

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH : HYDERABAD

OA/ TA / RA / CP / MA / PT 479 of 1993

..... M. A. Haleem Applicants (s)

Versus

The Secretary, M. L. Water Resources, Respondent (s)
New Delhi & Awar -

INDEX SHEET

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Orders	—	—
MA (s)	—	—
Orders in (Final Orders)	21-3-97	267 - 285

82/8/97

Signature of
Dealing Hand
(In Record Section)

Certified that the file is complete
in all respects.

Signature of S.O.

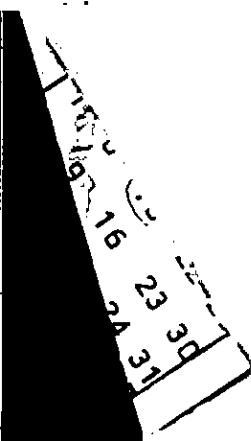
THU	2	9	16	23	30	6	13	20	27	4	11	18	25							
FRI	3	10	17	24	31	7	14	21	28	5	12	19	26	2						
SAT	4	11	18	25		1	8	15	22	29	6	13	20	27						
	SEPTEMBER					OCTOBER					NOVEMBER					DECEMBER				
SUN	1	8	15	22	29	6	13	20	27	3	10	17	24	1	8	15	22	29		
MON	2	9	16	23	30	7	14	21	28	4	11	18	25	2	9	16	23	30		
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THU	5	12	19	26		3	10	17	24	31	7	14	21	28	5	12	19	26		
FRI	6	13	20	27		4	11	18	25		1	8	15	22	29	6	13	20		
SAT	7	14	21	28		5	12	19	26		2	9	16	23	30	7	14	21		

CA 479/93

Heard on other side
Reserved for ordinary case

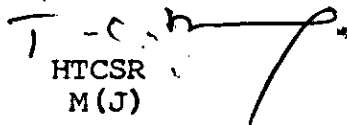
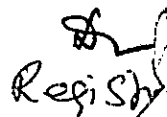
File circulating to
Honble Mr. R. Sanyal
M (A) for Lordships perusal

1
Sanyal
CO
18/3/97



(2)

OA 479/93

Date	Office Note	Orders
8/7/93	<u>Service</u> Rls 193 NSNR R-2 Served <u>Before The Registrar</u> <u>for Steps</u> R-1 Served on 4/6/93	relief of suspension of the order of compulsory retirement is rejected.  HTCSR M(J) Verify through Rms for Service of notice on Rls 193. Call on 12-8-93.  Registrar
<u>1-9-93</u>	<u>Before the D.R. (J)</u> <u>for Steps</u>	Verify through Rms Service of R

CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH

O.A. NO. ~~479~~ / 1993

M. A. Halim

Applicant (S)

Versus

Secretary, Min. of Water Resources, New Delhi & another

Respondent (S)

Date	Office Note	Orders
13.5.93		<p>Mr. K. Sudhakar Reddy, learned counsel for the applicant present. Mr. V. Bhimanna, learned Standing Counsel for the Respondents present. Heard.</p> <p>As it is a fit matter for adjudication, admit the O.A. The respondents may file counter to the OA within 8 weeks with a copy to the Advocate for the applicant. The applicant may file rejoinder within 2 weeks thereafter. Office may keep the OA before the Registrar for directions after plings</p>

3

CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH

O.A. NO./T.A. NO. 479/93 199

..... Applicant (S

Versus

..... Responder

Date	Office Note	Orders
------	-------------	--------

18.11.93	<u>Before the D.R. (T)</u> for counter.	
----------	--	--

Even after granting
sufficient time for filing
counter, the respondent
has not filed. Hence
court for 6

21.2.94	Counter Affidavit Filed by Mr. V. Bhimanay, Advocate on 7/2/94. 14.	
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3-10-94.

3-10-94

Do not treat it as
expedite case. List it for
final hearing in usual
course.

HABG
??(A)

HVN.R.J
VC

3
CH 479/83.

Date

Office Note.

ORDER

30/7/86

Limit on 5/8/86 at
renewal of applicant's
Council.

22/8/86

Limit on 2/9/86 high
in the law.
(20)
AR

7/11/86 (20) Francis
AR

(4)

OA-479/93

Date: Office Note

ORDERS

27.11.5

Print the name of Mr. V. Bhimappa
in stead of Mr. NA. Devanagand
link it on 4.12.95.

HAB G
M(A)

HUNRT
VC

By order

DR (5)

4--95

Link it on 18.12.95
~~for the purpose~~ for production
relevant records in the

HAB
M(A)

By

DR (5)

18.15

Link it on 17.1.95 at the
request for the respondents.

HAB
M(A)

HUNRT
VC

By order

DR (5) 18/2/96

17.1.96

Link it on 19.2.96 for production of
records.

HAB
M(A)

HUNRT
VC

S.O.

DR (5)

4-9-96

9/5/96

Wn 27/10/96
as 2nd Case for
hearing
for
20

1-10-96-

Monday/as first

Case in the list
for first hearing
(Ble)
20

To be read
on 9-9-96. Lib
high on list.

sk

~~Q. 4/9.~~
~~MHRP~~
~~M(A)~~

OA.47

to meet
to hearing board
to take up

HNGCJ
VC

CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH HYDE ABAD.

ORIGINAL APPLICATION NO. 479 OF 1993

Shri M. A. Haleem Applicant(s)

Versus

Secretary, Drinking Water Resources, N. Delhi

L 2 Bu.

Respondents (s)

This application has been submitted to the Tribunal

By Mr. K. Sudhakar Reddy Advocate

under section 19 of the administrative Tribunal Act. 1985 and same has been scrutinised with reference to the points mentioned in check list in the light of the provisions contained in the Administrative Tribunal (procedure) Rules, 1987.

The application has been in order and may be listed for admission on — — 93

115
contingency officer.

11593
Deputy Registrar (J)

8. Has the index of documents been filed and has the paging been done properly? *yes*
 9. Have the chronological details of representations made and the outcome of such representations been indicated in the application? *yes*
 10. Is the matter raised in the application pending before any court of law or any other Bench of the Tribunal? *yes*
 11. Are the application/duplicate copy/spare copies signed? *yes*
 12. Are extra copies of the application with annexures filed.
 - a) Identical with the original *yes*
 - b) Defective *no*
 - c) Wanting in Annexures *no*

No / Page Nos

 - d) Distinctly Typed? *yes*
- Have full size envelopes bearing full address of the Respondents been filed? *yes*
14. Are the given addresses, the registered addresses? *yes*
 15. Do the names of the parties stated in the copies, tally with those indicated in the application? *yes*
 16. Are the translations certified to be true or supported by an affidavit affirming that they are true? *yes*
 17. Are the facts for the case mentioned under item No. 6 of the application.
 - a) Concise? *yes*
 - b) Under distinct heads? *yes*
 - c) Numbered consecutively? *yes*
 - d) Typed in double space on one side of the paper? *yes*
 18. Have the particulars for interim order prayed for, stated with reasons? *yes*

may be filed
18/5

Check Sheet

CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH

INDEX SHEET (DUPLICATE)

APPLICANT (S)

M. A. Hakeem

RESPONDENT (S)

Secretary, Water Resources, N.D. Delhi & 2 Co.

Particulars to be examined

Endorsement as to result
of examination

1. Is the applicant competent to file this application?

yes

2. a) Is the application in the prescribed form?

yes

b) Is the application in paper book form?

yes

c) Have prescribed number of complete sets of the application been filed?

yes

3. Is the application in time ?

yes

If not by how many days is it beyond time ?

Has sufficient cause for not making the application in time stated?

4. Has the document of authorisation/Vakalatnama been filed?

yes

5. Is the application accompanied by B.D. / I.P.O. for Rs. 50/-? Number of B.D. / I.P.O. to be recorded.

yes

6. Has the copy/copies of the order (s) against which the application is made, been filed?

yes

7. (a) Have the copies of the documents relied upon by the applicant and mentioned in the application been filed?

yes

(b) Have the documents referred to in (a) above duly attested and numbered accordingly?

yes

(c) Are the documents referred to in (a) above neatly typed in double space?

yes

P.T.O.

CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH

INDEX SHEET (ORIGINAL)

O.A. NO. 479 of 1993

CAUSE TITLE M.A. Haleem

VERSUS

Secretary, Min. of water Resources, New Delhi & another

Sl.No.	Description of Documents	Page No.
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3.	Vakalat	1
4.	Objection Sheet	
5.	Spare Copies 2 (Two)	
6.	Covers 2 A	

	1

By to set on the order of the Commission, noting the fact that the same is not

Bund

FORM - 1

(See Rule 4)

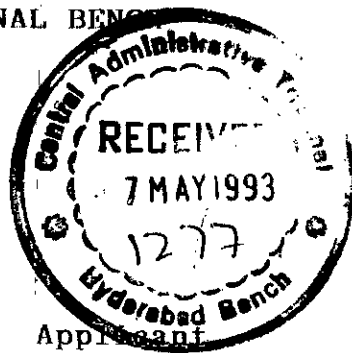
compulsory retirement

General

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : ADDITIONAL BENCH

AT HYDERABAD.

O.A. No. *479* OF 1993



BETWEEN :

Mr. M. A. HALEEM

Vs.

The Union of India
Rep. by the Secretary to Government
Ministry of Water Resources
Shram Shakti Bhawan
Rafi Marg
NEW DELHI. *2 GM*

Respondents

Application Under Section 19 of the
Administrative Tribunal Act 1985

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	Enquiry Report dt: 28.8.1986	38 -
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7.	Ministry Lr.No.35-184/78-GW - Permission for registration granted	99 -
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	Telegram dated: 18/9 and 1/10/84 requesting to convert C.L. into E.L. to attend brother's marriage and mother's illness	103 - 104
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	Applied for study leave dt. 10.10.84, 20.9.85 and 10.86.	105 - 107
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	Sory Retirement (earlier) order dt.2/2/1989	112 - 125
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	warded by the Osmania University, Hyderabad 1991	129 - 130

Signature : *[Signature]*
COUNSEL FOR APPLICANT

(10)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : ADDITIONAL BENCH
AT HYDERABD.

O.A. No. 1179 of 1993

BETWEEN :

Mr. M. A. HALEEM
S/o Late M. A. RAHEEM
Age about : 50 years
Occ: Junior Hydrogeologist
(Compulsory Retd.)
R/o HYDERABAD

... APPLICANT

V/S

The Union of India
Rep. by the Secretary to Government
Ministry of Water Resources
Shram Shakti Bhawan
Rafi Marg
New Delhi. *S.G.*

.....
RESPONDENTS

CHRONOLOGICAL EVENTS

- | | | | |
|------|---|------|---|
| (1) | Name | : | M.A. HALEEM |
| (2) | Educational Qualifications. | : | M.Sc. Geology -- First Class
M.Sc (Tech) Hydrogeology -- First Class
Stood II in order of Merit. |
| | | F1 : | Ph.D. (Thesis submitted to Osmania University, Hyderabad on 27/4/91) |
| (3) | Marital Status | : | Married to a Working Women, Lecturer in Mathematics, Mumtaz College, Malakpet, Hyd. Having two children (School going) |
| (4) | Got Selection for the Post and date of joining. | : | Selected by UPSC in 1974 for Group (A) Services. Assumed charge of the office at C.G.W.B., SinaMan Project, Sholapur on 1/9/1975. (Developed my career from casual labour in 1959-60. to this level while working in various capacities in different departments i.e., learning while earning on my own). |
| (5) | Date of Superannuation. | : | 31st December/2000 A.D. |
| (6) | 1st Transfer/76 | : | Transferred to Hyderabad on request under the provision to keep Husband and Wife at same place. |
| (7) | 7/5/1976 | : | Assumed charge at Hyderabad. Continuously remaining in Camp at Sathupally etc. till June 1978. Attended field work and submitted reports. |
| (8) | 2nd Transfer/ October, 1978. | : | Transferred to Jaipur and relieved on 31/10/1978. |
| (9) | Dt. 31/10/1978 | : | Father expired. Applied leave for completion of rituals from 1/11/1978 to 17/12/1978. Represented the matter for cancellation of transfer due to Father's death. |
| (10) | 3rd Transfer/ November, 1978. | F4 : | Transferred to Nagpur. |
| (11) | Dt. 18/12/1978 | : | Resumed charge at Nagpur and remained mostly in camp; attended the field work at Jabalpur and Bhopal. |

.. 2 ..

- (12) 4th Transfer/
Sept. 80 : On request transferred ~~to~~ back to C.G.W.B. SR, Hyderabad. Attended field work and office work.
- (13) Dt. 15/9/1980 : Resumed Charge as Jr. Hydrogeologist at Hyderabad and attended field work and became ill.
- (14) 5th Transfer/ : Received the transfer order to Trivandrum vide order dt. 11/1/1982 at Camp Ramachandrapuram (East Godavari) applied leave and represented to the Hon'ble Minister for Water Resources, Shri Z.R. Ansari for cancellation.
- (15) Dt. 11/2/1983 : Resumed charge at Hyderabad on cancellation of transfer to Trivandrum, Kerala.
- (16) Dt. 21/10/1983 : Applied for permission to register my name in Osmania University for admission in Ph.D. to the Chief Hydrogeologist and Member, C.G.W.B., Faridabad.
- (17) Dt. 7/12/1983 : Received permission for Registration in Osmania University for the admission of Ph.D. from the Ministry vide Letter No. 35-184/78-GW.
- F2.
- (18) Dt. 14/3/1984 : Applied to Osmania University for admission in Ph.D.
- (19) Dt. 1/6/1984 : Attended the Interview for Ph.D. admission.
- (20) Dt. 21/25 July, 1984 : Got admission in Ph.D. - Received the letter on 20th August, 1984.
- (21) 6th Transfer/1984 : Transferred to C.G.W.B. CR Nagpur and relieved on 16/8/1984 from Hyderabad. *
- (22) Dt. 24/8/1984 : Joined Osmania University for Ph.D.
- (23) Dt. 27/8/1984 : Resumed charge at Nagpur. Attended the Office work i.e. verification of map and applied for advances to go on field. As I was asked to go on field in non-field season.

* Before my relieve informed the Director as well as Technical Secretary and requested them to retain me at Hyd. till I complete my Ph.D. course.

... 3

- (24) Dt. 5/9/1984 F5 : Applied 2 days casual leave on 10th and 11th and availment on 7, 8 & 9 Sep./84 pre-fixing the Holidays to attend Idd-u-Zuha Festival at Hyd. with permission to leave the Head Quarter. (Sanction copy enclosed).
- (25) Dt. 18th of Sep. and 1st of Oct./1984. F6 : To convert the casual leave into Earned Leave till 7/10/84 for attending brother's marriage and mother's illness.
F7
F8
- (26) Dt. 10/10/1984 ~~F11~~ : Applied ~~12 months~~ Earned Leave for 28 days from 10/9/84 to 5/10/84 prefixing holidays on 7, 8 & 9 of Sept. and suffixing 6 and 7 of October, 1984. On the ground of Younger Brother's marriage fixed on 14th Sept., 1984 and to attend mother's illness. A copy of wedding card and medical certificate enclosed.
F8
F9
F10
- (28) Dt. 10/10/84 F11 : Applied 12 months' study leave under Rule 50(1) 51(a&b), 53(4), 54/2 and 56/2(a) of CCS Leave Rules of 1972 from 8/10/84 to 7/10/85, for which I was eligible and entitled.
- (29) Dt. 5/10/84 : Received communication from the Registrar, O.U. with reference to my joining report enclosing the rules and regulations of Ph.D. course asked me to join regular classes for Ph.D. course as the rules have been changed from that academic year.
- (29) Dt. 15/10/1984 F12 : Instead of recommending my leave case to the competent authority for its sanction, Director, C.G.W.B., CR. Nagpur has taken self decision and sent a telegram asking me to join duty and ~~x~~ called for my explanation. Since, I was regularly attending the classes of my course, camping for my field work I have explained my inability to join and frequently requested the Director to recommend my case to the higher authorities for the sanction explaining the circumstances for granting me study leave, applied under CCS leave rules of 1972.
- (30) Dt. 19/10/1984 F13 : Received salary for the month of September, 1984.

14

.. 4 ..

- (31) Dt. 27/6/1985 F14 : Vide letter No. MAH/THG/84-85/SL-8, dt. 27/6/85 explain the circumstances under which I was forced to apply leave and requested him to grant me leave keeping me at Nagpur or to cancel leave applied in case if transfer back to Hyderabad or supply the details of circumstances under which I was transferred again to Nagpur within short span of 18 months after cancellation of my transfer to Trivandrum. (Copy enclosed).
- (32) Dt. 20/9/85 F15 : Extended study leave U/R 54/2 of CCS Leave Rules 1972 for 12 months from 8/10/85 to 7/10/86.
- (33) Dt. 1/1/1986 : Received the Enquiry Orders.
- (34) Dt. 4/2/1986 : Denied the charges.
- (35) Dt. 13/3/1986 : Passed the Pre-Ph.D. Examination.
- (36) Dt. 28/5/1986 : 1st enquiry was posted at Nagpur on 12/6/1986.
- (37) Dt. 9/6/1986 : Applied for T.A. Advance to appear for enquiry. I was informed that the T.A. will be paid when I present myself before the Enquiry Officer.
- (38) Dt. 22/25.7.1986 F16 : Enquiry was held at Nagpur wherein I challenged the enquiry proceeding itself. No T.A., D.A. is paid so far even though I was eligible U/R 154/4 FRSR.
- (39) Dt. 4/10/1986 F17 : Extended study leave under rule 54/2 for a period of 4 months from 8/10/86 to 7/2/87. Meanwhile I have completed my Ph.D. classes, field and laboratory analysis work.
- (40) Dt. 5/11/1986 : Applied for supply of the Copy of the enquiry report U/R 15/5 & 8 of CCS (CCA) Rules of 1965, and reminded several times thereis no reply.
- (41) Dt. 31/12/1986 : Mother expired.

... 5

.. 5 ..

- (42) Dt. 31/12/1986 F18 : Before expiry of my study leave applied and availed, represented to the Chief Hydrogeologist and Member, CGWB, Faridabad, to inform me about my place of posting to resume duty on 8/2/1987.
- (43) Dt. 20/1/1987 F19 : Sent the telegram to enquire about the above matter.
- (44) Dt. 30/1/1987 F20 : Reminded by telegram waited until 5/2/87 when there was no intimation received,
- (45) Dt. 6/2/1987 : Started from Hyderabad to report at Central Headquarters.
- (46) Dt. 8/2/1987 F21 : Reported for duty at Faridabad-Central Headquarters and waited till 18/2/87 at Jam Nagar House for further orders.
- (47) Dt. 16/2/1987 : Made reservation by train for 18/3/1987 for Hyderabad.
- (48) Dt. 18/2/1987 F22 : Informed the Chief Hydrogeologist and Member Central Ground Water Board about my Departure to Hyderabad and requested him to send the order to my house address.
- (49) Dt. 19/2/1987 : Halted at Nagpur and enquired about the posting orders in the office of Director, CGWB, C.R., AAO replied no information received from Central Headquarters, Faridabad.
- (50) Dt. 20/2/1987 : Received the orders of posting by telegram and confirmation copy on 27/2/1987.
- (51) Dt. 28/2/1987 : Made reservation by train for 16/3/87 as there was no reservation available before that day.
- (52) Dt. 17/3/87 : Immediately after receipt of communication rushed to Nagpur and resumed charge. Performed my duties while carrying out various assignments at different parts of Maharashtra. ~~Finally~~

.. 6

- (53) Dt. 19/1/89 Rx : Received telegram at Pune "to close the camp and return to Headquarters by train leaving the vehicle" from the Director, CGWB, CR, Nagpur.
- (54) Dt. 20/10/89 : Made reservation for Nagpur on 31/1/87 as there was no reservation available ~~for~~ before this date.
- (55) Dt. 31/1/89 : Started from Pune ~~xxxx~~ by train after handing over Jeep and other documents. Reached Nagpur on 1/2/87 at 18.30 hours.
- (56) Dt. 2/2/89 F23 : Received the compulsory retirement orders alongwith enquiry reports vide Ministry's letter No. 6(1)/89-vig. dt.
- (57) 28 Feb./4th Mar/89 F24 : Presented papers at IGM-89, held at NGR~~1~~, Hyderabad.
- (58) 6/6/89 : Filed writ in Central Administrative Tribunal, Hyderabad Bench.
- (59) Dt. 17/10/90/ 1/1/91 F25 : Central Administrative Tribunal has set aside the orders on technical grounds and asked the Government to reinstate me vide Hon'ble Judge Shri J.Narsimha Murthy and Shri D. Suryarao.
- (60) Dt. 27/4/1991 F26 : Represented to the Ministry for reinstatement under CAT Act 26 of 198
- (61) Dt. 27/7/1991 : Received deemed suspension order No. 6(6)/89-vig. dt. 24/4/1991.
- (62) Dt. 6/8/1991 F27 : Represented to the Ministry to ~~revoke~~ the suspension orders considering my case under ~~Act~~ CAT Act 26 of 1985.
- (63) Dt. 8.10.91 : Ph.D. awarded by the Osmania University
- (64) Dt. 30.1.1992 : Interim Orders granted in O.A. 52/92
- (65) Dt. 27/4/1992 : Joined on duty
- (66) Dt. 11/12/1992 & 5/3/1993. : Compulsorily Retired

APPLICATION UNDER SECTION 19 OF THE CENTRAL ADMINISTRATIVE TRIBUNAL

Date of Filing :
or
Date of Receipt :
By Post :
Registration :

Signature :

REGISTRAR

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : ADDITIONAL BENCH AT
HYDERABAD

O.A. No. 479 of 1993

Between :

Mr. M.A. HALEEM
S/o Late M.A. RAHEEM
Age About : 50 Years
Occ: Junior Hydrogeologist
(Compulsory Retd.)
R/o HYDERABAD

Died. Represented By Legal Representatives. 1 to 3.

