVED BY

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH

THE HON'BLE MR.A.V.HARIDASAN : MEMBER(G)

AND

THE HON'BLE MR.A.B.GORTHY : MEMBER(A)

DATED : 8.2.95

ORDER/JUDGEMENT.

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

in

O.A.No. 399/93

Admitted and Interim directions
issued

Allowed

Disposed of with Directions

Dismissed ☒

Dismissed as withdrawn

Dismissed for Default.

Rejected/Ordered

No order as to costs.