1. Mrs. Noorunnisa.
2. Ms. Farooza.
3. Mr. M.A. Faheem, being minor represented by the Applicant No. 1.

Vs.

1. The Union of India,
Rep. by the Secretary to Government
Ministry of Water Resources
Shram Shakti Bhawan
Rafi Marg
NEW DELHI.
2. The Deputy Secretary to the
Government of India
Ministry of Water Resources
(Vigilance Cell)
Shram Shakti Bhawan
Rafi Marg
NEW DELHI.
3. Chairman
Central Ground Water Board
Jamnagar House
Mansing Road
NEW DELHI-11

W.B. - (L.R.A. 1 to 3 are
brought on record
vide order of Court
dated 29-11-96 in
MA. 1074/96)
(S.O. J)

RESPONDENTS

DETAILS OF APPLICANT

1. Particulars of the Applicant :

- i. Name of the Applicant : Mr. M.A. HALEEM
- ii. Description and office : Junior Hydrogeologist
in which employed : (Scientist B)
Director,
Central Ground Water Board
(Central Region),
NAGPUR.

iii) Office Address : Director
Central Ground Water Board
(Central Region)
NAGPUR.

iv) Address for service : **Mr. K. Sudhakar Reddy**
of all notices Advocate
No. 2-2-1132/5
New Nallakunta
Hyderabad.

2. Particulars of the Respondents :

- i) Name and description :
1. The Union of India
Rep. by the Secretary to Govt.
Ministry of Water Resources
Shram Shakti Bhawan
Rafi Marg
NEW DELHI.
 2. The Deputy Secretary to the
Government of India
Ministry of Water Resources
(Vigilance Cell)
Shram Shakti Bhawan
Rafi Marg
NEW DELHI.
 3. The Chairman
Central Ground Water Board
Jamnagar House
Mansing Road
NEW DELHI-11.

ii) Office address of the respondents : -do-

iii) Address for service of all notices : -do-

3. Particulars of the order against which application is made :

- i) Order No. and date : No.F.No.6/1/84-VIG(Vol.II)
NEW DELHI, Dated: 18-12-1992 & 5.3.93
- ii) Passed by : Second Respondent herein
- iii) Subject in brief : Compulsory Retirement treating
study leave applied and availed
under rule 50(1), 51(a & b), 53/4, 54/2
and 56/2(a) of CCS leave rules of
1972, as unauthorised absence.

4. Jurisdiction of the Tribunal :

The appallicant declares that the subject matter of the order against which he wants redressel is within the jurisdiction of the Tribunal under Section 14 of the Act.

5. Limitation :

The applicant further declares that the application is within the limitation prescribed in Section 21 of the Administrative Tribunal Act, 1985. As such the impugned order No.F.No.G/1/84-VIG(Vol.II) NEW DELHI, Dated: 18-12-1992 and 5-3-1993.

6. Facts of the case :

(i) The applicant herein is M.Sc.Geology and M.Sc.(Tech) in Hydrogeology. He was recruited through Union Public Service Commission in 1974 for Group-A service and was appointed as Junior Hydrogeologist with effect from 1-9-1975. After six months of his posting in Sinaman Project at Sholapur, he was transferred to Central Ground Water Board, Southern Region, Hyderabad. In May, 1976 on his request to stay with his family (who is in service) and aged parents, he was assigned work at Sathupally area, Khammam District. He was then transferred to Central Ground Water Board, Central Region, Nagpur. His request for retention in Southern Region was not considered and he was relieved there from on the very day of his father's demise. He worked in Nagpur from 1978 to 1980 duly attending to the work assigned to him near Bhopal and Jabalpur in Madhya Pradesh. On his request, he was posted again to Southern Region, Hyderabad, and was assigned there reappraisal of ground water survey in East Godavari District near Amalapuram and Peddapuram where he fell sick and proceeded on leave on medical grounds. During the convalescence period he was transferred to Trivandrum, where he did not join and his leave was sanctioned after geetting a second Medical Opinion from the Medical Board. He was retained for some time in the Hyderabad office to carry out the systematic hydrogeological survey work at Rajampet in Cuddapah District and he completed the work. On 16th June 1984, again orders were served retransferring him to the Central Region, Nagpur, giving him two months time to complete and finalise the work done.

(ii) While he was retained at Hyderabad, he applied to the Ministry of Water Resources, Government of India, to register his name vide letter No.MAJ/JHG/CGWB/Research-1, dt.21.10.1983 to prosecute his studies in Osmania University for the award of Ph.D. degree, and permission was accorded in letter No.35-184/78,GW. Govt. of India, dated: 7.12.1983. The fact of admission of the applicant to prosecute his studies for Ph.D. course was brought to the notice of the Technical Secretary and the Director, Central Ground Water Board, Southern Region, personally and requested to report the fact to the Chief Hydro-geologist, Central Ground Water Board and to retain him at Hyderabad till he completes his Ph.D. course. But his request was not considered and served the order of **deems to have been revealed on 16-8-1984** to join at Nagpur. He joined at Nagpur on 27th August, 1984.

The applicant applied for 2 days casual leave on 10th and 11th of September, 1984 for Id-uz-Zuha and availment of closed holidays on 7th, 8th and 9th being Saturday and Sunday. On reaching Hyderabad he found his mother's health in a precarious condition. His mother wished to see the marriage of her last son to be performed before she breathed her last. He applied for earned leave from 7-9-1984 to 7-10-1984. He received his salary for the period ending September, 1984, which would not have been paid had the leave not been sanctioned.

(iii) The applicant made enquiries at Hyderabad about admission to Ph.D. course and applied for admission. It was informed that attendance was compulsory as is evident from the admission letter No.Ph.D./Ad/1984-Session-D2/270, dated: 21st July, 1984. Pursuant to it he applied for study leave w.e.f. 8-10-1984, which was admissible under rule 50(1) and 54/2 of CCS Leave Rules of 1972. In his application he explained the circumstances in which the leave applied for was justified. Neither the permission granted to him for registration was cancelled nor the study leave applied was granted. On the

other hand an enquiry was ordered against him vide letter Confidential No.6(1)/84, dated 1st January, 1986. Sri N.C.Bhatnagar Director, Central Ground Water Board, North Western Region, Chandigarh, in the office of the Director, Central Ground Water Board, Nagpur, conducted the enquiry into the following charges levelled against him :

"He absented himself from duty w.e.f. 10.9.1984 to today i.e. 23rd July, 1986 unauthorisedly without approval or sanction of the competent authority by his aforesaid act, Shri M.A.Haleem has shown lack of devotion to duty and has behaved in the manner unbecoming of a Government Servant and violated the principle of Rule 3(i), (ii) & (iii) of the Central Civil Services Conduct Rules, 1965."

Before expiry of his study leave applied and availed, he requested to the Chief Hydrogeologist and Member, Central Ground Water Board, Faridabad, for his posting as Junior Hydrogeologist on 31.12.1986 and subsequently sent two telegrams, no reply was received, he was compelled to report as Junior Hydrogeologist on 8.2.1987 at Faridabad (as it was his Central Headquarter) waited till 18.2.1987 at Jamnagar House, New Delhi and informed the Chief Hydrogeologist and Member to send the reposting orders to his home address before leaving New Delhi. On receipt of posting orders at Central Region, Nagpur from Faridabad, he joined the department on 17.3.1987. He was admitted to duty and was assigned work of site selection in Ahmednagar district for drought relief measures in Maharashtra. Later, he was attending to the official work at Pune Camp, where he received the message to close the camp and return. On 1st February, 1989 he returned to Nagpur and was served with order F.No.6(1)84 Vig., dated: 2.2.1989 containing the order of his compulsory retirement as punishment.

(iv) Applicant herein challenged the compulsory retirement Order No.F.No.6(1)84 Vig., dated: 2-2-1989 by filing O.A.403/89 before this Hon'ble Tribunal. This Hon'ble Tribunal delivered "TWO DISSENTING JUDGEMENTS" on 17.10.1990. Hon'ble Judicial Member allowed the O.A. and directed to reinstate the applicant

with all consequential benefits but Hon'ble Administrative Member dismissed the O.A. Hon'ble Chairman referred the matter to 3rd Member, i.e. **Sri D.Surya Rao** (Judl. Member). Finally the O.A. was disposed of on 1-1-1991 as follows :-

"Following the above said decision of the Supreme Court, it will follow that the order imposing the punishment of compulsory retirement from service on the applicant without furnishing him a copy of the Enquiry Officer's Report is vitiated and its accordingly quashed. It is, however, left open to the disciplinary authority to consider the matter afresh after giving the applicant an opportunity to make a representation against the report of the Inquiry Officer and the opinion of the U.P.S.C. and to take further action in the matter. If it proposed to take further action against the applicant on the basis of the report of the Inquiry Officer, reasonable time will be afforded by the disciplinary authority to the applicant to represent against the report of the Inquiry Officer and the recommendations of the U.P.S.C. before passing final orders. In disposing of the representation the disciplinary authority will do so untravelling by either of the opinions/orders passed by the learned Hon'ble Vice Chairman or learned Hon'ble Member (J) **Shri J.Narasimha Murthy** on the merits in this case. It is further made clear that it is for the respondents to choose the disciplinary proceedings and it is **not binding on the respondents to necessarily continue the disciplinary proceedings**. That is a matter left to the discretion of the disciplinary authority. As a consequence of quashing of compulsory retirement and if it is proposed to continue with the enquiry, it is left open to the disciplinary authority to either pass orders under sub-rule 4 of rule 10 of C.C.S. Rules so as to deem the applicant to be under suspension from the date on which he was compulsorily retired from service or to **reinstate him into service in view of the fact that prior to the order of punishment, the applicant was in service and not under suspension.**"

(v) In pursuance of the orders of the Hyderabad Bench of the C.A.T. in OA No.403/89; after carefully considering the matter, the President passed the following orders vide para 3 of order No.6/6/89-Vig, dated: 24-4-1991 :

- (i) That the Ministry of Water Resources Order No.6/1/84-Vig, dated: 2.2.1989 Compulsory Retiring Shri M.A.Haleem from Government service be cancelled ;
- (ii) That, the disciplinary proceedings are continued against Shri M.A.Haleem under Rule 14 of the Central Civil Services (Classification, Control & Appeal) Rules, 1965 ;
- (iii) That, in terms of the provisions of Rule 10(4) of the CCS (CCA) Rules, 1965 Shri M.A.Haleem is deemed to have been placed under suspension, with effect from 2.2.1989, the date of the original order imposing on Shri Haleem the penalty of compulsory retirement from service, until further orders. During the period of suspension, Shri M.A.Haleem will be entitled to payment of subsistence

allowance as per provisions of FR 53. The question of regulating the said period of suspension will be considered in the light of final order that may eventually be passed in this case by the disciplinary authority under the relevant rules ;

and

- (iv) Shri M.A.Haleem be given a copy of the inquiry officer report as well as the Union Public Service Commission's advice in this matter to enable him to make representation, if any, which should be submitted to the disciplinary authority within 30 days from the receipt of this communication. In case no representation is received within the stipulated period, it should be assumed that Shri Haleem has got no representation/submissions to make in the matter and the case shall be processed further for issuing fresh order(s) on the basis of the available facts."

As such a copy of the Inquiry Officer's report and opinion of the UPSC was made available to the applicant to enable him to make representation, if any, to be submitted to the President within 30 days from receipt of the communication.

In the meanwhile applicant herein filed OA No.52/92 in the Hyderabad Bench of the C.A.T. challenging the Ministry of Water Resources's Order No.6/6/89-Vig, dated: 24-4-1991, and after hearing the OA.No.52/92 filed by Shri Haleem, the Hyderabad Bench of the C.A.T. vide its INTERIM ORDERS dated 30-1-92 and 13-2-1992 suspended para 3(iii) of Order No.6/6/89-Vig, dated 24-4-1991 till the disposal of the original application.

In pursuance of the **INTERIM ORDERS OF THE HYDERABAD BENCH OF C.A.T** and after carefully considering the facts relevant to the case, the respondents passed the following orders vide para 6 of order No.6/1/92-Vig, dated: 30-3-1992 :

- (i) Operation of para 3 (iii) of the Ministry of Water Resources Order No.6/6/89-Vig, dated: 24.4.1991 shall be kept in abeyance till final orders of the Tribunal.
- (ii) Shri Haleem be allowed to join duty in CGWB with effect from 30-1-1992 (i.e. the date on which the Hon'ble Tribunal passed the interim orders) and continue on duty till further orders ;
- (iii) The question of regularising the period of suspension with effect from 2.2.1989 to 29.1.1992 will be considered in the light of (a) final order that may be passed by the Hon'ble Tribunal in OA.52/92 and (b) final order that may eventually be passed in the disciplinary case by the disciplinary authority under the relevant rule."

(vi) Applicant herein was reinstated in service w.e.f. 30th January, 1992 (i.e. the date on which the Hyderabad Bench of CAT passed the said interim orders). Applicant continued on duty till 11-1-1993, while applicant herein was on field duty at "Beed District (Maharashtra)", respondent authorities issued a telegram dated: 4-1-1993 and asked him to return to Headquarters i.e. Nagpur immediately. When applicant reported at his headquarter, he was handed over the compulsory retirement, Order No.F.No. 6/1/84-Vig (Vol.II) NEW DELHI, dated: 18.12.1992 and ~~XXXXXX~~, hence this O.A.

(vii) Respondent authorities issued the **MEMORANDUM OF CHARGE SHEET UNDER RULE 14 OF THE CCS (CCA) RULES :**

ARTICLE OF CHARGE :

"Shri M.A.Haleem, while functioning as Junior Hydrogeologist, C.G.W.B., C.R., Nagpur absented himself from duty with effect from 10.9.1984 to date unauthorisedly without proper approval or sanction of the competent authority.

By his aforesaid act Shri M.A.Haleem, has shown lack of devotion to duty and has behaved in a manner unbecoming of a Government servant and thereby violated the provision of Rule 3(i), (ii) & (iii) of the Central Civil Services (Conduct) Rules, 1964."

(viii) Here it is humbly submitted that applicant herein was initially granted **CASUAL LEAVE** for 2 days i.e., 10.9.1984 and 11.9.84 and applicant herein is paid salary upto September 1984, hence, a charge must be framed under "**LEAVE RULES**" for **VIOLATION OF RULE 25(2) OF LEAVE RULES**. But whereas respondent authorities invoked Rule 3(i), (ii) & (iii) of **CONDUCT RULES** as such the alleged charge is not enumerated as an offence under **CONDUCT RULES**. Therefore, the enquiry must be conducted for **VIOLATING RULE 25(2) OF THE LEAVE RULES BUT NOT UNDER CONDUCT RULES**. Hence, the whole enquiry under Rule 3(i)(iii) is clearly illegal, arbitrary and unconstitutional.

Rule 3(i) of the CCS (Conduct) Rules 1964, provides that a Government servant shall at all times maintain absolute integrity and devotion to duty and do nothing unbecoming of a Govt.

Servant. This rule serves the specific purpose of converting out of misconduct not covered by other specific provisions of the Rules. It is, therefore, necessary to satisfy in the first instance whether the alleged acts of misconduct do not attract the provisions of any specific rule before taking recourse to Rule 3(i).

It is humbly submitted that the Enquiry Officer clearly held that the Director, Central Region, Nagpur failed to inform the applicant about the extension of leave beyond 11th Sept., 1984, which was duly sanctioned by them, and E.O. further held that the leave applied till 7th October, 1984 and as admissible be sanctioned and his absence upto 7th October, 1984 be regularised. But contrary to the above findings given by the Enquiry Officer, the disciplinary authority rejected the applicants contention to frame a charge under Rule 25(2) of the CCS (Leave) Rules and not under Conduct Rules, on the ground that action for violating Rule 25(2) of Leave Rules does not arise as he was not granted any leave at all. This attitude of the disciplinary authority clearly indicates that they had made up their mind to punish the applicant without invoking the relevant rules, it is nothing but mere abuse of power.

(ix) UNDER THE SIMILAR CIRCUMSTANCES IN THE CASE OF K.M. VEDAPUR & K.SRINIVASAN V/s GOVERNMENT OF INDIA, CAT-MADRAS BENCH HELD AS FOLLOWS :

"Shri Vijay Narayan, the learned counsel appearing for the applicants, urged mainly two grounds viz., (1) that the punishment is based on an alleged misconduct, not finding a place in the charge sheet; (2) that there was a clear discrimination against the two applicants in comparison to their colleagues, numbering as stated earlier i.e., 21.

We shall take up the first ground.

The statement of the articles of charge in respect of K.Srinivasan, reads as follows :-

Charge No.1 :

Shri K.Srinivasan while working as Junior Hydrogeologist in the Central Ground Water Board was relieved of his duties on 3.2.1979 (AN) for taking up foreign assignment

as Hydraulic Engineer with the Government of Algeria for a period of two years. The sanctioned period of foreign assignment expired on 3.2.1981. He did not return to India after the expiry of the said assignment in spite of orders of Government of India. Shri Srinivasan has thus wilfully ignored and disobeyed the orders of the Government of India.

The above act of commission and omission on the part of Shri Srinivasan showed lack of devotion of duty and he behaved in a manner unbecoming of a Government Servant and thereby violated Rule 3(i),(ii) and (iii) of the CCS (Conduct) Rules, 1964.

Charge No.11

His absence from duty beyond the expiry of period of foreign assignment on 3.2.1981 is unauthorised.

By the aforesaid act of commission and omission Shri Srinivasan has been behaving in a manner unbecoming of a Government Servant and thereby contravened the provisions of Rule 3(i),(ii) and (iii) of CCS (Conduct) Rules, 1964."

It would flow from the charges that the acts reproached to the Government servants are (1) not return to India on the expiry of their foreign assignment in spite of the orders of the Government, and therefore, wilful disobedience of the orders; (2) absence from duty beyond the expiry of the period of foreign assignment. The above acts have been considered as violation of Rule 3(i),(ii) and (iii).

As far as the second act is concerned, viz., absence from duty beyond the expiry of the period of foreign assignment it is more specifically a violation of Rule 25 of the CCS (Leave) Rules. This rule could have been invoked. While framing the charge sheet, the disciplinary authority acted under the impression that the CCS (Conduct) Rules, 1964, contain the exhaustive list of misconducts. It is not so, the violation of any rule which the Government servant has to respect is a misconduct. In addition, the CCS (Conduct) Rules given an enumeration of the most important and frequent misconducts, not covered by other general rules and the purpose of Rule 3 is to cover cases which are not specifically covered by any other rule. It may be seen that Charge (1) and (2) are almost the same and the act which is ultimately reproached to the applicants is the unauthorised overstay.

The conclusions of the disciplinary authority, who also perused the reports of the inquiry officer and the opinions of the UPSC is that the charged officials have been guilty not only of absence from duty beyond the expiry of the period of deputation, on foreign assignment, but also of having entered into agreement with the foreign Government for employment.

As far as the first misconduct is concerned, we notice that it is found to be proved regularly and there is no quarrel on that point. As far as the second misconduct is concerned, it is not to be found in the charge sheet issued to the charged officials. It is pertinent to point out that though both the acts of misconduct arose in the same set of circumstances, when a punishment is meted out

for two distinct misconducts, both misconducts should have been brought out clearly in the charge memo in order to afford an opportunity to the Government servant to defend himself. At any rate no punishment can be imposed in respect of a misconduct not found in the charge memo. It would have been possible for the disciplinary authority to clearly frame a charge for the fact of having entered into agreement with the foreign Government while his period of deputation was over. As pointed out earlier, the list of misconduct found in the CCS (Conduct) Rules is not exhaustive and whenever an act of the Government servant is found to be incompatible with his continuance as Government servant or is in violation of a rule is amounts as a misconduct, unless there is a protection under another rule, and a charge can be framed. But whether the act is a misconduct or not, has to be ultimately decided in case of dispute by the Tribunal. But before taking any disciplinary action, the act reapproached to the Government servant should be clearly described, and the Government servant should be asked to show cause as to why action should not be taken against him for the same. In the instant case, it is found that the charge sheet does not clearly convey to the charged officials that the facts of having taken up of an assignment with the foreign Government was considered by the Government of India as an act of misconduct. On the other hand, the charge is regarding delay on return to the parent cadre, disobedience of the orders and absence from duty beyond the period of foreign assignment. It is, thus, clear that an important factor weighed in the mind of the disciplinary authority while imposing the penalty, viz., the fact of entering into agreement with the foreign Government without the prior approval of the Government of India, which is certainly a very grave act, as compared to the other acts imputed to the Government servant. However, that fact does not find a place in the charge memo, so the punishment meted out to the charged official cannot be sustained and has necessarily to be set aside."

(x) But invoking Conduct Rules directly without framing a charge under Rule 25(2) of LEAVE RULES, the disciplinary Authority has positively drawn the positive conclusion against the applicant and started the disciplinary proceedings to complete a formality in law. In SURINDRA CHANDRA DAS V/s. WEST BENGAL & OTHERS 1981(3) SLR Page 681 CALCUTTA HIGH COURT HELD AS FOLLOWS :

"5 If therefore from the attending circumstances and also from the language of the charge sheet, it appears that the disciplinary authority has really drawn a positive conclusions against a delinquent officer and therefore has started a disciplinary proceedings by issuing a charge sheet only to afford him an opportunity to dispel the conclusion drawn against him then such disciplinary proceedings must be held to be law being vitiated, bias and a closed mind and having been in all intent and purpose started to complete a formality in law."

(xi) As per STUDY LEAVE RULES applicant herein is fully qualified to make an application for STUDY LEAVE UNDER THE FOLLOWING PROVISIONS OF STUDY LEAVE RULES :

RULE 50. Conditions for Grant of Study Leave :

(1) Subject to the conditions specified in this Chapter, study leave may be granted to a Government servant with due regard to the exigencies of public service to enable him to undergo, in or out of India, a special course of study consisting of higher studies or specialised training is a professional or a technical subject having a direct and close connection with the sphere of his duty.

(2) Study leave may also be granted :

(i) for a course of training or study tour in which a Government servant may not attend a regular academic or semi-academic course if the course of training or the study tour is certified to be of definite advantage to Government from the point of view of public interest and is related to sphere of duties of the Government Servant and

(ii) for the purpose of studies connected with the framework of background of public administration subject to the conditions that :

(a) the particular study or study tour should be approved by the authority competent to grant leave; and

(b) the Government servant should be required to submit on his return a full report on the work done by him while on study leave.

(iii) For the studies which may not be closely or directly connected with the work of a Government servant, but which are capable of widening his mind, in a manner likely to improve his abilities as a civil servant and to equip him better to collaborate with those employed in other branches of the public service.

NOTE: Applications for study leave in cases falling under clause (iii) shall be considered on merits of each case in consultation with the Department of Expenditure of the Ministry of Finance.

(3) Study Leave shall not be granted unless -

(i) it is certified by the authority competent to grant leave that the proposed course of study or training

shall be of definite advantage from the point of view of public interest ;

(ii) it is for prosecution of studies in subjects other than academic or literary subject.

(5) Study leave shall not ordinarily be granted to a Government servant -

(i) who has rendered less than five years service under the Government ;

(ii) who is due to retire, or has the opinion to retire, from the Government service within three years of the date on which he is expected to return to duty after the expiry of the leave.

RULE 51. Maximum amount of Study Leave :

The maximum amount of study leave, which may be granted to a Government Servant shall be -

- (a) ordinarily twelve months at any one-time and
- (b) during his entire service, twenty-four months in all (inclusive of similar kind of leave for study or training granted under any other rules).

RULE 52. Applications for Study Leave :

(1) (a) Every application for study leave shall be submitted through proper channel to the authority competent to grant leave.

(b) The course or courses to study contemplated by the Government servant and any examination which he proposed to undergo shall be clearly specified in such application.

(2) Where it is not possible for the Government servant to give full details in his application, or if, after leaving India, he is to make any change in the programme which has been approved in India, he shall submit the particulars as soon as possible to the Head of Mission or the authority competent to grant leave, as the case may be, and shall not, unless prepared to do so at his own risk, commence the course of study or incur any expenses in

connection therewith until he receives the approval of the authority competent to grant the study leave for the course.

RULE 53. Sanction of Study Leave :

- (1) A report regarding the admissibility of the study leave shall be obtained from the Audit Officer :
Provided that the study leave, if any, already availed of by the Government servant shall be included in the report.
- (2) Where a Government servant borne permanently on the cadre of one department or establishment is serving temporarily in another department or establishment, the grant of study leave to him shall be subject to the condition that the concurrence of the department or the establishment to which he is permanently attached is obtained before leave is granted.
- (3) Where the study leave is granted for prosecution of studies abroad, the Head of the Mission concerned shall be informed of the fact by the authority granting the leave provided that where such leave has been granted by an Administrator, the intimation shall be sent through the Ministry concerned."

RULE 54. Accounting of study leave and combination with leave of other kinds :

- (1) Study leave shall not be debited against the leave account of the Government servant.
- (2) Study leave may be combined with other kinds of leave, but in no case shall the grant of this leave in combination with leave, other than extraordinary leave, involve a total absence of more than twenty-eight months from the regular duties of the Government servant.

EXPLANATION :- The limit of twenty-eight months of absence prescribed in this sub-rule includes the period of vacation.

(xii) Hence, it is humbly submitted that as per O.M.No. F8(7)ESTT.IV/A/60, dated: 6-2-1981 - MINISTRY OF FINANCE has instructed the various Departments that Study leave should be liberally be granted and staff should even be advised to take such leave. Instead of complying with these guidelines, respondent authorities bent upon issuing office orders rejecting the applicant's request for study leave in total arbitrary manner.

In the case of Smt.SUSHILA BARLA V/s. Government of India and others (Reported in (1988)6 ATC-558) Patna Bench held as follows :

"STUDY LEAVE CANNOT BE REFUSED ARBITRARILY"

The reasons given by the respondent authorities for not granting Study Leave is Administrative exigencies. Here, it is humbly submitted that actually there were no grave administrative exigencies to deny the study leave. As such the following normal duties were allotted to the applicant vide Office Order No.5/12/1/S/8778 & 8786, dated: 9-7-1984 -

Sl. No.	Name of Officer	Item of work	Target in KM 2			Supervisory Officer
			Tri- bal	Drou- ght	Oth- ers	
1.						
2.	Sri M.A.Haleem Jr.Hydrogeologist	Systematic Hydro-1800 geological surveys in Dhule Dist.(Toposheet No.246 G/16,46, K/4,8,12)	-	200		Sri M.Sankaran, Sr.Hydrogeologist

During the enquiry Prosecution Witness stated as follows in regard of duties entrusted to the applicant.

Yes, Mr.Haleem was very much aware of the work assigned to him under Field Season Programme 1984-85. He was issued an order assigning the above work vide Office Order No. 5/12/1/S-8779 dated 9.7.1984. However, Mr.Haleem left headquarters on 6th September, 1984 on Casual Leave. Before leaving the headquarters, I made clear to him that immediately on expiry of C.L. he should proceed to take up his field work, eventhough it was September, 1984 and

complete his targets for the quarter ending upto that period. He was aware of the targets assigned to him when he applied for Casual Leave (on page 4 Enquiry proceedings dt. 22-07-1986).

(xiii) The competent authority for granting study leave is CHIEF HYDROGEOLOGIST/MINISTRY (Respondent 1); the role of Director is only to forward study leave application to the competent authority, but in the present case applicants study leave application is not at all forwarded by the Director to the Chief Hydrogeologist & Member for onward transmission to Ministry. The Director exercised his powers clearly in arbitrary manner and bent upon rejecting applicants request for grant of study leave. The respondent authorities having granted sanction for pursuing higher studies they cannot arbitrarily reject study leave application. The action of the respondent authorities is contrary to the well known legal maxima "he, who approbates does not reprobate" - qui approbates non reprobat. And applicant herein cannot be punished for no fault of his as per legal maxima "NO ONE IS PUNISHED FOR THE FAULT OF ANOTHER" - memo punitur pro alieno delicto. The respondent authorities ought to have taken a liberal view, in granting study leave to the applicant, to mutual advantage, rather adopted an arbitrary, obstructive and unhelpful attitude towards the applicant. The action of the respondent authorities is clearly illegal, arbitrary and violation of applicants fundamental rights granted under Article 14 and 16 of the Constitution of India.

As per the office order dated: 9-7-1984 applicant herein was given normal duties along with several other officers, as such there were no administrative exigencies as claimed by the respondent authorities. But before the Enquiry Prosecution Witness (i.e. Director) clearly admitted about the normal duties, this clearly indicates that there were no public exigencies as such to refuse applicants study leave. As per Rule 50(1)&(2) study leave can be granted to the applicant.

Respondent authorities granted study leave to several persons and retained them in the department. (1) Mr. S. S. Mahalingam, Asst. Executive Engineer, C.G.W.B, Varanasi, presently working as Executive Engineer, Madras Division, was granted study leave for doing his M.S. in Remote Sensing, (2) Mr. M.Q.A. Baig, Asst. Geologist, C.G.W.B., Lucknow Region, was sanctioned study leave for doing his Ph.D., whereas in the case of the applicant, the respondent authorities deliberately refused the study leave with the intention to take disciplinary action for no fault of the applicant and finally imposed the "COMPULSORY RETIREMENT" as punishment knowing very well that applicant will not get any pension because applicant herein not completed the required service for eligibility to claim pension. As such imposing Compulsory Retirement as punishment is unwarranted and disproportionate to the charge framed.

In the case of Sri J.D.Srivastava V/s State of M.P. (Reported in AIR 1984 SC 630) HON'BLE SUPREME COURT OF INDIA HELD AS FOLLOWS :

- The power to retire a Government servant compulsorily in public-interest in terms of a service rule is absolute provided the authority concerned forms an opinion bonafide that it is necessary to pass such an order in public interest. It is equally well settled that if such decision is based on collateral grounds or if the decision is arbitrary it is liable to be interfered with by courts.

In the case of Sri S.R.Venkatraman V/s. Government of India - AIR 1979 SC 49, SUPREME COURT HELD AS FOLLOWS :

- A public servant was ordered to be retired prematurely not in the public interest - order of Compulsory Retirement amounted to abuse of power.

In the case of Col.J.N.Sinha V/s Government of India - AIR 1971 SC 40, HON'BLE SUPREME COURT OF INDIA HELD AS FOLLOWS :

- The object of compulsory retirement is to weed out the dead wood in order to maintain the high standard of efficiency.

7. RELIEF(S) SOUGHT :

MAIN PRAYER :

HENCE, IN THE INTEREST OF JUSTICE IT IS PRAYED THAT THIS HON'BLE TRIBUNAL MAY BE PLEAD TO :

(i) to quash the impunged order No. F.No.6/1/84-Vig (Vol.II), dated: 18-12-1992/5-3-1993 issued by the 2nd respondent as illegal, arbitrary, un-constitutional and void-ab-initio:and

(ii) to direct the respondents herein to grant STUDY LEAVE, for the period 8-10-1984 to 16-3-1987 and regularise the same, with all consequential benefits as such they have not cancelled the permission more over he has fulfilled the purpose for which he has applied leave by obtaining his Ph.D. degree and pass such other order or order's as deemed fit and necessary in the circumstances of the case.

8. INTERIM PRAYER :

To suspend the impunged order No.F.No.6/1/84-Vig (Vol.II) dated : 18-12-1992/5-3-1993 pending disposal of the O.A.

~~I.P.O. B.C. / D.D. / Removed~~

9. DETAILS OF THE REMEDIES EXHAUSTED :

The applicant declares that no other remedy is available except to invoke the jurisdiction of this tribunal.

10. MATTERS NOT PENDING WITH ANY OTHER COURT :

The applicant further declares that the matter regarding which this application has been made is not pending before any court of law and any other authority or any other Bench of the Tribunal.

11. PARTICULARS OF THE POSTAL ORDER IN RESPECT OF THE APPLICATION FEES :

1. Number of Indian Postal Order : 805 890206
Rs. 50/-
~~I.P.O. B.C. / D.D. / Removed~~

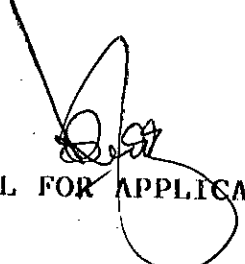
2. Name of issuing post office : GPO Hyd
3. Date of issue of postal order : 030593
4. Post office at which payable : GPO Hyd

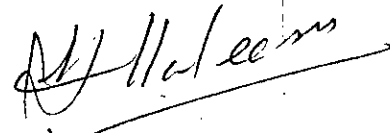
12. DETAILS OF INDEX :

An index in duplicate containing the details of the documents to be relied upon is enclosed.

13. LIST OF ENCLOSURES :

- 1.
- 2.
- 3.
- 4.
- 5.


COUNSEL FOR APPLICANT



SIGNATURE OF THE APPLICANT

VERIFICATION

I, .M.A.HALEEM, S/o Late M.A.Raheem, aged about 50 years Junior Hydrogeologist (Compulsorily Retired), do hereby verify that the contents 1 to 13 are true to my personal knowledge and belief, and I have not suppressed any material facts.

Place : Hyderabad,

Date : 65-05-1993.


Signature of Applicant


Counsel for Applicant

To

The Registrar,
Central Administrative Tribunal,
Additional Branch,
Hyderabad,
Andhra Pradesh.

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p. 2

F.NO.6/1/84-VIG [VOL-II]
GOVERNMENT OF INDIA
MINISTRY OF WATER RESOURCES

NEW DELHI, DATED 18/12/92

O R D E R

*Received
under protest
at 12.30 Hours
11/11/85*

WHEREAS disciplinary proceedings under Rule 1493 of the Central Civil Services (Classification, Control & Appeal) Rules, 1965 were initiated against Shri M.A.Haleem, Junior Hydrogeologist, Central Ground Water Board vide Ministry's Memorandum No. 6/1/84-Vig dated the 1st January, 1986 on the following charge :

" Shri M.A.Haleem, while functioning as Jr. Hydrogeologist, C.G.W.B., C.R., Nagpur absented himself from duty with effect from 10.9.1984 to date unauthorisedly without proper approval or sanction of the competent authority.

By his aforesaid act Shri M.A.Haleem, has shown lack of devotion to duty and has behaved in a manner unbecoming of a Government servant and thereby violated the provision of Rule 3 (i), (ii) & (iii) of the Central Civil Services (Conduct) Rules, 1964."

The statement of imputations of misconduct/misbehaviour in support of the article of charge and list of witnesses by whom the charge was proposed to be substantiated were also attached to the aforesaid Memorandum dated 1-1-1986.

2. AND WHEREAS Shri M.A.Haleem submitted his defence statement vide his letter No. MHA/JHG/85-86/MWR/Conf-2 dated 4-2-1986 wherein he denied the charge and desired to be heard in person.

3. AND WHEREAS it was decided to hold an inquiry for which an Inquiring Authority was appointed vide Ministry's Order No. 6/1/84-Vig(1) dated 10-3-1986 to inquire into the charges framed against the said Shri M.A.Haleem. The Presenting Officer was also appointed simultaneously. The Inquiring Authority so appointed submitted his report on the 28th August, 1986 according to which charge levelled against Shri M.A.Haleem was fully proved.

4. AND WHEREAS as required under the rules, advise of UPSC in the matter was also obtained vide their letter No. F.3/144/80-81 dated 6th October, 1988.

5. AND WHEREAS the disciplinary authority after carefully considering all the aspects of the case and the evidence adduced during the inquiry and in consultation with UPSC imposed the major penalty of "Compulsory Retirement" as specified under clause (vii) of Rule 11 of CCS(CC&A)Rules, 1965 on Shri M.A.Haleem vide Order No. 6/1/84-Vig dated 2nd February, 1989 compulsorily retiring him from government service with effect from the after noon of the date of the issue of the said order.

6. AND WHEREAS Shri M.A.Haleem aggrieved by the order of the disciplinary authority of "Compulsory Retirement" imposed vide order No.6/1/84-Vig dated the 2nd February, 1989 filed a writ petition OA.No.403/89 in the Hyderabad Bench of the Central Administrative Tribunal challenging the aforesaid order of the disciplinary authority. The Hyderabad Bench of the C.A.T had quashed the disciplinary authority's order of Compulsory Retirement imposed on Shri M.A.Haleem from government service vide its judgement dated 1-1-1991 mainly on the technical ground that a copy of the inquiry officer's report was not furnished to Shri Haleem. The Hon'ble Tribunal, however, left it open to the disciplinary authority to consider the matter afresh after giving him an opportunity to make a representation against the report of the inquiry officer and opinion of the UPSC. The other related matters such as whether disciplinary proceedings should be necessarily continued or not against Shri Haleem, order for deemed suspension under sub-rule 4 of Rule 10 of CCS(CC&A)Rules, 1965 should be passed or he should be re-instated in service, were left to the discretion of the disciplinary authority itself.

7. AND WHEREAS in pursuance with the orders of the Hyderabad Bench of the C.A.T in OA.No. 403/89 after carefully considering the matter, the President passed the following orders vide para 3 of order No. 6/6/89-Vig dated 24th April, 1991 :

- "(i) That the Ministry of Water Resources Order No.6/1/84-Vig dated 2.2.1989 Compulsorily Retiring Shri M.A.Haleem from Government service be cancelled ;
- (ii) That, the disciplinary proceedings are continued against Shri M.A. Haleem under Rule 14 of the Central Civil Services (Classification, Control & Appeal) Rules, 1965 ;
- (iii) That, in terms of the provisions of Rule 10(4) of the CCS(CC&A)Rules, 1965 Shri M.A.Haleem is deemed to have been placed under suspension, with effect from 2.2.1989 i.e. the date of the original Order imposing on Shri Haleem the penalty of compulsory

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retirement from service, until further orders. During the period of suspension, Shri M.A.Haleem will be entitled to payment of subsistence allowance as per provisions of FR 53. The question of regularising the said period of suspension will be considered in the light of final order that may eventually be passed in this case by the disciplinary authority under the relevant rules ; and

- (iv) Shri M.A.Haleem be given a copy of the inquiry officer's report as well as the Union Public Service Commission's advice in this matter to enable him to make a representation, if any, which should be submitted to the disciplinary authority within 30 days from the receipt of this communication. In case no representation is received within the stipulated period, it should be assumed that Shri Haleem has got no representation/submissions to make in the matter and the case shall be processed further for issuing fresh order(s) on the basis of the available facts."

As such a copy of the Inquiry Officer's report and opinion of the UPSC was made available to Shri Haleem to enable him to make a representation, if any, to be submitted to the President within 30 days from receipt of the communication.

8. AND WHEREAS in the meanwhile Shri M.A.Haleem then filed another writ petition OA.No. 52/92 in the Hyderabad Bench of the C.A.T challenging the Ministry of Water Resources's Order No. 6/6/89-Vig dated 24-4-1991.

9. AND WHEREAS after hearing the OA.No. 52/92 filed by Shri Haleem, the Hyderabad Bench of the C.A.T vide its INTERIM ORDERS dated 30-1-92 and 13-2-1992 suspended para 3. (iii) of Order No. 6/6/89-Vig dated 24-4-1991 till the disposal of the original application.

10. AND WHEREAS in pursuance of the INTERIM ORDERS OF THE HYDERABAD BENCH OF C.A.T and after carefully considering the facts relevant to the case, the President passed the following orders vide para 6 of order No.6/1/92-Vig dated 30-3-1992 :

"[i] Operation of para 3(iii) of the Ministry of Water Resources Order No. 6/6/89-Vig dated 24.4.1991 shall be kept in abeyance till final orders of the Tribunal ;

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[iii] Shri Haleem be allowed to join duty in CGWB with effect from 30-1-1992 (i.e. the date on which the Hon'ble Tribunal passed the interim orders) and continue on duty till further orders ;

[iiii] the question of regularising the period of suspension with effect from 2.2.1989 to 29.1.1992 will be considered in the light of (a) final order that may be passed by the Hon'ble Tribunal in OA.52/92 and (b) final order that may eventually be passed in the disciplinary case by the disciplinary authority under the relevant rule."

Thus, Shri Haleem was re-instated in service w.e.f. 30th January, 1992 (i.e. the date on which the Hyderabad bench of CAT passed the said interim orders) and continues in duty till further orders.

11. AND WHEREAS, Shri M.A.Haleem submitted his representation dated 6.8.1991 against the Inquiry Officer's Report and opinion of the UPSC .]

12. AND WHEREAS, the advise of the UPSC in connection with the issue of final orders has also been obtained as per their letter No.F.3/87/92-SI dated 15.9.1992(Copy enclosed).

13. AND WHEREAS, Shri M.A.Haleem in his representation dated 6.8.91 has stated as under :

- a) He was transferred from Southern Region, Hyderabad to Central Region, Nagpur and he took charge of the office at Nagpur on 27.8.1984.
- b) He joined Ph.D course in Osmania University on 24.8.1984 in pursuance of the permission granted to him vide earthwhile M/O Irrigation Letter No. 35-194/78-GW Dated 7.12.1983.
- c) He immediately applied for study leave on 10.10.1984 but authorities on administrative exigencies rejected his study leave application on flimsy ground as there were a number of Junior Hydrogeologist at Nagpur who could have looked after the work in his absence.
- d) The findings of the inquiry officer is totally baseless and it is an unilateral decision by the authority. Inquiry Officer failed to give reasons why his request for study leave was not granted and what were the administrative exigencies. The Inquiry Officer's findings are totally biased and made up his mind to prove the charge.

- (46)
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- e) Having given permission for Ph.D course in the year 1983 and refusing to grant him study leave on unreasonable grounds is nothing but an arbitrary action to prevent him from prosecuting his studies.
 - f) He had more than 13 years of unblemished service to his credit. The inquiry officer ignored provision of CCS(Leave) Rules for study leave as he fulfilled all conditions laid down under study leave rule 50 (5) as he had 12 years service left.
 - g) Charge framed is totally illegal and unwarranted and disciplinary proceedings are illegal and void ab-initio.

14. AND WHEREAS, the disciplinary authority after taking into account the inquiry officer's report, the representation of Shri Haleem on inquiry officer's report and UPSC's advice, and other relevant facts has observed that the contention of Shri Haleem that charge sheet framed against him is totally illegal and unwarranted as permission was granted to him by authorities for registering his name for Ph.D course and the concerned authorities were bent upon rejecting his leave application on flimsy grounds on administrative exigencies, is not true. The fact is that while applying for permission for registration in the Ph.D course, Shri Haleem had clearly stated that he would utilise his free time in the study of Ph.D and that it would not affect the departmental work nor it would interfere with his duties. He had asked for permission to register himself as an External Candidate and had been given permission in December, 1983 to join the course subject to the conditions that his pursuit of studies for Ph.D would not interfere with his official work in any way and that the grant of leave would be subject to exigencies of government work. Thereafter, he was transferred from Hyderabad to Nagpur, where he joined on 27.8.1984. Despite the fact that permission allowed to him was subject to aforesaid conditions, Shri Haleem nevertheless secured admission for Ph.D Course in Osmania University, Hyderabad as a REGULAR STUDENT. For the admission, the University Authority had also stipulated a condition that all the non-teaching candidates, who are otherwise employees, should take leave under the rules, or otherwise their admission would be cancelled. The study leave asked for by Shri Haleem subsequently for this purpose was not granted by the competent authority due to exigency of work and he was asked to report for duty vide telegram dated 15-10-1984. Notwithstanding that he pursued the Ph.D course, which according to the University admission conditions could not have been possible had he revealed the correct position that the government had not sanctioned him leave for the course and he continued to remain absent from duty unauthorisedly.

14.1 Shri Haleem had also stated that the findings of the inquiry officer is totally baseless and a unilateral decision by the authority, biased and made up his mind to prove the charge is not true and lacks conviction and cannot be believed. The fact is that Shri Haleem did not raise these points during the course of oral inquiry when it was in progress or even when the inquiry officer had submitted his report to the disciplinary authority or even for that matter at a later date. Otherwise his plea of bias could have been examined and appropriate action taken. But Shri Haleem has now raised this point of bias against the inquiry officer when he was directed to submit a representation against the inquiry officer's report and UPSC's report/advice. This fact is taken as nothing but an after thought and he is trying to mislead the disciplinary authority about the grave misconduct he had committed i.e. unauthorised absence for nearly two and a half years for his selfish aim for pursuing his Ph.D course. Furthermore, Shri Haleem could have cross examined the prosecution witness i.e. Shri R.Venkatraman, Director, CGWD as regards the reasons for rejecting his study leave etc ; whereas he did nothing like this. His arguments in these matter are totally bereft of any merits. The matter of fact is that he remained on unauthorised absence from duty for nearly two and a half years from 10-7-1984 to 16-3-1987 totally disregarding directions to report for duty in CGWB.

14.2 Shri Haleem has also stated that he fulfilled all the conditions laid down under study Rule 50(5) whereas he has been denied this study leave. The fact is that leave cannot be claimed as a right, by a government servant. In fact, permission was granted to undertake the Ph.D Course from Osmania University, Hyderabad as an EXTERNAL CANDIDATE ONLY. Thereafter he was transferred from Hyderabad to Nagpur where he had joined his duties on 27th August, 1984. Shri Haleem applied for study leave vide his application dated 10-10-1984 from 8.10.1984 to 7.10.1985 which was rejected vide telegram dated 15-10-1984 by Nagpur Office. He was directed to report for duty at once. On the contrary, Shri Haleem ignored these instructions as also repeated advice dated 30-11-1984 giving him final notice to report for duty by 15th December, 1984. He was also thereby directed to explain as to why disciplinary action should not be initiated against him. Shri Haleem expressed his inability to join his duties saying that he was doing his Ph.D Course in mutual interest and benefit to the department. He should not have joined the Ph.D Course as a REGULAR STUDENT without obtaining the approval of the authority. It has also been observed that even if he had been allowed to remain in Hyderabad in Southern Region, he could not have performed his official duties as well as undergone the Ph.D course since the University Rules require that a Ph.D scholar has to be a regular student and has to produce a certificate to the effect that he is on leave from the Department. Moreover, Shri Haleem had been given important work with certain target dates at Nagpur. As a loyal government servant, he should

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have looked to the interests of the government rather than remaining away from Nagpur on some ground or the other at the particular juncture.

14.3 Shri Haleem in his representation has also stated that article of charge should have been framed under Rule 25(2) of the Central Civil Services[Leave] Rules and not under Conduct Rules. Hence the entire disciplinary proceedings are illegal and void ab-initio. The fact is that with the approval of the competent disciplinary authority, disciplinary proceedings as for major penalty under Rule 14 of Central Civil Services[Classification, Control & Appeal] Rules, 1965 were initiated against Shri M.A.Haleem as for his unauthorised absence from duty without proper sanction from the competent authority. The question of initiating disciplinary action for violating Rule 25(2) of leave rules does not arise as he was not granted any leave at all by the competent authority and the disciplinary action initiated against Shri Haleem is in order and no infirmity has been committed on the part of the disciplinary authority while initiating such action under conduct rules.

14.4 After analysing the evidence on record and other relevant facts connected with the case, the disciplinary authority has observed that Shri M.A.Haleem is not a fit person to be retained in government service in view of the facts discussed in the preceding paragraphs.

15. AND WHEREAS, the disciplinary authority has considered the charges framed against Shri M.A.Haleem, report of the inquiry officer, representation of Shri Haleem on inquiry report and UPSC's advise and other relevant facts of the case and holds that the charge is proved against Shri M.A.Haleem as above and the penalty of compulsory retirement earlier imposed on Shri M.A.Haleem vide Order No. 6/1/84-Vid dated 2.2.89 does not merit any modification.

16. NOW THEREFORE, the Disciplinary Authority i.e the President in exercise of powers conferred under Rule 15 of the CCS(CCA) Rules, 1965 hereby imposes upon Shri M.A.Haleem, Junior Hydrogeologist, Central Ground Water Board the major penalty of "Compulsory Retirement" as specified in clause (vii) of Rule 11 ibid and the said Shri M.A.Haleem, Junior Hydrogeologist, CGWB stands compulsorily retired from Government service from the afternoon of the date of the issue of this order.

[By Order and in the name of the President.]


(PROMILA BHARDWAJ)

DEPUTY SECRETARY TO THE GOVERNMENT OF INDIA

✓
SHRI M.A.HALEEM
JUNIOR HYDROGEOLOGIST
CENTRAL GROUND WATER BOARD
H.NO. 16-11-15/4/3
SALEM NAGAR COLONY ROAD
P.O HALAPET COLONY
HYDERABAD - 500 076
(THROUGH CHAIRMAN, CGWB)

With a copy of UPSC's
letter No. F.3/87/92-S1
dated 15-09-92.

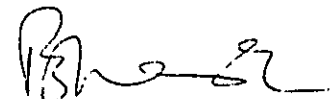
COPY TO :

1. CHAIRMAN, CGWH
NH-IV, FARIDABAD
HARYANA

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It is requested that the enclosed order meant for Sh.M.A.Haleem may please be arranged to be delivered to him and the acknowledgement thereof sent to this Ministry for reference and record.

2. GROUND WATER [DESK] WITH TWO SPARE COPIES.
3. THE SECRETARY, UPSC, DHOLPUR HOUSE, SHAHJAHAN ROAD, NEW DELHI WITH REFERENCE TO THEIR LETTER NO. F.3/87/92-S1 DATED 15-9-1992.
4. OFFICE ORDER FOLDER.



(FROMILA BHARDWAJ)
DEPUTY SECRETARY TO THE GOVERNMENT OF INDIA

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No. 6(1)/84-Vig. (Vol.II)
Government of India
Ministry of Water Resources

New Delhi, the

5.3.93
February, 1993.

C O R R I G E N D U M

Reference Ministry of Water Resources Order No.
6(1)/84-Vig. (Vol.II) dated the 18th December, 1992.

2. In the aforesaid Order Para 16 is substituted to
read as follows:-

" 16. NOW, THEREFORE, the Disciplinary Authority
i.e. the President in exercise of powers conferred
under Rule 15 of the Central Civil Services
(Classification, Control & Appeal) Rules, 1965
hereby imposes upon Shri M.A. Haleem, Junior
Hydrogeologist, Central Ground Water Board the
Major Penalty of "Compulsory Retirement" as specified
in clause (vii) of Rule 11 ibid and the said
Shri M.A. Haleem, Junior Hydrogeologist, Central
Ground Water Board stands compulsorily retired from
Government service from the afternoon of 11th January,
1993."

(By Order and in the Name of the President)

N. Ravi Shanker

(N. Ravi Shanker)

Deputy Secretary to the Government of India

✓ Shri M.A. Haleem,
Junior Hydrogeologist (former),
Central Ground Water Board,
H.No. 16-11-15/4/3,
Saleem Nagar Modi,
P.O. Malakpet Colony,
Hyderabad - 500 034
(Through Chairman, CGWB)

Copy to:

1. Chairman,
C.G.W.B.,
III - IV, Faridabad,
(Haryana)

It is requested that the
enclosed order meant for
Shri M.A. Haleem may please be
arranged to be delivered to him
and the acknowledgement thereof
sent to this Ministry for
reference and record.

Reg. No. 46
Confidential

No. 6(1)/84-Vig.
Government of India
Ministry of Water Resources
.....

New Delhi, the 1st January, 1986.

MEMORANDUM

Subject:- Disciplinary action under Rule 14 of Central Civil Services (Classification, Control and Appeal) Rules, 1965 against Shri M.A. Haleem, Jr. Hydrogeologist, C.G.W.B., C.R., Nagpur.
.....

The President proposes to hold an enquiry against Shri M.A. Haleem, Jr. Hydrogeologist, Central Ground Water Board, C.R., Nagpur under Rule 14 of the Central Civil Services (Classification, Control and Appeal) Rules, 1965. The substance of the imputation of misconduct/misbehaviour in respect of which the inquiry is proposed to be held is set out in the enclosed statement of articles of charge (Annexure I). A statement of the imputations of misconduct/misbehaviour in support of each article or charge is enclosed (Annexure II). A list of documents by which, and a list of witnesses by whom, the articles of charge are proposed to be substantiated are also enclosed (Annexure III and IV).

2. Shri M.A. Haleem is directed to submit within 30 days/the receipt of this Memorandum a written statement of his defence and also to state whether he desires to be heard in person.

3. He is informed that an inquiry will be held only in respect of those articles of charge as are not admitted. He should, therefore, specifically admit or deny each article of charge.

4. Shri M.A. Haleem is further informed that if he does not submit his written statement of defence on or before the date specified in para 2 above, or does not appear in person before the inquiry authority or otherwise fails or refuses to comply with the provisions of Rule 14 of the Central Civil Services (Classification, Control and Appeal) Rules, 1965 or the orders/directions issued in pursuance of the said Rule, the inquiry authority may hold the inquiry against him ex-parte.

...2/-

-: 2 :-

5. Attention to Shri M.A. Haleem is invited to Rule 20 of the Central Civil Services (Conduct) Rules, 1964 under which no Government servant shall bring or attempt to bring any political or outside influence to bear upon any superior authority to further his interests in respect of matters pertaining to his service under the Government. If any representation is received on his behalf from another person in respect of matter dealt with in these proceedings it will be presumed that Shri Haleem is aware of such a representation and that it has been made at his instance and action will be taken against him for violation of Rule 20 of the Central Civil Services (Conduct) Rules, 1964.

6. The receipt of this Memorandum may be acknowledged.

(By order and in the name of the President)

(A. RAJAGOPALAN)

DEPUTY SECRETARY TO THE GOVERNMENT OF INDIA

To

Shri M.A. Haleem,
Jr. Hydrogeologist,
Central Ground Water Board (C.R.),
House No. 16-11-15/4/3,
Saleem Nagar Colony No. I,
P.O. Malakpet Colony,
HYDERABAD - 500 036.

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ENCLOSURE TO THE MINISTRY OF WATER RESOURCES
MEMORANDUM NO.6(1)/84-VIG. DATED THE 18th
JANUARY, 1986.

Annexure I

Statement of Article of charges framed against Shri M.A.
Haleem, Jr. Hydrogeologist, C.G.W.B., C.R., Nagpur.

.....

Article-I

Shri M.A. Haleem, while functioning as
Jr. Hydrogeologist, C.G.W.B., C.R., Nagpur, absented
himself from duty with effect from 10.9.84 to date
unauthorisedly without proper approval ~~or~~ or sanction
of the competent authority.

By his aforesaid act Shri M.A. Haleem, has
shown lack of devotion to duty and has behaved in a
manner unbecoming of a Government servant and thereby
violated the provision of Rule 3 (i), (ii) & (iii)
of the Central Civil Services (Conduct) Rules, 1964.

*Conduct Rules not applicable
as above dates went to leave
rules.*

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ENCLOSURE TO THE MINISTRY OF WATER RESOURCES
MEMORANDUM NO.6(1)/84-Vig. DATED THE 1st
JANUARY, 1986.

Annexure II

Statement of imputations of misconduct and misbehaviour in support of article of charges framed against Shri M.A. Haleem, Jr. Hydrogeologist, C.G.W.B., C.R., Nagpur.
.....

Article I

Shri M.A. Haleem, was transferred from Southern Region, C.G.W.B., Hyderabad to Central Region, C.G.W.B., Nagpur vide Office Order No.2078 of 1984 issued under letter No.16-1/83-CH-Estt.76 dated 16.6.84. Shri Haleem was relieved of his duty from Southern Region ~~from~~ on 16.8.84 and he joined duty in C.R. Nagpur on 27.8.84. He proceeded on two days casual leave from 10.9.84 to 11.9.84 with permission to Prefix and suffix the public holidays falling on 7th, 8th & 12th September, 1984, to join his family at Hyderabad to celebrate Id-u-zuha falling on 7th September, 1984. He left Headquarters office, Nagpur on 6th September, 1984. He did not join duty after availing the casual leave and sought extension of leave first upto 30.9.84, and then upto 7.10.84 on the ground of illness of his mother vide telegram dated 18.9.84 and 25.9.84 respectively. The extension of leave was not allowed to him and he was asked to join duty immediately vide a telegram dated 9.10.84 from Director, C.R. Subsequently two applications, both dated 10.10.84, were received from him. In one application Shri Haleem requested for grant of (i) earned leave for the earlier period of absence i.e. from 10.9.84 to 7.10.84 on the ground of his mother's illness and brother's marriage and (ii) study leave from 8.10.84 to 7.10.85, which is considered highly irregular. The application for study leave was received in the office of Director, C.R. on 15.10.84, and Haleem was informed telegraphically on same day that the request for study leave was not recommended and therefore, he should report for duty at once. Shri Haleem did not comply with the instructions of the Director and continued to remain on unauthorised absence. As he did not report for duty inspite of Director Central Region's repeated advice, a Memo No.3-402/75-CH-Estt. dated 30.11.84 was issued to him by CH&M, CGWB informing him that the study leave applied by him could not be allowed in view of the exigency of work and was directed to report for duty by 15.12.84 failing which necessary disciplinary action would be initiated ~~xxx~~ against him for his wilful and unauthorised absence from duty. Shri Haleem instead of complying with these instructions continued to remain on unauthorised absence and expressed his inability to join duty stating that he was persuing his study in P hd. course in mutual interest and benefit to the Department. This is a lame excuse put forth by Shri Haleem as the department is not in any way benefited by his

studies; rather the Board is suffering badly due to his continuous wilful and unauthorised absence from duty.

Shri Haleem disregarded the repeated instructions of the Government and failed to report for duty at Nagpur and continued on unauthorised absence from duty without proper sanction of leave w.e.f. 10.9.84.

The above acts of commission and omission on the part of Shri M.A. Haleem showed lack of devotion to duty and he has behaved in a manner of unbecoming of a Government servant and thereby violated the provision of Rule 3 (i), (ii) & (iii) of the Central Civil Service (Conduct) Rules, 1964.

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ENCLOSURE TO THE MINISTRY OF WATER RESOURCES MEMORANDUM
NO.6(1)/84-VIG. DATED THE 1st JANUARY, 1986.

Annexure III

List of documents by which the articles of charge framed against Shri M.A. Haleem, Jr. Hydrogeologist, C.G.W.B., C.R., Nagpur, are proposed to be sustained.

.

1. Office Order No.2018 of 1984 dated 16.6.84.
2. Relieving Order dated 16.8.84.
3. Joining report dated 27.8.84 in C.R., Nagpur.
4. C.L. application w.e.f. 10.9.84 to 11.9.84.
5. Telegram dated 18.9.84 and 25.9.84 from Shri Haleem.
6. Telegram dated 9.10.84 from Director, C.R., Nagpur to Shri Haleem.
7. Two applications dated 10.10.84 from Shri Haleem.
8. Telegram dated 15.10.84 from Director, C.R., Nagpur.
9. Memorandum No.3-402/75-CH-Estt. dated 30.11.94.
10. Letter from Shri Haleem in reply to Memo. dated 12.12.84.
11. Memo No.3-402/75-CH-Estt. dated 26.2.85.
12. - do - dated 15.4.85.
13. - do - dated 27.5.85.
14. - do - dated 8.8.85.

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ENCLOSURE TO THE MINISTRY OF WATER RESOURCES
MEMORANDUM NO. 6(1)/84-VIG. DATED THE 18th
JANUARY, 1986.

Annexure IV

List of witnesses by whom the article of charge framed
against Shri M.A. Haleem, Jr. Hydrogeologist, C.G.W.B.,
C.R., Nagpur are proposed to be sustained.

.....

1. Shri R. Venkatraman, Director, C.G.W.B.,
C.R., Nagpur.

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By Registered Post A/C due

CONFIDENTIAL

From:
M.A.Haleem
M.Sc.,M.Sc.(Tech),
Jr.Hydrogeologist
CGWB, CR.
(on study leave)

No. MAH/JHG/85-86/MWR/Conf-2
Government of India
Central Ground Water Board
Central Region,
Nagpur - 10.

Dated: 04-02-1986.

To
The Deputy Secretary
to Government of India
Vigilance Section
Ministry of Water Resources
NEW DELHI.

Respected Sir,

"THROUGH PROPER CHANNEL"

Sub:- Dicipinary action under rule 14 of CCS(Classification, Control and appeal) rules of 1964 - statement of defence submission - Regarding.

Ref:- Your Memorandum No.6(1)/84-Vig. dated 01-01-1986.

With reference to the memorandum cited, I submit that the only charge levelled against me is of "unauthorised absence" "without proper approval or sanction of the competent authority". Based on this only charge another charge has been framed as "lack of devotion to duty" and "behaviour" in a manner unbecoming of a Government servant and there by violation of provision of rule 3(1) (ii) & (iii) of C.C.S. (conduct) rules 1964.

At the out set I deny and refute the very charge that my proceeding on leave duly as authorised and in continuation there of my extention of leave as "study leave" as admissable to me under rule 54/2 of C.C.S. leave rules of 1972 in furtherence and persuence of Ministrys letter No.35-184/73- W dated 7-12-1983 cannot be construd as unauthorised absence. It is only a question of grant of competent sanction of study leave for which my application has been pending. Thus this refuta of mine of the very only basic charge automatically rebat, a baseless the consequent or rider charge under rule 3(1), (ii) & (iii) of C.C.S. (conduct) rules of 1964.

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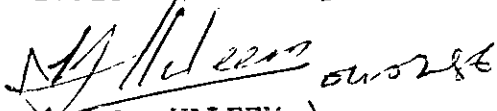
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Should this denial of mine fails to meet your approval and acceptance. I request that the regular enquiry as proposed may kindly be instituted, and I may be heard personal along with defence assistance under rule 14/8 of C.C.S. (classification, control and appeal) rule 1965.

Further I request to your goodself kindly to intimate me the posting of the Enquiry Officer and place of enquiry at an early date.

Thanking you,

Yours faithfully,


(M.A. HALEEM)
Jr. Hydrogeologist
C.G.W.B.C.R., Nagpur
(on study leave)

Place: Hyderabad

Dated: 4-2-1986.

1. Advance copy submitted to the Deputy Secretary to Government of India, Vigilance Section, Ministry of Water Resources, New Delhi to save delay please.
2. Advance copy submitted to the Chief Hydrogeologists & Member Central Ground Water Board, NH-IV Faridabad Haryana, for favour of information please.
3. Copy submitted to the Director, Central Ground Water Board, Central Region, Nagpur, with a request to transmit the same to the higher ups for taking necessary action at there ends please.

Encls: (2) statement of
defence.

(M.A. HALEEM)
Jr. Hydrogeologists

(55)
Aug 20/84

REPORT OF THE INQUIRY OFFICER ON THE CHARGES FRAMED AGAINST
SHRI M.A. HALEEM, JR. HYDROGEOLOGIST, CENTRAL GROUND WATER BOARD

I, N.C. Bhatnagar, Director, Central Ground Water Board, North Western Region, Chandigarh was appointed an Inquiry Officer, to enquire into the charges framed against Shri M.A. Haleem, Jr. Hydrogeologist, Central Ground Water Board by the Appointing Authority vide confidential orders under No.6(1)/84-Vig(i) dated 10th March, 1986, issued by the Ministry of Water Resources, Govt. of India, New Delhi.

The article of charge against Shri M.A. Haleem read as follows.

"Shri M.A. Haleem while functioning as Jr. Hydrogeologist, Central Ground Water Board, Central Region, Nagpur, absented himself from duty with effect from 10.9.1984 to date unauthorisedly without proper approval or sanction of the competent authority.

By his aforesaid act Shri M.A. Haleem, has shown lack of devotion to duty and has behaved in a manner unbecoming of a Government servant and thereby violated the provisions of Rule 3 (i) (ii) and (iii) of the Central Civil Services (Conduct) Rules, 1986."

Before instituting the inquiry under Rule 14 of C.C.S. (CCA) Rules, 1965, the Appointing Authority, had gone through the prescribed regulations by issuing the confidential memorandum No.6(1)/84-Vig. dated 1st January, 1986, through the Ministry of Water Resources, along with the Article of charge, Statement of Imputations of misconduct and misbehaviour in support of article of charge, list of documents by which the articles of charge framed were proposed to be sustained, and list of witnesses by whom the article of charge framed was proposed to be sustained.

A brief description of the case is as follows.

1. Shri M.A. Haleem was transferred from Southern Region, Hyderabad to Central Region, Nagpur.
2. Shri Haleem, handed over the charge of his office at Hyderabad on 16th August, 1984.
3. Shri Haleem, took over the charge of his office at Nagpur on 27th August, 1984.
4. Shri Haleem proceeded on casual leave for 10th and 11th August, 1984 with permission to leave station to celebrate the religious festival of Id-Ul-Zuha with permission to suffix the closed holidays on 7th 8th and 9th September, 1984 and left his headquarters Nagpur on 6th September in the evening.
5. Shri Haleem should have joined his duties on 12th September, 1984 at Nagpur.
6. Shri Haleem sent a telegram on 18th September, 1984 with the request to extend his leave upto 30th September (naturally the leave to be treated as earned leave).
7. Shri Haleem who should have joined his duties on 1st October, 84 again did not join the duties and sent a telegram on 1st October 1984 to extend the leave up-to 7th October, 1984.

8. Shri Haleem sent a formal application for earned leave w.e.f. 10th September to 7th October, 1984 on 10th October, 1984.
9. Shri Haleem applied for study leave separately also on 10th October, 1984 for a period of one year, in continuation of his earned leave applied till 7th October, 1984.
10. Director, Central Region sent a telegram on 9th October, 1984 which was received by Shri Haleem on 10th October, 1984 which ordered him to report immediately as the work was suffering.
11. Director, Central Region again sent a telegram on 15th October, 1984 to Shri Haleem, saying that study leave applied for has not been recommended and report for duties at once as work was getting affected.
12. Shri Haleem did not pay heed to the orders of the Director communicated through the two telegrams, as also subsequent orders issued by the Chief Hydrogeologist & Member, CGWB instead he extended his study leave for another year.
13. Disregard of the orders of superior authorities resulted in the issue of the memorandum alongwith the article of charge by the Ministry of Water Resources through which this inquiry was conducted.

The Inquiry was held at the office of the Director, Central Region, Central Ground Water Board, at Nagpur on 22nd and 23rd July, 1986. The Prosecution case was presented by Shri Jatinder Kumar, Senior Administrative Officer, CGWB (PO). Shri M.A. Haleem, Jr. Hydrogeologist as suspected public servant (SPS) assisted by Shri Quasim-ul-Haq as his Defence Assistant were present to defend the case. Shri R. Venkatraman, Director, Central Ground Water Board, deposed before the Inquiry Officer as a Prosecution witness.

From a perusal of the case as recorded through the daily proceedings, I am of the opinion that the contention of Shri Haleem (SPS) that he was not aware of his extension of leave having been denied by the Director, Central Region, is correct, more so because he was paid his salary till the month of September, 1984 and his other arrears sent to his home address. I am of the opinion that Director, C.R. Nagpur failed to inform Shri Haleem (SPS), on time, that his extension of leave beyond 11th August, 1984 which was duly sanctioned by him, is not sanctioned/allowed and that he should report for duty by a specified date. Director CGWB, Central Region only sent a telegram on 9th October, 1984 i.e. a day after Shri Haleem (SPS) should have joined the duties (8th Oct. 1984) implying therewith that he had no objection in granting him leave upto 7th October, 1984 but now he should join duties. I, therefore, recommend that the leave as applied for till 7th October, 1984 and as admissible be sanctioned and his absence upto 7th October, 1984 be regularised.

My first observation and recommendations would require a change in the date of unauthorised leave by Shri Haleem and the same would now be 8th October, 1984 i.e. from the date he applied for study leave.

Shri Haleem's contention that the leave was approved by the Ministry is not correct. The Ministry only authorised him to join Ph.D. Classes, and the case for leave was only to be considered, if and when applied, depending upon the exigencies of work. Permission to join classes/course does not imply that leave would be sanctioned and it certainly does not permit an officer to take it for granted that the leave would be sanctioned at the asking of it and he can proceed without

caring for the orders of his superior authorities. The telegrams from the Director, Central Region, saying that his study leave has not been recommended and that he should report for work should have been, reason enough for Shri Haleem (SPS) to return to his Headquarters (Nagpur) to join his duties, which he failed to even after receiving orders from the Chief Hydrogeologist & Member, Central Ground Water Board.

Shri Haleem's (SPS) contention that had he been allowed to continue at the office of the Director, Southern Region, Central Ground Water Board, Hyderabad he could have continued his Ph.D. course as well as attended to his official duties is also not correct. The University rules clearly say that the course would be pursued only as a Regular student and that any officer would have to produce a certificate of his being on leave to be a regular scholar. Thus Shri Haleem (SPS) could not have joined the course of his studies from Hyderabad also without proceeding on leave. This rebuts the charge of his Defence Assistant made on his transfer from Hyderabad to Nagpur.

Shri Haleem's (SPS) contention is that he was perusing the course of Ph.D. for mutual advantage i.e. his as well as that of the Department. Any mutual benefit would require the agreement of two parties. One party in this case being Shri Haleem (SPS) the order being Central Ground Water Board. By denying study leave to Shri Haleem the C.G.W.B. clearly implies that the exigencies of the work assigned to Shri Haleem takes precedence over his studies for Ph.D. and any ensuing advantage from the same. No body can force an advantage unless accepted/recognised by another party also and therefore, Shri Haleem's (SPS) contention of the advantage / benefit to the Department does not hold good.

Shri Haleem (SPS) joined the Ph.D. course on 24th August, 1984, Region, joining over charge (16th August, 1984) of his office at Southern Region, Nagpur. He joined on 27th August, 1984, at Central

His being aware of the fact that while being posted at Nagpur, he would have to take study leave to pursue his course of studies, he should not have joined the course, till such time that he had joined at Nagpur, apprised his Director and applied for leave and the same was sanctioned. Agreed that Director, Southern Region, where Shri Haleem was posted was aware about his intentions of joining Ph.D. course, but it was his duty to have informed his Director at Nagpur of the permission for joining Ph.D. granted by the Ministry, since after his transfer from Southern Region to Central Region, Director, Southern Region does not come into picture.

Shri Haleem (SPS) was aware of the work programme allotted to him and its importance immediately after his joining the Central Region at Nagpur. The work programme which is targeted required his being on duty and the shortage of officers precluded any possibility of recommending his study leave by the Director.

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In fact Shri Haleem (SPS) and his Defence Assistant had no valid arguments to offer to consider his unauthorised absence as otherwise. I am, therefore, convinced that Shri Haleem (SPS) without regard to the official procedures continued to be on unauthorised leave, always granting himself the privilege knowing fully well that he privilege belonged to his higher authorities. That provisions exist under the rules to grant study leave along with the earned leave does not imply that leave would be granted since leave is very clearly said not to be a matter of right. Absenting continuously against the orders of the superior authority certainly tentamounts to be behaving in a manner unbefitting of a Government servant, and I am convinced Shri Haleem (SPS) did that with impunity and remained on unauthorised leave w.e.f. 8th October, 1984, knowing fully well that exegencies of work required his presence at his headquarters.

Dr. J. K. Sharma
28.8.1984

(N.C. BHATNAGAR)
DIRECTOR

CENTRAL GROUND WATER BOARD

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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL HYDERABAD BENCH AT HYDERABAD

O.A.NO. 403/89.

Dated: 17-10-1990

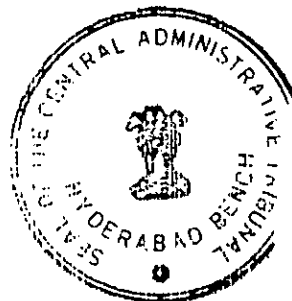
Between:

M. A. Haleem.

.. Applicant.

and

1. Deputy Secretary to Govt. of India,
Ministry of Water Resources,
Krishi Bhavan,
New Delhi.
2. Chairman, Central Ground Water Board,
New Delhi.



.. Respondents.

CORAM:

THE HON'BLE MR.B.N.JAYASIMHA : VICE CHAIRMAN
AND

THE HON'BLE MR.J.NARASIMHA MURTY : MEMBER(JUDL)

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This application (Under section 19 of the Central Administrative Tribunal Act, 1985) coming on for final hearing upon perusing the application, the counter affidavit and the reply affidavit filed therein and upon hearing the arguments of Mr. Basheeruddin, Advocate for the applicant and of Mr. G. Parameswar Rao, Advocate for Mr.P.Ramakrishna Raju, Sr. OGSC ^{day of} and having stood over for consideration to this the 17th October, 1990, the Tribunal made the following two differing judgments.

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Date: 17-10-1990

(O.A. 403 of 1989)

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(ORDER AS PER HON'BLE SHRI B.N.JAYASIMHA, VICE-CHAIRMAN.)

1. The facts have already been narrated and need no repetition. Suffice to say, that the Applicant was served with a charge memo for absenting himself from duty from 10-9-1984 to 23-7-1986 unauthorisedly and an Enquiry Officer was appointed, who conducted an enquiry. On the basis of the Enquiry Officer's report, the Disciplinary Authority imposed the punishment of compulsory retirement from service on the Applicant.
2. The grounds urged in the application challenging this order of compulsory retirement are:
 - (i) That the compulsory retirement of the Applicant is not in public interest and hence illegal. The order of compulsory retirement carries a stigma and hence the Applicant is entitled to protection under article 311(2). In support of it, reliance is placed on Gurdev Singh^(Sdhu) vs. State of Punjab (1964 SC 1585), S.R.Vankar⁴⁹ vs. Union of India (AIR 1979 SC 40) and in Union of India vs. Col.J.N. Sinha (1971 (1) SCR 791) and M.T.Keshav Iyyangar⁵⁶⁰ vs. G.O.I., Ministry of Finance (AIR 1988 (2) P.567). The punishment of compulsory retirement is contrary to the Government of India Memo No.21(2)76-Est.(A), dated 25-8-1971 which lays that to retire a Government servant on grounds of specific acts of misconduct as a short cut to initiating formal disciplinary proceedings cannot be resorted to.
 - (ii) That no show cause notice was given to him indicating the penalty proposed to be imposed on him by the disciplinary authority.

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(iii) The punishment of compulsory retirement is wholly disproportionate to the gravity of the misconduct.

3. The Respondents have pointed out that a regular departmental enquiry in accordance with the C.C.S.(CCA) rules was held after issuing a show cause notice to the Applicant in Memo No.6(1)/84, dt.1-1-1986. A statement of Articles of Charges and a statement of Imputations were annexed with the Charge Memo as Annexures I & II. The details of the documents by which the Articles of Charges are proposed to be sustained as well as the witnesses proposed to be examined were also furnished alongwith the Charge Memo. An Enquiry Officer was appointed. The Enquiry Officer in his report noted as follows:-

1. Shri M.A.Haleem was transferred from Southern Region, Hyderabad, to Central Region, Nagpur.
2. Shri Haleem, handed over the charge of his office at Hyderabad on 16th August, 1984.
3. Shri Haleem took over the charge of his office at Nagpur on 27th August 1984.
4. Shri Haleem proceeded on casual leave for 10th and 11th August 1984 with permission to leave station to celebrate the religious festival of Id-Ul-Zuha with permission to suffice the closed holidays on 7th, 8th and 9th September, 1984 and left his headquarters, Nagpur, on 6th September in the evening.
5. Shri Haleem should have joined his duties on 12th September, 1984 at Nagpur.
6. Shri Haleem sent a telegram on 18th September, 1984 with the request to extend his leave upto 30th September (naturally the leave to be treated as earned leave).
7. Shri Haleem who should have joined his duties on 1st October, 1984 again did not join the duties and sent a telegram on 1st October, 1984 to extend the leave upto 7th October, 1984.
8. Shri Haleem sent a formal application for earned leave w.e.f. 10-9-1984 to 7-10-1984 on 10-10-1984.

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Page 2
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9. Shri Haleem applied for study leave separately also on 10th October, 1984 for a period of one year in continuation of his earned leave applied till 7th October, 1984.
 10. Director, Central Region, sent a telegram on 9th October, 1984 which was received by Shri Haleem on 10th October, 1984 which ordered him to report immediately as the work was suffering.
 11. Director, Central Region, again sent a telegram on 15th October, 1984 to Shri Haleem saying that study leave applied for has not been recommended and he should report for duty at once as work was getting affected.
 12. Shri Haleem did not pay heed to the orders of the Director communicated through the two telegrams as also subsequent orders issued by the Chief Hydrogeologist & Member, CGWB. Instead, he extended his study leave for another year.
 13. Disregard of the orders of superior authorities resulted in the issue of the memorandum alongwith the articles of charge by the Ministry of Water Resources through which this inquiry was conducted."
4. An enquiry was held at the office of the Director, Central Region, Central Ground Water Board, at Nagpur, on 22nd and 23rd July, 1986. The Applicant was assisted by one Quazim-ul-Haq as his Defence Assistant. After considering the evidence adduced at the enquiry, the Enquiry Officer held that the Applicant and his Defence Assistant had no valid arguments and reasonable explanation to offer and held that the charges have been proved. It is on the basis of this order that the Disciplinary Authority passed the order of compulsory retirement from service on the Applicant.
5. It will thus be seen that the penalty of compulsory retirement from service has been imposed on the applicant after due consideration of the provisions of article 311(2).
6. The decisions relied upon by the Applicant in

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Gurdev Singh Vs. State of Punjab (1964 SC 1585), Union of India Vs. Col. J.N.Sinha (1971(1)(SCR 791) etc. cases all relate to compulsory retirement under F.R.56(J) or analogous provisions. The Government of India's circular dt.25.8.1971 also relates to compulsory retirement under F.R.56(J). These decisions have no bearing to the case of the Applicant as the Applicant has not been compulsorily retired invoking F.R. 56(J).

7. The next contention of the Applicant is that a second show cause notice has not been issued to the applicant indicating the punishment proposed to be imposed. After the amendment of Article 311 (2), the first proviso to Article 311 (2) reads as follows:

"Provided that where it is proposed after such inquiry, to impose upon him any such penalty, such penalty may be imposed on the basis of the evidence adduced during such inquiry and it shall not be necessary to give such person any opportunity of making representation on the penalty proposed:

There is thus no requirement to issue a second show cause notice indicating the punishment proposed to be imposed. The plea also has to be rejected.

8. A point has been made that the Applicant was not supplied with a copy of the Enquiry Officer's report along with the order of compulsory retirement. This is factually incorrect. The applicant being a Class-I officer, the President of India is the disciplinary authority. Alongwith order dt.2.2.89, a copy of the advice given by the Union Public Service Commission vide their letter No.

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F3/144/86-S1, dt.6-10-1988 and a copy of the report of the Enquiry Officer dt.28-8-1986 were given to the applicant. It is thus seen that the contention that the enquiry report was not supplied is contrary to facts. It will also be noticed that the advice of the UPSC has also been taken in accordance with the rules.

9. In Jai Shanker Vs. State of Rajasthan (AIR 1966 SC 492) referred to in the judgment of my learned brother there was no enquiry held and there was no charge-sheet issued to the applicant nor was he given any opportunity of showing cause. It was contended that the regulation which provided that an individual who absents himself without permission or remains absent without permission for one month or long after the end of his leave shall be considered to have sacrificed his appointment and may be reinstated only with the sanction of the competent authority, meant that the applicant was considered to have sacrificed his appointment. In dealing with this regulation the Supreme Court made those observations. The facts of the case are totally different from the base before us and the ratio in Jai Shanker's case is of no relevance to the case before us.

10. My learned brother has observed that "if the applicant prosecuted studies and get his PH.D, he would be more useful to the institution, that he had not asked for leave illegal or for ~~moral~~ immoral purposes and that the department vindictively retired him from service instead of granting leave, etc and the respondents' action is therefore liable to be set-aside." I find it necessary to refer to observations of the Supreme Court in regard to the jurisdiction of this Tribunal and

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the scope of judicial intervention made in Union of India Vs. Parma Nanda (1989 (1) SCALE 606). Para 27 of the said judgment needs to be reproduced:

"27. We must unequivocally state that the jurisdiction of the Tribunal to interfere with the disciplinary matters or punishment cannot be equated with an appellate jurisdiction. The Tribunal cannot interfere with the findings of the Inquiry Officer or competent authority where they are not arbitrary or utterly perverse. It is appropriate to remember that the power to impose penalty on a delinquent officer is conferred on the competent authority either by an Act of legislature or rules made under the proviso to Article 309 of the Constitution. If there has been an enquiry consistent with the rules and in accordance with principles of natural justice what punishment would meet the ends of justice is a matter exclusively within the jurisdiction of the competent authority. If the penalty can lawfully be imposed and is imposed on the proved mis-conduct, the Tribunal has no power to substitute its own discretion for that of the authority. The adequacy of penalty unless it is malafide is certainly not a matter for the Tribunal to concern with. The Tribunal also cannot interfere with the penalty if the conclusion of the Inquiry Officer or the competent authority is based on the evidence even if some of it is found to be irrelevant or extraneous to the matter."

I have already mentioned that a regular enquiry has been held consistent with the rules and after consulting the UPSC a penalty has been imposed. There is no violation of any rules. The Tribunal cannot sit as an

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appellate authority and substitute its own views for that of the Disciplinary authority. In the order dated 2-2-1989 the disciplinary authority has considered the contentions of the applicant in regard to his prosecuting his studies for the Ph.D and noted "even if he had not been transferred from Hyderabad, he could not have performed his official duties as well as undergone the Ph.D. course, since the University Rules require that a Ph.D scholar has to be a regular student and has to produce a certificate that he is on leave from the Department. Shri Hakeem had been given an important work at Nagpur with certain target dates".

11. In my view, therefore, there are no procedural irregularities and there is no violation of the provisions of Art.311(2). I am therefore unable to agree with the conclusion of my learned brother that the order of compulsory retirement is not in accordance with the rules and that is to be quashed. Neither can it be said that there are violations of the principles of natural justice. There is no requirement that the disciplinary authority should give a personal hearing before imposing the punishment. I am also unable to agree with my learned brother that the order passed is a vindictive act of the Respondent there being no material at all to arrive at such a conclusion.

12. There now remains the last point urged by the applicant viz. that the order is disproportionate to the gravity of the charge. From the facts

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of the case, it is clear that the applicant totally disregarded the instructions issued to him by his superior officers and failed to report for duty. The disciplinary authority after taking the advice of the UPSC arrived at the punishment to be imposed. No extenuating reasons have been given by the applicant for his non-complying with the orders of the authorities to report for duty. This tribunal has no jurisdiction to interfere with the punishment awarded as observed in the Parmananda's case. However, it may be noted that it is open to the applicant if so advised to submit a review petition to the President seeking reconsideration of the punishment.

13. In the result, the application is to be dismissed.
No costs.

CERTIFIED TO BE TRUE COPY
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Date.....
Court Officer
Central Administrative Tribunal
Hyderabad Bench
Hyderabad

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(O.A. 403/89)
Judgment as per the Hon'ble Sri J. Narasimha Murty,
Member (Judicial)

This is an application filed by the Applicant for relief to quash the impugned order F.No.6(1)84 vig., dated 2--2--1989 as it ~~ix~~ tantamounts to termination of services and carries a stigma too, therefore attracts Article 311(2) of the Constitution of India, compulsory retirement when it is not in public interest and is liable to be set aside.

The facts of the case in brief are as follows:

1. The applicant is M.Sc.Geology and M.Sc.Tech. in Hydraulogy. He was recruited through Union Public Service Commission in 1974 for Group-A service and was appointed as Junior Hydrologist with effect from 1-9-1975. After six months of his posting at Sinaman Project at

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to the notice of the Technical Secretary and the Director, Central Ground Water, Southern Region, personally and requested to report the fact to the Chief Hydrologist, Central Ground Water Board and to retain him at Hyderabad till he completes his Ph.D. But his request was not considered and he was relieved on 16th 9-1984 to join at Nagpur. He joined at Nagpur on 27th August, 1984.

3. The applicant applied for casual leave for Id-uz-Zuha on 7-9-1984 and availment of two days on 8th and 9th which were Saturday and Sunday. On reaching Hyderabad he found his mother's health in a precarious condition. His mother wished to see the marriage of her last son to be performed before she breathed her last. He applied for earned leave from 7-9-1984 to 9-10-1984. He received his salary for the period ending October 1984, which would not have been paid had the leave not been sanctioned.

4. The applicant made enquiries at Hyderabad about admission to Ph.D. course and applied for admission. It was informed that attendance was compulsory as is evident from the admission letter No. Ph.D/Ad/1984-Session-D2/270, dated 21st July 1984. Pursuant to it he applied for study leave w.e.f. 8-10-1984, which was admissible under rule 50(1) of CCS Leave rules of 1972. In his application he explained the circumstances in which the leave applied for was justified. Correspondence ensued in the matter and it remained unabated till charge of unauthorised absence was framed against him and he requested for enquiry which was conducted.

5. Before expiry of his leave applied for, he requested for posting as Junior Hydrogeologist in Central Ground

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Water Board on 31-12-1986 and subsequent telegrams. As no reply was received, he was compelled to report as Junior Hydrogeologist on 8-2-1987 at Fareedabad. On receipt of posting orders at Central Region, Nagpur at Fareedabad, he joined the department on 17-3-1987. He was admitted to duty and was assigned work of office routine in the nearabouts of Ahmednagar for draught relief measures in Maharashtra. The study leave was not sanctioned. On the other hand an enquiry was launched against him vide letter Confidential No.6(1)/84, dt.1st January 1986. Shri N.C.Bhatnagar, Dist.Central General Water Board, North Western Region, Chandigarh, in the office of the Director, Central Ground Water Board, Nagpur, conducted the enquiry into the following charges levelled against him:

" He absented himself from duty w.e.f. 10.9.1984 to today i.e. 23rd July 1986 unauthorisedly without approval or sanction of the competent authority by his aforesaid act, Shri M.A.Haleem has shown lack of devotion to duty and has behaved in the manner unbecoming of a Government Servant and violated the principle of Rule 3(1), (II) & (III) of the Central Civil Service Conduct Rules, 1965. "

6. Even though the enquiry was conducted by the Enquiry Officer, report of the Enquiry Officer was not provided to the accused officer Shri M.A.Haleem as required under rule nor any show cause notice was given to him. The enquiry was completed by the Enquiry Officer and there was no inkling given to the applicant of any penalty proposed against which he could make any representation which in common parlance is known as the second stage of enquiry at which any charged officer has to represent, since the second show cause notice is not available under the amended law. He was attending to the

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official work at Pune Camp, where he received the message to close the camp and return. On 1st February 1989 he returned to Nagpur and was served with order F.No.6(1)84 Vig., dated 2-2-1984 and 2-2-1989 containing the order of his compulsory retirement as punishment. He handed over charge on the afternoon of 2-2-1989. The said order is misconceived, bad in law, malafide, arbitrary and issued against Article 14, 16, 21 and 311(2) of the Constitution of India. Hence he has filed this application.

7. The respondent filed the counter on the following contentions:-

7. The various contentions raised in the application are not correct and therefore not accepted.

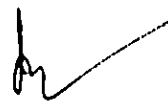
8. While posted at Hyderabad vide his letter dated 21st October 1983, the applicant had sought permission for registering his name as an external candidate in the Osmania University, Hyderabad, for the award of Ph.D. Degree in the subject of Hydrology. While seeking permission, he had assured in that letter that he shall be utilising his free time for study, this would neither affect the departmental work nor interfere with discharging his duties. Since he had sought permission to register himself as an external candidate and had given the above assurance, the permission was granted to the applicant vide letter dated 7-12-1983 for registering himself as an external candidate subject to the condition that his doing Ph.D. will not interfere with his official work in any way and also that grant of leave for fulfilling any residential requirements for

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completion of the course will be subject to the exigencies of Government work. Thus the permission was only conditional. The applicant secured admission in Ph.D. course in Osmania University, Hyderabad, as a regular student and completed the course without proper sanction of leave, thereby remaining on unauthorised absence from duty. The University rules clearly provide that the course would be pursued only as a regular student and that any officer joining the course as a regular student would have to produce a certificate of his being on leave. The applicant concealed the material fact of his not having been granted leave for pursuing studies from university authorities. As regards his transfer to Nagpur, it was purely on administrative grounds and in view of shortage of Junior Hydrogeologists at Nagpur and had nothing to do with the permission granted to him for pursuing the Ph.D. course. The applicant was informed vide telegram dated 15.10.1984 that his request for study leave not recommended and to report for duty at once as work was affecting.

9. The applicant was transferred from Southern Region, Hyderabad, to Central Region, Nagpur, vide order dated 16-6-1984 in public interest. The applicant was relieved from Southern Region, Hyderabad, on 16-8-1984 and he joined duty in the Central Region, Nagpur, on 27-8-1984. Immediately after joining his duties at Nagpur, the applicant proceeded on two days casual leave for 10th and 11th September 1984 on account of the festival Idd-u-zuha with permission to leave the headquarters. After the expiry of the two days casual leave, instead of joining his duties, the applicant sought further extension of leave first upto 30-9-1984 and thereafter



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upto 7-10-1984 on the ground of illness of his mother. The extension of leave was not allowed to him and he was asked to join duty immediately as field work was affected vide telegram dated 9-10-1984. The applicant did not join his duties at Nagpur but subsequently sent two applications both dated 10-10-1984. In these applications, the applicant requested for grant of (i) earned leave for 28 days from 10-9-1984 to 7-10-1984 on the grounds of his mother's illness and brother's marriage and in continuation thereafter (ii) study leave from 8-10-1984 to 7-10-1985 under the Central Civil Services (Leave) Rules, 1972 for his Ph.D. course at Osmania University. The applicant was, however, again informed immediately vide Director, Central Ground Water Board, letter dated 15-10-1984 that his request for study leave was not recommended and therefore he should report for duty at once as work was suffering. The applicant did not comply with the instructions of the Government of India and continued to remain on unauthorised absence disregarding and disobeying the repeated advice of the Director, Central Region, Nagpur, for which a Memorandum dated 30-11-1984 was issued to him informing him that the study leave applied for could not be allowed in view of the exigency of work and he was directed to report for duty by 15-12-1984 failing which action as deemed fit. He was also directed to explain as to why disciplinary action should not be taken for his unauthorised absence from duty. The applicant vide his letter dated 12-12-1984, expressed his inability to join duty stating that he was pursuing his study in Ph.D. course in mutual interest and benefit to the Govt. Thereafter memos were issued to him on 26-2-1985, 15-4-1985,

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27-5-1985 and 8-8-1985 making it clear that his explanation was not found satisfactory; permission for study leave was not granted; absence was unauthorised, etc.. and was directed again and again to join duty immediately, failing which he will be liable to disciplinary action. In the memorandum dated 8-8-1985 he was also informed that about his transfer, he could represent his case after joining duty at Nagpur office. The applicant, however, ignored all the instructions/advice and continued to remain absent and pursued his Ph.D. course. Thereafter, with the approval of the Competent Disciplinary Authority, major penalty proceedings under rule 14 of the Central Civil Services (CCA) Rules, 1965 were initiated against the applicant vide Memo dated 1-1-1986 for absenting himself from duty with effect from 10-9-1984 unauthorisedly without proper approval or sanction of the competent authority thereby showing lack of devotion to duty and behaving in a manner unbecoming of a Govt. servant in contravention of the Central Civil Services (Conduct) Rules, 1964. On receipt of the applicant's defence statement, wherein he denied the charges, an Inquiring Authority was appointed to inquire into the charges and the applicant afforded the necessary opportunity to defend his case. The Inquiring Officer submitted his report on 28-8-1986 stating that the charge levelled against the applicant was fully proved. The advice of the Union Public Service Commission was also obtained. Thereafter, the disciplinary authority, after going through all the facts relating to the case including the report of the Inquiring Officer and the Union Public Service Commission's advice, observed that while applying for permission for registration in the Ph.D. course,

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the applicant had clearly stated that he would utilise his free time in the study of Ph.D. and that it would not affect the departmental work nor it would interfere with discharging his duties. Since he had asked for permission to register himself as an external candidate and had given the above assurances, permission was granted to him in December, 1983 subject to the condition that his pursuit of studies for Ph.D. would not interfere with his official work in any way and that the grant of leave for fulfilling the residential requirements would be subject to exigencies of Government work. Thereafter, he was transferred from Hyderabad to Nagpur, where he joined on 27-8-1984. Despite the fact that permission allowed to him was subject to aforesaid conditions, the applicant secured admission for Ph.D. course in Osmania University, Hyderabad, as a regular student. For the admission, the University authorities had also stipulated a condition that all the non-teaching candidates, who are otherwise employees, should take leave under the rules, or otherwise their admission would be cancelled. The study leave asked for by the applicant subsequently for this purpose, was not granted by the competent authority and he was asked to report for duty. The applicant did not reveal the correct position that the Government had not sanctioned him leave for the course, and remained absent from duty unauthorisedly. The Disciplinary Authority further observed that even if the applicant had not been transferred from Hyderabad, he could not have performed his official duties as well as undergone the Ph.D. course, since the University Rules require that a Ph.D. scholar has to be a regular student and has to produce a certificate that he is on leave from the Department. The applicant had been given important work at Nagpur with

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certain target dates. The applicant should have looked into the interests of the Government rather than remaining away from Nagpur on some grounds or the other. He completed the Ph.D. course inspite of clear University Rules, that the official seeking admission for that should be on approved leave, clearly established that he was guilty of suppressing the information from the Osmania University that he was not on study leave, which reflects on his integrity. The Disciplinary Authority was thus fully convinced that the applicant wilfully ignored and disobeyed Government's orders and that the charges of absenting from duty unauthorisedly without proper approval or sanction from competent authority thereby showing lack of devotion to duty and behaving in a manner unbecoming of a Government servant, was fully proved against the applicant, and came to the conclusion that the applicant was not a fit person to be retained in Government service and ordered imposition of major penalty of Compulsory Retirement on the applicant.

10. The contention of the applicant that a copy of the Inquiring Authority's report was not given to him immediately after the completion of inquiry ~~is not correct~~ ~~is not correct~~ is not correct. The applicant was given all opportunities to defend his case. The penalty order is legal and fully in accordance with Law and there are no grounds for the applicant. The application is liable to be dismissed.

// Heard Sri Bashiruddin Ahmed, learned counsel for the Applicant and Sri S. Parameswara Rao for Sri P. Ramakrishna Raju, Senior Standing counsel for Central Government.

12. In this case the applicant sought permission for registering his name to prosecute his studies in Ph.D., of Osmania University in Hydrology. The applicant was working as a Hydrologist in the Respondents' Department.

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While seeking permission, he gave an undertaking that he would utilise his free time for this study without detrimental to the Departmental work and his normal duties. He obtained the permission of the respondents to register his name as an External Candidate for prosecuting his studies in Ph.D. of Osmania University in the field of Hydrology. In the permission letter, it was stated that the permission granted is subject to the condition that his doing Ph.D. will not interfere with his official work in any way. The grant of leave for fulfilling any residential requirement for completion of the course will be subject to the exigencies of Government work.

13. The applicant secured admission in Ph.D. Course in Osmania University, Hyderabad as a regular student. While he was at Hyderabad, ~~xxxx~~ he was attending to his studies in the leisure hours. While so, he was transferred to Nagpur on administrative grounds in view of the shortage of Junior Hydrologists at Nagpur on 16-6-1984. He was relieved from the Southern Region, Hyderabad on 16-8-1984 and he joined duty in the Central Region, Nagpur on 27-8-1984. After he joined at Nagpur, he immediately applied for leave for ^{7th} ~~22nd~~ ~~xxx~~ ~~xxxx~~ September, 1984 on account of the Eid-Us-Zuha and permission to avail two days on 8th and 9th which were Saturday and Sunday. After reaching Hyderabad, he found his mother's health in a precarious condition. His mother expressed her last desire to see the marriage of her 1st son to be performed before she breathed her last. Therefore, he applied for earned leave from 7th September to 9th October, 1984. The extension of leave was not allowed to him and he was asked to join duty from 10th September. His work was being affected by a telegram dated 9-10-1984. But he did not join duty and he also made an application for grant

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of study leave from 8--10--1984 to 7--10--1985 which is admissible under Rule 50(1) of C.C.S. Leave Rules of 1972. His request for study leave was rejected and he was asked to join duty immediately. He remained without joining duty. For the period of absence, his explanation was called for and inquiry was conducted and he was made to retire compulsorily from service.

14. According to the applicant, the Enquiry Report was not furnished to him and he also contended that the punishment of compulsory retirement amounts to removal from service. He states that he had put in 13 years and 4 months service. He has got more service and that the punishment imposed is too severe. He did not carry the matter in appeal contending that the Enquiry Report was not furnished to him.

15. The applicant applied for permission to register his name for Ph.D. Course of Osmania University in the field of Hydrology and the permission was granted without detrimental to his normal duties and departmental work. He was also allowed to prosecute his studies in the Ph.D. While so, he was transferred to Nagpur because of exigencies of services. So long as he was continued in Hyderabad, there was no trouble either to the applicant or to the Department. Because of the transfer to Nagpur, it seems the trouble arose. It is evident that because of the transfer he could not prosecute his studies in the field of Hydrology for Ph.D. Course.

16. The applicant never expected that he would be transferred to Nagpur. In the first instance he ... and went to Hyderabad for Eid-Us-Zuha festival and thereafter on the ground of his mother's

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illness he applied for leave and thereafter he applied for study leave as he was transferred to Nagpur. But the respondents have not granted him the leave.

17. The petitioner has put up nearly 13 years of service in the Department. He is entitled to get the study leave. Moreover, he got the earned leave and other leaves to his credit. The Department will lose nothing if they grant any of the above said leaves to continue his studies but contrary to the principles of natural justice, the Department did not grant him the leave. In the same subject he is dealing in the Department, he joined to do Ph.D., in the same subject with the permission of the authorities. If he completes his course and return to the Department, he would be an asset to the Department and also to the Public. The Department can extract better work. He might have paid fees to the college and joined the college with the permission of the Department. Having parted with the money, the petitioner requested the respondents to grant him the study leave. The respondents ought to have sympathised with the position but they vindictively refused to grant him leave. His transfer from Hyderabad to Nagpur is also not made with a good intention, knowing fully well that he joined the Ph.D in Hyderabad with the permission of the Department, he was transferred to Nagpur. After he was transferred to Nagpur, his struggle started. The charges were framed against him and the respondents conducted inquiry and found him guilty of the charges. The disciplinary authority awarded punishment of compulsory retirement to the petitioner. It amounts to removal from service almost. He got 10 years more service. At this stage he was asked to retire compulsorily. The penalty imposed on the petitioner is disproportionate to the charge. ^{Inquiry report was} ~~The documents were~~ not given to him to carry the matter in appeal. Though requested, he was not given a

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personal hearing. In this case, the petitioner cited a decision reported in AIR 1964 SC 1585 in which their lordships observed as follows:-

"It is hardly necessary to emphasise that for the efficient administration of the State, it is absolutely essential that permanent public servants should enjoy a sense of security of tenure. The safeguard which Article 311(2) affords to permanent public servants is no more than this that in case it is intended to dismiss, remove or reduce them in rank, a reasonable opportunity should be given to them of showing cause against the action proposed to be taken in regard to them."

In the present case, the documents are not served on the petitioner to carry the matter in appeal and he was not given a personal hearing also to explain his case. In ^{he contended that} this case, he did not commit any offence. He requested the respondents to grant him study leave or any leave ^{to} his credit. By over-staying the leave, such a harsh punishment is unwarranted. In this connection, the learned counsel for the petitioner cited a decision reported in AIR 1966 SC 492 wherein their lordships stated as follows:-

"The removal of a Government servant from service for overstaying his leave is illegal even though it is provided by the service Regulation that any individual who absents himself without permission after the end of his leave would be considered to have sacrificed his appointment and may be reinstated only with the sanction of the competent authority."

A discharge from service of an incumbent by way of punishment amounts to removal from service, and the constitutional protection of Art. 311 cannot be taken away from him by contending that under the Service Regulations the incumbent himself gives up the employment and all that the Government does is not to allow the person to be reinstated. It is true that there is no compulsion on the part of the Government to retain a person in service if he is unfit and deserves dismissal or removal and one circumstance deserving removal may be overstaying one's leave. But a person is entitled to continue in service if he wants until his service is terminated in accordance with law. It is true that the Regulation speaks of reinstatement but what it really amounts to is that a person would not be reinstated if he is ordered to be discharged or removed from service. The question of reinstatement can only be considered if it is first considered whether the person should be removed or discharged from service. Whichever way one looks at the matter, the order of the Government involves a termination of the service when the incumbent is willing to serve. The Regulation involves a punishment for overstaying one's leave and the burden thrown on the incumbent to secure reinstatement by showing cause. No doubt the Government may visit the punishment of discharge or removal from service on a person who has absented himself by overstaying his leave, but it cannot order a person to be discharged from service without at least telling him that they propose to remove him and giving him an opportunity of showing cause why he should not be removed. If this is ~~again~~ done the incumbent will be entitled to move against the punishment for, if his plea succeeds, he will not be removed and no question of reinstatement will arise. It may be convenient to describe him as

seeking reinstatement but this is not tantamount to saying that because the person will only be reinstated by an appropriate authority, that the removal is automatic and outside the protection of Art.311. A removal is removal and if it is punishment for overstaying one's leave an opportunity must be given to the person against whom such an order is proposed, no matter how the Regulation describes it."

18. In this case, the petitioner applied for his leave to go to Hyderabad to see his ailing mother. When he reached Hyderabad, his ailing mother expressed her last desire to see her last son's marriage before she breathed her last. Therefore, he applied for earned leave from 7.9.1984 to 9.10.1984. He further extended the leave for studies from 8.10.1984 to 7.10.1985 which was not granted and the petitioner was asked to join duty immediately, but he did not join duty. So, they called for explanation, and an inquiry was conducted and he was compulsorily retired from service. The petitioner, for a legitimate purpose, asked to extend his earned leave and the respondents refused the same. He asked to grant study leave which he is entitled to get. This was also rejected. For a bonafide purpose, the petitioner asked for extension of leave and also study leave. He is entitled for the leave as per the rules. Contrary to the rules, an inquiry was conducted and he was compulsorily retired from service. So, this compulsory retirement was not made in public interest. If he prosecuted studies and get his Ph.D, ^{would} ~~and~~ he ~~will~~ be more useful not only to the concerned institution but also to the society at large. He has not asked for a leave either for illegal or immoral ~~purpose~~ for a legitimate purpose. Instead of

granting the leave, the Department vindictively retired him compulsorily from service. He worked for 13 years under the respondents and he will get another 10 years service. Though he is legally entitled to get the study leave, the respondents have not granted the study leave but compulsorily retired him from service. It shows that compulsorily retiring him from service is not in public interest, which is vindictive act of the respondents contrary to the rules and contrary to the principles of natural justice.

19. The applicant states that he was not served with the copy of the Enquiry Report and other documents. The respondents in their counter states as under:

"At that time, the relevant Rules on the subject did not provide for giving a copy of the Inquiry Officer's report to the delinquent Government servant and taking his submission, if any, into consideration, before issuing the final orders. Copies of the Inquiry Officer's report and Union. Public Service Commission's advice, were then required to be supplied along with the final order only which was done."

20. In SHRI PREMNATH K. SHARMA V. UNION OF INDIA AND OTHERS (1988 (6) A.T.C. 904 the New Bombay Bench of the Central Administrative Tribunal held as under:

"Even after the amendment of Article 311(2) by the 42nd Amendment, the Constitution guaranteed reasonable opportunity to show cause against charges levelled against the charged officer during the course of the enquiry. In order to fulfil the constitutional requirement, he must be given an opportunity to challenge the enquiry report also. The Inquiry Officer enquires the charges, the evidence is recorded and the

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charged officer is permitted to cross-examine the witnesses and challenge the documentary evidence during the course of the enquiry. But the enquiry does not conclude at that stage. The enquiry concludes only after the material is considered by the Disciplinary Authority, which includes the Enquiry Officer's report and findings on charges. The enquiry continues until the matter is reserved for recording a finding on the charges and the penalty that may be imposed. Any finding of the Disciplinary Authority on the basis of the Enquiry Officer's report which is not furnished to the charged officer would, therefore, be without affording a reasonable opportunity in this behalf to the charged officer. It therefore follows that furnishing a copy of the enquiry report to the charged officer is obligatory."

The respondents themselves have stated in their counter that copies of the Inquiry Officer's report and Union Public Service Commission's advice were supplied along with the final order only. Thus, the applicant was not given a reasonable opportunity and therefore the finding of the Disciplinary ^{authority} is vitiated by denying the enquiry Officer's report to the applicant.

20. As held in ALEXANDER PAL SINGH V. DIVISIONAL OPERATING SUPERINTENDENT AND OTHERS (1987(2)A.T.C.922-S.C.) this is not a case where the applicant has been found guilty of any act involving moral turpitude. The Supreme Court held as under:

"This is not a case where the appellant has been found guilty of any act involving moral turpitude but the appellant has been punished for his negligence amounting to misconduct in not reporting to the Railway Hospital for treatment. While we cannot absolve the appellant for not reporting sick at the Railway Hospital but undergoing treatment of private doctors according

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to whose certificate he was suffering from typhoid and hepatitis, we think the ends of justice will be served by imposing a lesser punishment, namely withholding of two increments with cumulative effect for a period of three years and in consequences loss of seniority."

This is not a case where the applicant has been found guilty of any act involving moral turpitude. In this case, there is no dishonesty on the part of the applicant. He has only asked for leave for educational purpose which he is entitled to get as per the rules but the respondents refused the same. They compulsorily retired him from service and the action taken by the respondents is not in public interest as he did not commit any fraud or any illegal act. So compulsory retirement of the applicant is not in accordance with the principles of natural justice.

21. The quantum of Punishment is a very delicate question which requires to be resolved by the competent authority, be it a Judge presiding over a criminal court or a disciplinary authority exercising Disciplinary jurisdiction. The punishment imposed be neither too excessive nor too lenient. It must be proper, adequate; at the same time neither too harsh nor too lenient. It has to be either deterrent or reformative.

22. In JAI SHANKER V. STATE (A.I.R. 1966 S.C.492), it was held as follows:

"The removal of a Government servant from service for overstaying his leave is illegal even though it is provided by the service Regulation that any individual who absents himself without permission after the end of his leave would be considered to have sacrificed his appointment and may be

reinstated only with the sanction of the
Competent Authority.

The Regulation involves a punishment for overstaying one's leave and the burden ~~is~~ is thrown on the incumbent to secure reinstatement by showing cause. No doubt, the Government may visit the punishment of discharge or removal from service on a person who has absented himself by overstaying his leave, but it cannot order a person to be discharged from service without at least telling him that they propose to remove him and giving him an opportunity of showing cause why he should not be removed. If this is done, the incumbent will be entitled to move against the punishment for, if his plea succeeds, he will not be removed and no question of reinstatement will arise. It may be convenient to describe him as seeking reinstatement but this is not tantamount to saying that because the person will only be reinstated by an appropriate authority, that the removal is automatic and outside the protection of Art.311. A removal is removal and it is punishment for overstaying one's leave an opportunity must be given to the person against whom such an order is proposed, no matter how the Regulation describes it."

This is not a case where the applicant has been found guilty involving moral turpitude. The applicant was not supplied with a copy of the Enquiry report. The respondents have themselves admitted that it was supplied along with the final order. The quantum of punishment is not commensurate with the gravity~~xxx~~ of the charges levelled against him.

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23 In these circumstances, I am of the opinion that the enquiry is vitiated and the quantum of punishment does not commensurate with the gravity of the charges levelled against the applicant and is against the principles of natural justice. The impugned order is, therefore, liable to be quashed. The applicant shall be reinstated to duty with all consequential benefits.

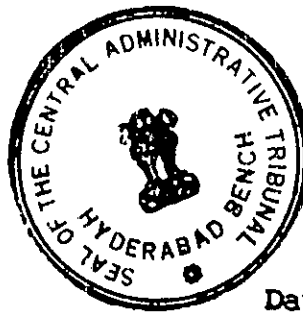
24. In the result the application is allowed.
No costs.

CERTIFIED TO BE TRUE COPY.

.....*[Signature]*.....
Date.....*15.1.12*.....

Court Officer
Central Administrative Tribunal
Hyderabad Bench
Hyderabad.

(O.A. 403/89)



Dated: 1-1-1991

CORAM:

THE HON'BLE MR.D. SURYA RAO : MEMBER(JUDL)

This application coming on for hearing before the Hon'ble Mr. D.Surya Rao, Member(Judl) on 1st January, 1991 under section 26 of the Central Administrative Tribunal Act and upon perusing the application the diferring judgments rendered by the Hon'ble Mr.B.N.Jayasimha, vice Chairman and the Hon'ble Mr.J.Narasimha Murty, Member(Judl) and upon hearing the arguments of Mr.K.Subrahmanya Reddy, Advocate for Mr.K.Sudhakar Reddy counsel for the applicant and of Mr.N.Bhaskar Rao, Addl. OGSC for the Responcdents, the Tribunal made the following Order:

1. This O.A. has come up for hearing before me today consequent on a difference of opinion by Hon'ble Vice-Chairman, Shri B.N.Jayasimha, and Hon'ble Member (J), Shri J.Narasimha Murthy, who had, on 17-10-1990, delivered different orders. ~~In that~~ ^{at} The Hon'ble Vice Chairman was of the opinion that the application is liable to be dismissed, whereas the Hon'ble Member (J) was of the opinion that the application be allowed. Consequently,

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the Hon'ble Chairman had directed vide letter dated 19-11-1990 bearing No.13/9/89-JA(PA)/7323 that the case be placed before me for further hearing.

2. The facts of the case are that the applicant is an employee in the Central Ground Water Board, Ministry of Water Resources, Central Region, Nagpur. He joined the service in the year 1975 as Junior Hydrogeologist, which is a Group-A post. He had worked at various places viz., at Sinaman Project, Sholapur, Hyderabad, Jaipur, Nagpur, and was last transferred to Hyderabad on 15-9-1980. Thereafter he was transferred to Trivendrum in the year 1982. He proceeded on leave. The order of transfer to Trivandrum was cancelled and he resumed charge at Hyderabad on 11-2-1983. On 21-10-1983 he applied for permission to register his name in the Osmania University for admission to the Ph.D. course in Hydrogeology. Permission was accorded to him on 7.12.1983 for registering himself for the Ph.D. in the Osmania University as an external candidate. On 16-8-1984 the applicant was transferred to Nagpur and he was relieved from Hyderabad on 21-8-1984. On 24-8-1984 he joined the Osmania University for Ph.D. course. Thereafter on 27-8-1984 he resumed charge at Nagpur. After doing so, he applied for 2 days casual leave on 10th and 11th September 1984 with permission to prefix 7th, 8th and 9th Sept., 1984 as holidays. Permission and leave were sanctioned. He did not rejoin duty on 12-9-84. Subsequently he sought extension of leave till 30-9-1984 on the ground of his brother's marriage which was fixed on 14.9.1984 and because of his mother's illness. Finally on 10.10.1984 he applied for 26 days Earned Leave

[Signature]

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from 10-9-1984 to 5-10-1984 prefixing holidays on 7th, holidays on 8th and 9th Sept., 84 and suffixing 6th and 7th October 1984. The reason given was to attend younger brother's marriage fixed on 14-9-1984 and to attend his ailing mother. In continuation thereafter he also applied for 12 months study leave from 8.10.1984 to 7.10.1985 under CCS Leave Rules, 1972. On 15.10.1984 the Director, Central Ground Water Board, Nagpur, telegraphically directed the applicant to join duty as study leave was not recommended. The applicant continued to reiterate his request for leave on the ground of his having joined at Osmania University to pursue his Ph.D. course. He also sought extension of leave from time to time. On 1.1.1986 a charge sheet was issued to him alleging that he was unauthorisedly absent from duty w.e.f. 10.9.1984 till the date of issue of the charge sheet without proper approval or sanction and that, ^{he had thereby} ~~therefore~~, behaved in a manner unbecoming of a Government servant and violated Rule 3(1)(ii)(iii) of CCS Conduct Rules 1964. An enquiry was conducted and on 28-8-1986 the report was submitted by the Enquiry Officer. In the meanwhile the applicant had completed his Ph.D. course and on 31.12.1986 he requested the authorities on 31.12.1986 to inform his place of joining duty. He sent further reminders by telegram on 20-1-1987 and 30-1-1987 and waited until 6.2.1987, but there was no intimation. Finally he reported for duty on 8.2.1987 at Faridabad Central Headquarters. On 20-2-1987 he received orders of posting by telegram and a confirmation copy on 27-2-1987. On 17-3-1987 he resumed charge as Junior Hydrogeologist, Central Ground Water Board, Central Region, Nagpur, and continued to work in the said office. In the meanwhile,

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on 6.10.1988 the U.P.S.C. made its recommendations on the Enquiry Officer's report. On the basis of the Enquiry Officer's Report and the U.P.S.C. recommendations, the impugned order in F.No.6(1)/84-VIG., dated 2.2.1989 ^{communicated by the 1st respondent on behalf of the President of India &} was ~~passed by the President (i.e. 1st respondent)~~ imposing upon the applicant the penalty of compulsory ^{from service,} retirement/ as the President is the disciplinary authority. Enclosed thereto was a copy of the Enquiry Officer's report. It is this order which is sought to be questioned in this O.A.

3. As already stated supra, there was a difference of opinion between the Honourable Vice Chairman, Shri B.N. Jayasimha, and the Honourable Member (J), Shri J.Narasimha Murthy. Hon'ble Shri Narasimha Murthy has held that the applicant has not been served copies of Enquiry Officer's report and other documents and thereby he has not been given a reasonable opportunity. It was further held that the Enquiry Officer's report and U.P.S.C.'s advice ^R were supplied only ^{and R} alongwith the final order. Other findings recorded by him ^A that the order of compulsory retirement was not in public interest, that it is a vindictive act, contrary to the conduct rules and contrary to principles of natural justice and that the quantum of punishment was excess ^{ive A} and not commensurate with the gravity of the charges levelled. The Honourable Vice Chairman, on the other hand, has held that the Enquiry Officer's report has been supplied alongwith the order of compulsory retirement and a copy of the U.P.S.C. recommendation was also given to the applicant with the Enquiry Officer's report. The learned Vice-Chairman held that there is no procedural irregularity and there

is no violation of Article 311(2) nor was there any violation of principles of natural justice. He was of the opinion that the punishment imposed was not vindictive, and applying the decision in Union of India vs. Parmananda's case (1989 (1) SCALE 606, the learned Vice Chairman held that this Tribunal has no jurisdiction to interfere with the punishment. For these reasons he was of the opinion that the application is liable to be dismissed.

4. Today arguments have been advanced before me by Shri K. Subrahmanya Reddy, Advocate, on behalf of Shri K. Sudhakar Reddy, learned Counsel for the applicant, and Shri Naram Bhaskar Rao, learned Additional Central Govt. Standing Counsel, on behalf of the Respondent^{1 and 2} No. 2.

5. ^{Before} ~~While~~ going into the merits in regard to the illegality of the enquiry proceedings and other contentions raised for setting aside the orders of compulsory retirement on merits, Shri Subrahmanya Reddy raised a legal contention. He contends that even after the amendment of article 311(2) of the constitution by the 42nd amendment, no reasonable opportunity has been afforded to the applicant ^{since} ~~the~~ the Enquiry Officer's report was not furnished to the applicant before the ~~disciplinary Authority viz.,~~ the President passing the order of compulsory retirement from service. ~~He contends~~ that the Enquiry Officer's report ought to have been furnished before the Disciplinary Authority had passed the order of punishment to enable the applicant to ^{question} ~~appeal~~ against the findings of the Enquiry Officer before the Disciplinary Authority passed the punishment order. Shri Subrahmanya Reddy, in this connection, relies upon

the latest decision of the Supreme Court rendered in Judgements Today (1990 (4) S.C. 456) in Union of India & Ors. vs. Mohd. Ramzan Khan. He also relies upon the decision rendered by the New Bombay Bench of this Tribunal rendered in Premnath K. Sharma's case (reported in 1988 (6) ATC 904 and in 1990(2) AISLJ 593 and 1990(3) S.L.J. 421. The purport of these decisions as confirmed by the Supreme Court in Union of India & others vs. Mohd. Ramzan Khan is that:

" 15. Deletion of the second opportunity from the scheme of Art. 311(2) of the Constitution has nothing to do with providing of a copy of the report to the delinquent in the matter of making his representation. Even though the second stage of the inquiry in Art. 311(2) has been abolished by amendment, the delinquent is still entitled to represent against the conclusion of the Inquiry Officer holding that the charges or some of the charges are established and holding the delinquent guilty of such charges. For doing away with the effect of the enquiry report or to meet the recommendations of the Inquiry Officer in the matter of imposition of punishment, furnishing a copy of the report becomes necessary and to have the proceeding completed by using some material behind the back of the delinquent is a position not countenanced by fair procedure. While by law application of natural justice could be totally ruled out or truncated, nothing has been done here which could be taken as keeping natural justice out of the proceedings and the series of pronouncements of this Court making rules of natural justice applicable to such an inquiry are not affected by the 42nd amendment. Therefore, we come to the conclusion that supply of a copy of the inquiry report along with

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recommendations, if any, in the matter of proposed punishment to be inflicted would be within the rules of natural justice and the delinquent would, therefore, be entitled to the supply of a copy thereof. The Forty Second Amendment has not brought about any change in this position.

"

" 18. We make it clear that wherever there has been an Inquiry Officer and he has furnished a report to the disciplinary authority at the conclusion of the inquiry holding the delinquent guilty of all or any of the charges with proposal for any particular punishment or not, the delinquent is entitled to a copy of such report and will also be entitled to make a representation against it, if he so desires, and non-furnishing of the report would amount to violation of rules of natural justice and make the final order liable to challenge hereafter.

"

6. Following the above said decision of the Supreme Court, it will follow that the order imposing the punishment of compulsory retirement from service on the applicant without furnishing him a copy of the Enquiry Officer's report is vitiated and it is accordingly quashed. It is, however, left open to the disciplinary authority to consider the matter afresh after giving the applicant an opportunity to make a representation against the report of the Inquiry Officer and the opinion of the U.P.S.C. and to take further action in the matter. If it proposed to take further action against the applicant on the basis of the report of the Inquiry Officer, reasonable time will be afforded by the disciplinary authority to the applicant to represent against the report of the Inquiry Officer and the recommendations of the U.P.S.C. before passing final orders. In disposing of the representation, the disciplinary authority will do so (Contd.. on page 8)

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untrammelled by either of the opinions/orders passed by the learned Hon'ble Vice Chairman or learned Hon'ble Member (J), Shri J.Narasimha Murthy on the merits in this case. It is further made clear that it is for the respondents to choose to continue the disciplinary proceedings and it is not binding on the respondents to necessarily continue the disciplinary proceedings. That is a matter left to the discretion of the disciplinary authority. As a consequence of quashing of compulsory retirement and if it is proposed to continue with the enquiry, it is left open to the disciplinary authority to either pass orders under sub-rule 4 of rule 10 of C.C.S. Rules so as to deem the applicant to be under suspension from the date on which he was compulsorily retired from service or to reinstate him into service in view of the fact that prior to the order of punishment, the applicant was in service and not under suspension.

7. The application is disposed of with the above direction. No order as to costs.

(Dictated in the Open Court)

Case Number	CA 403/89
Date of Judgement	11/1/91
Copy made ready on	21/1/91
Section Officer (I)	

CERTIFIED TO BE TRUE COPY
 Date.....
 Court Officer
 Central Administrative Tribunal
 Hyderabad Bench
 Hyderabad.

- To
1. The Deputy Secretary to Govt. of India,
 2. The Chairman, Ten. Resources, Krishi Bhavan, New Delhi.
 3. One copy to Mr. K. Subrahmanya Reddy, Advocate
 K. Sudhakar Reddy, Advocate
 2-2-1132/5, New Nallakunta, Hyd.
 4. One copy to Mr. N-Bhaskar Rao, Addl. CGSC. CAT. Hyd. Bench.
 5. One spare copy.

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Received on
10-8-90

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FINAL ORDER

CENTRAL ADMINISTRATIVE TRIBUNAL
MADRAS BENCH

Tuesday, the thirty first day of July One
Thousand Nine Hundred and Ninety

PRESENT

The Hon'ble Justice Dr. David Annarasamy, Vice-Chairman
and

The Hon'ble Shri R. Salarubramanian, Administrative
Member

Original Application No. 153 of 1989

Original Application No. 280 of 1989

1. K. M. Vedapuri

.. Applicant in OA 163 of 1989

2. K. Srinivasan

.. Applicant in OA 280 of 1989

-Vs.-

1. The Union of India, represented by the Secretary to Government, Ministry of Water Resources, Shram Shakthi Bhavan, Rafi Marg, New Delhi-1

2. The Dy. Secretary (Admin.), Govt. of India, Ministry of Water Resources, Shram Shakthi Bhavan, Rafi Marg, New Delhi-1

.. Respondents in
OA 153 of 1989 and
OA 280 of 1989

Mr. Vijay Narayan

.. Advocate for the
applicant in
OA 153 of 1989
and OA 280 of 1989

Mr. Peter Gunasekaran

.. Advocate for the
respondents

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Order pronounced by the
Hon'ble Mr. Justice B.V. Ramaswamy, Vice-Chief Justice

Both these applications have been
heard together and are disposed of by this common
judgement.

The applicant in CA 153 of 1989
(K.M.Vedapuri), a Hydrogeologist, was relieved
on 3.2.1979 of his duty for a foreign assignment
with the Govt. of Algeria for a period of two
years, with effect from 10.2.1979. In September
1981, approximately about eight months after
the expiry of the period of foreign assignment,
an order was issued by the Govt. of India permitting
his extension of the period of foreign assignment
by one more year, i.e. up to 10.2.1982. However,
he did not join duty on that date. He stayed
in Algeria up to July 1983 and joined duty in
February 1984.

Shri K.Srinivasan (applicant in CA 280
of 1983), a Hydrogeologist, was also relieved
of his duty on 3.2.1979 for a foreign assignment
with the Govt. of Algeria for a period of two
years, with effect from 3.2.1979. He also did not.

in duty on the expiry of the period of deputation and came back only after a period of three years, i.e. in February 1984. Disciplinary proceedings were initiated against these two officers as well as many other officers belonging to the same Ministry, working in the Central Water Commission or Central Groundwater Board. A mild action or no action was taken finally in respect of others numbering in all 21, while the first applicant was compulsorily retired and the second applicant was dismissed from service.

The applicants while seeking to set aside the orders of the second respondent dt.10.6.1985, and 27.12.1988 (CA No.163 of 1989) and dt.15.11.1988 (CA 280 of 1989), they have also prayed for a direction to the respondents to reinstate them in service with effect from 11.7.1988 and 15.11.1988 respectively.

~~Shri Vijay Narayan~~, the learned counsel appearing for the applicants, urged mainly two grounds, viz. (1) that the punishment is based on the alleged misconduct, not finding a place in the

charge sheet: and (2) that there was a clear discrimination against the two applicants in comparison to their colleagues numbering as stated earlier, i.e. 21.

We shall take up the first ground.

The statement of the articles of charge in respect of K.Srinivasan, reads as follows:-

"Charge No. I

Shri K.Srinivasan while working as Junior Hydrogeologist in the Central Ground Water Board was relieved of his duties on 3.2.1979 (AN) for taking up foreign assignment as Hydraulic Engineer with the Govt. of Algeria for a period of two years. The sanctioned period of foreign assignment expired on 3.2.1981. He did not return to India after the expiry of the said assignment in spite of orders of Govt. of India. Shri Srinivasan has thus wilfully ignored and disobeyed the orders of the Govt. of India.

The above act of commission and omission on the part of Shri Srinivasan, ~~being a~~ ^{being a} ~~conduct~~ ^{conduct} ~~of duty~~ ^{of duty} and he behaved in a manner unbecoming of a Govt. servant and thereby violated Rule 3(1)(ii) and (iii) of the CCS (Conduct) Rules, 1964.

Charge No. II

His absence from duty beyond the expiry of period of foreign assignment on 3.2.1981 is unauthorised.

By his aforesaid act of commission and omission Shri Srinivasan has been behaving in a manner unbecoming of a Govt. servant and thereby contravened the provision of Rule 3(1)(ii) and (iii) of the CCS (Conduct) Rules, 1964."

It would flow from the charges that the acts reproached to the Govt. servants are, (1) no return to India on the expiry of their foreign assignment in spite of the orders of Govt. and therefore wilful disobedience of the orders; (2) absence from duty beyond the expiry of the period of foreign assignment. The above acts has been considered as violation of Rule 3(1)(ii) and (i i).

As far as the second act is concerned, viz. absence from duty beyond the expiry of the period of foreign assignment, ^{it} is more specifically a violation of Rule 25 of the CCS (Leave) Rules. This rule could have been invoked.

While framing the charge sheet, the disciplinary authority acted under the impression that the CCS (Conduct) Rules, 1954, contain the exhaustive list of misconducts. It is not so. The violation of any rule which the Govt. servant has to respect is a misconduct. In addition, the CCS (Conduct) Rules gives an enumeration of the most important and frequent misconducts, not covered by other general rules and the purpose of Rule 3 is to cover ^{cases}

which are not specifically covered by any other rule. It may be seen that charges (1) and (2) are almost the same and the act which is ultimately reproached to the applicants is the unauthorized overstay.

Now let us turn to the report of the findings of the inquiry officer in the case of Mr. K. Srinivasan. When we looked into the report of the inquiry officer, it is seen therefrom that the finding is not only in respect of the overstay on the expiry of the foreign assignment, but ^{also} the continuance in the service of the employee beyond the sanctioned period of deputation, without any formal request in proper time to his appropriate parent cadre authorities and continuance in service with the foreign employer even after being informed in July 1980 that the Govt. of India has decided not to grant any further extension of his deputation.

We notice that the UPSC ^{when} was also called upon to give its opinion in this matter which observed as follows:-

"The charged officer not only overstayed his term of foreign assignment but also

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entered into fresh agreements
with the foreign government
without the approval of the Govt.
of India. "

From the above, it may be seen that
the UPSC has improved upon the findings
of the inquiry officer in stressing very
vigorously the fact of entering into an
agreement with the foreign Government,
without the approval of the Govt. Ultimately,
the disciplinary authority while imposing
the punishment has observed as follows:-
among other things.

"Shri Srinivasan did not return to
India even at that time and it
has become sufficiently evident
during the inquiry that he had entered
into two agreements with the Govt. of
Algeria, without the approval of the
Govt. of India.

On the contrary it is on the records
that he signed two agreements with
the foreign employer of his own
without the approval of the Govt.
offered himself for continued stay with the
foreign employer even after the
sanctioned period of deputation was
over and his request for extension
had been rejected".

While turning the case of Mr. K. M. Vedapuri,
we find more or less the same kind of observations.
The inquiry report discloses that "in any

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case there was no justification whatsoever for signing fresh contract by the Suspected Public Servants (for short 'SPS') in January 1981, without prior approval, when he had specifically been informed through the Indian Embassy in Algeria in September 1981 that it had been decided by his parent cadre authorities not to extend the deputation term of SPS beyond February 1982". It is further observed therein that "yet he thought it fit to sign a fresh contract for a period of two years with the foreign employer on the 1st November 1982". We also notice that when the matter was referred to the UPSC, the UPSC made the following observations:-

"Another significant fact is that he signed another contract for extension of deputation even before the earlier period of deputation was to come to an end without consulting either his parent organisation or the Indian Embassy. He did not even inform them about this

The UPSC had further observed that "it is quite clear that the charged official wanted to stay on in Algeria by hook or crook and defied the directions given to him by the Govt. of India".

It may be noted that the disciplinary authority who ultimately decides on the proof of the charges and the punishment to be meted out by the charged official, observed as follows:-

"In any case there was no justification whatsoever for signing fresh contract by the SPS in January 1981 without the prior approval, when he had specifically been informed through the Indian Embassy in Algeria in September 1981 that it had been decided by his parent cadre authorities not to extend the deputation term of SPS beyond February 1982.

Yet he thought it fit to sign a fresh contract for a period of two years with the foreign employer on 1.11.1982".

E { The conclusions of the disciplinary authority, who also perused the reports of the inquiry officer and the opinions of the UPSC is that the charged officials have been guilty not only of absence from duty beyond the expiry of the period of deputation, on foreign assignment, but also of having entered into agreement with the foreign Government for employment.

As far as the first misconduct is

concerned, we notice that it is found
to be proved ^{regularly} and there is no quarrel

on that point. As far as the second mis-
conduct

conduct is concerned, it is not to be found

in the charge sheet issued to the charged

officials. It is pertinent to point out

that though both the acts of misconduct arose

in the same set of circumstances, when

a punishment is meted out for two distinct

misconducts, both misconducts should have

been brought out clearly in the charge memo

in order to afford an opportunity to the

Govt. servant to defend himself. At any

rate no punishment can be imposed in respect

of a misconduct not found in the charge memo.

It would have been possible for the

disciplinary authority to clearly frame

a charge for the fact of having entered

into agreement with the Foreign Government

----- was over.

As pointed out earlier, the list of misconducts

found in the CCS (Conduct) Rules is not exhaustive

and whenever an act of the Govt. servant

is found to be incompatible with his continuance

as Govt. servant or is in violation of a rule it amounts to a misconduct, unless there is a protection under another rule, and a charge can be framed. But whether the act is a misconduct or not, has to be ultimately decided in case of dispute by the Tribunal. But before taking any disciplinary action, the act reproached to the Government servant should be clearly described and the Government servant should be asked to show cause as to why action should not be taken against him for the same. In the instant case, it is found that the charge sheet does not clearly convey to the charged officials that the fact of having taken up of an assignment with the foreign Government was considered by the Govt. of India as an act of misconduct. On the other hand, the charge is regarding delay on return to the parent cadre, disobedience of the orders and absence from duty beyond the period of foreign assignment. It is thus clear that an ~~xx~~ important factor pointed in the mind of the disciplinary authority while imposing the penalty, viz. the fact of entering into agreement with the

foreign Government, without the prior approval of the Govt. of India, which is certainly a very grave act, as compared to the other acts imputed to the Govt. servant.

However that fact

Since this does not find a place in the charge ~~was~~ ^{made}, the punishment meted out to

the charged official cannot be sustained and has necessarily to be set aside.

As far as the second ground is concerned, the learned counsel for the applicant has placed before us in a tabulated form the cases of 23 officers, including the applicants who ~~xxxxxx~~ ^{are} from the Ministry of Water Resources and who have been sent to foreign countries on foreign assignment, with the approval of the Govt. of India and who have overstayed. We have perused the ~~aforsaid~~ ^{appended herewith} tabular statement. It is seen therefrom that in almost all cases, the disciplinary proceedings was totally dropped and in one case, the period of absence has been treated as ~~dies non~~ ^{viz. R.M. Joshi} and the concerned officer ~~was~~ ^{was} 'censured', as far as these officers are concerned, the learned counsel for the applicants brought

to or notice two letters, viz. 30.9.1981 and 24.3.1982, annexed to the statement filed by the Dy. Secretary to Govt. Ministry of Irrigation to the Indian Embassy. In the first letter dt.30.9.1981, para(2) reads which is relevant reads as follows:-

"As stated in the above letter, it could not be possible for this Ministry to extend the deputation period of these two officers any further due to acute shortage of senior officers in the Central Ground Water Board. Shri R.M.Joshi and K.M.Vedapuri may therefore be informed of the above position once again and advised to revert back to the Central Ground Water Board by the due dates in their own interest. I shall be grateful if you could kindly confirm that the officers concerned have been informed accordingly".

Sd/- Mukesh Chand "

The second letter dt.24.3.1982 reads as follows:-

"Please refer to my D.C.letter No.7-53/75-MI(A) dt.30th September 1981 and subsequent reminder of the 16th February 1982 regarding reversion of S/Shri R.M.Joshi, Asst.Hydrogeologist and K.M.Vedapuri, Junior Hydrogeologist to the CGWB. As intimated to you already, the sanctioned period of deputation of the above two officers expired on 7.2.1982 and 10.2.1982 respectively. Also it has been decided already that no further extension of deputation shall be allowed to either of them. They may, therefore, be advised to report for duty to the Central Ground Water Board forthwith failing which this Ministry would initiate disciplinary action against them for oversteaying with the Govt. of Algeria without any

He would say that the other officers who were sent on foreign assignment and had overstayed beyond the sanctioned period were also subjected to disciplinary proceedings, which were dropped subsequently.

It was argued that their cases were however considered on merits and an appropriate decision was arrived at in respect of each case, according to the facts and circumstances surrounding the case.

E Since we have already held that the orders of punishment are bad and vitiated for having taken action on consideration of an alleged misconduct not found in the charge memo, we are of the view that it is unnecessary for us to go into this ^{second} ground.

In the result, the order of compulsory retirement passed against K.Vadapuri (applicant in CA 163 of 1989) and that of dismissal against K.Srinivasan (CA 260 of 1989) are set aside. While doing so we make it clear that ^{when} the disciplinary authority will decide ~~the~~ again the matter of

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punishment, it will certainly consider the fact of discrimination brought out before us by the applicants, which we have abstracted above. At the same time, it is also open to the applicants, before the disciplinary authority takes a decision afresh, to put before that authority the fact of discrimination or any other fact which they may find to their advantage.

/True copy/



DEPUTY REGISTRAR

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LIST OF OFFICERS FROM MINISTRY OF WATER RESOURCES
WHO HAVE OVERSTAYED BUT NO ACTION TAKEN

Name	Dept	Country of Assignment	Total period of Stay	Authorised period of stay	Period of overstay unauthorised	Remarks
1 R.C.Agrawal	2 Central Water Commission	3 Nigeria	4 July 77 to Nov 82 5 yrs - 4 months	5 July 77 to July 80 3 years	6 July 80 to Nov 82 2 yrs - 4 months	7 Heas charge sheeted Buon reverting back pant Dept, Proceedir agns him where dropf
P.K.Farashar	C.W.C.	Nigeria	Nov.77 - Jan83 5 yrs - 2 months	Nov 77 - Nov 80 3 yrs	Nov 80 - Jan 83 2 yrs - 1 month	Heas charge sheeted by the disciplinary proceedings against him who dropped when he joed back duty in Inda.
S.M.Kal	C.W.C.	Iraq	Nov.77 - May 83 5 yrs - 6 months	Nov 77 - Nov 82 5 yrs	Nov 82 - May 83 6 months	Dilinary proceedings initiated charges dropped as they could not be conclusively pried.
G.C.C.Bhandari	C.W.C.	Algeria	Nov.77 - Nov 81 4 yrs	Nov 77 - Nov 80 3 yrs	Nov 80 - Nov 81 1 year	Dilinary proceedings withdrawn when he joed back duty in India.
S.L.Fahuja	C.W.C.	Nigeria	May 75 - July 81 6 yrs - 2 months	May 75 - May 80 5 yrs	May 80 - July 81 1 yrs - 2 months	Onoining duty no disciplinary action was taken against him.
S.A.Char	C.W.C.	Nigeria	Sept 77 - July 83 5 yrs - 10 months	Sept 77 - Sept 82 5 yrs	Sept 82 - July 83 10 months	Heolned duty on 1.84. Because he was not relieved by Dartege Gov. He was exonerated and disciplinary proceedings dropped.

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	1	2	3	4	5	6	
7. B.B.Karjale	C.W.C.	Iraq	Dec 77 - June 81 3 yrs - 6months	Dec 77 - Dec 80 3 yrs	Dec 80 - June 81 6 months		He was charge sheeted. Disciplinary action not initiated since he terminated his contract and reverted to O.I. service.
8. G.Surya Naraiana	C.G.W.B.	Algeria	Jan. 78 - Feb 82 4 yrs	Jan 78 - Jan 80 2 yrs	Jan 80 - Feb 82 2 yrs - 1 month		He was charge sheeted but disciplinary proceeding not pursue as he reverted back from road.
9. A.Dunatiraj	C.G.W.B.	Algeria	Dec 77 - Nov 81 3 yrs - 11 M	Dec 77 - Dec 79 2 yrs	Dec 79 - Nov 81 1 year - 11 M		He was charge sheeted. But disciplinary proceeding not pursue as he reverted back from road.
10. S.Ramachandral	C.G.W.B	Algeria	Jan 78 - Jan 82 4 yrs - 1 M	Jan 78 - Jan 80 2 yrs	Jan 80 - Jan 82 2 yrs		- 0 - - do -
11. N.C.Gajbhaye	C.G.W.B.	Algeria	Feb 79 - Feb 82 3 yrs	Feb 79 - Feb 81 2 yrs	Feb 80 - Feb 81 1 yrs		- 1 - - do -
12. M.A.Haseeb	C.G.W.B.	Algeria	Feb 79 - Feb 82 3 yrs	Feb 79 - Feb 81 2 yrs	Feb 81 - Feb 82 1 year		- 0 - - do -
13. M.L.Srivastava	C.G.W.B.	Libya	Feb 75 - Jul 82 7 yrs 5 months	Feb 75 - Feb 79 4 yrs	Feb 79 - July 82 3 yrs 5 months		- 10 - - do -
14. P.J.S.Bamraja	C.G.W.B.	Algeria	Feb 79 - Mar 82 3 yrs - 1 M	Feb 79 - Feb 81 2 yrs	Feb 81 - Mar 82 1 yrs - 1 months		- 10 - - do -
15. M.Gopala-Krishnan	C.W.C.	Nigeria	Sept 77 - Feb 84 6 yrs 5 M	Sept 77 - Sep 80 3 yrs	Sept 80 - Feb 84 3 yrs 5 M		He was charge sheeted but exonerated. Disciplinary action not pursued. Overstay periodic regularised by post-De-Facto sanction in 1987.

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	1	2	3	4	5	6	7		
6. U.P. Srivastava	C.G.W.B.	Algeria	June 77 - June 81 4 yrs	June 77 - June 80 3 yrs	June 80 - June 81 1 year			He was charge sheet but disciplinary proceeding not pursued as he returned back from abroad	
17. B.M. Joshi	C.G.W.B.	Algeria	Feb 79 - Mar 84 5 yrs 1 month	Feb 79 - Feb 82 3 yrs	Feb 82 - Mar 84 2 yrs 1 month			Period of June 83 to Mar 84 treated DIES NON and censured.	
18. A.S. Chelvaraj	C.W.C.	Ghana	July 77 - Nov 84 7 yrs 1 month	July 77 - July 81 4 yrs	July 81 - Nov 84 3 yrs 4 month			No Action Taken	
19. H.P.S. Iyer	C.W.C.	Nigeria	Mar 78 - Aug 82 4 yrs 5 months	Mar 78 - Mar 81 3 yrs	Mar 81 - Aug 82 1 year 5 months			No Action Taken	
20. A.K. Shaniga	C.W.C.	Nigeria	June 78 - July 83 5 yrs 1 month	June 78 - June 82 4 yrs	June 82 - July 83 6 year 1 month			No Action Taken	
21. P.K. Mittal	C.W.C.	Algeria	Nov. 79 - Dec 84 4 yrs 1 month	Nov 77 - Nov 80 3 yrs	Nov 80 - Dec 81 1 year 1 month			No Action Taken	
22. E.H. Vaddapuri	C.G.W.B.	Algeria	Feb 79 - Feb 84 5 yrs	Feb 79 - Feb 82 3 yrs	Feb 82 - Feb 84 2 yrs			Compulsory Retirement	
23. K. Srinivasan	C.G.W.B.	Algeria	Feb 79 - Feb 84 5 yrs	Feb 79 - Feb 81 2 yrs	Feb 81 - Feb 84 3 yrs			Dismissed from Service.	

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NO.35-184/78-GW
Govt. of India
Ministry of Irrigation

New Delhi, the 7.12.83

*The Chief Hydrogeologist,
CGWB, Faridabad.*

To be placed in Research file
Sub: Permission to register the name for Ph.D degree to Sh.M.A. Haleem, Jr.Hg, CGWB.

Sir,

I am directed to refer to your letter NO.3-402/75-CH(Estt) dt.26.11.83, on the above subject, and to say that this Ministry have no objection to Sh.M.A.Haleem, Jr.Hydrogeologist, CGWB, registering his name for Ph.D degree in 'Ground Water Balance and management studies in parts of Godavari Vally in Satupalli and Jawar et taluka of Khammam distt., A.P with the Osmania University Hyderabad as an External candidate.

2. The grant of permission is however subject to the condition that his doing Ph.D will not interfere with his official work in any way. The grant of leave for fulfilling any residential requirement for completion of the course will be subject to the exigencies of Govt.work.

Yours faithfully,

sd/-A.NATARAJAN
DY.SECY.TO THE GOVT.OF INDIA

Copy for Guard file.

....

NO.3-402/75-CH-Estt
Govt. of India
Central Ground Water Board
NH.IV, Faridabad.

Dated the

Copy to:-

1. The Director, CGWB, S/R, Hyderabad.
2. Sh.M.A.Haleem, Jr.Hydrogeologist, CGWB, S/R, Hyderabad.

(M.I.G. NDOTRA)
ASST.ADMINISTRATIVE OFFICER
for CHIEF HYDROGEOLOGIST & MEMBER

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Page 24
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No: 5/12/1/S/

Government of India

Central Ground Water Board

Central Region

Rampur - 4400 10.

Dated: 9 JUL 1984

OFFICE ORDER

The targetted items of RGP 1984-85 for systematic hydrogeological surveys are assigned to the officers as detailed below:

Sl.No.	Name of Officer	Item of work	Target in			Supervisory Officer
			Km ²	Tri- bal	Bro- ught ers	
1.	Sh. S. K. Sehgal Asstt. Hydro-geologist	Continuation of systematic hydro-geological surveys in Thane distt. (Toposheet No. 47 A/13, 14, 15 & 46 B/16)	600	-	1400	Sh. V. V. S. Bahi, Sr. Hydrogeologist
2.	Sh. K. A. Haleem Jr. Hydrogeologist	Systematic hydrogeological surveys in Gule Distt. (Toposheet No. 45 G/16, 46 E/4, 3, 12)	1800	-	200	Sh. M. Sankaran, Sr. Hydrogeologist
3.	Sh. I. K. Sharma Asstt. Hydro-geologist	Continuation of systematic hydro-geological surveys in Gulbarga & Akola Distt. Godavari basin, Penganga sub-basin (Toposheet No. 55 D/3, 7, 8, 11, 12 parts)	-	-	2000	Sh. M. A. Haseeb, Sr. Hydrogeologist

A copy of the RGP 1984-85, alongwith the guidelines for achievement of targets, conductance of surveys, collection of water samples and submission for various monthly returns and diary are also forwarded for careful reading and compliance.

The officers are advised to immediately collect toposheets, field equipments, instruments, etc. required for the work assigned. They should consult their supervisory officers at every stage in planning their work.

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The Supervisory Officers are advised to guide the officers in all aspects of the systematic hydrogeological surveys so as to produce work of high quality.

One set of circulars and guidelines issued from time to time are enclosed herewith for necessary action.

To: Mr. Saleem Virdi Despatch no. 8779

(R. Venkatarayan)
Director

Copy forwarded for information to :

1. Shri V.V.S. Kani, Sr. Hydrogeologist, CGWB, MSU, Pune
2. Shri M.A. Haseeb, Sr. Hydrogeologist, CGWB, CR, Nagpur
3. Shri M. Sankaran, Sr. Hydrogeologist, CGWB, CR, Nagpur
4. OIC, CGWB, MSU, Pune
5. Accounts Section
6. C & V Section, CGWB, CR, Nagpur

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FROM :

M.A. HALEEM,
Jr. Hydrogeologist.

No. MAH/JHE/CGWBGR/CL-1
Govt. of India
Central Ground Water Board,
Central Region,
21, Ramdaspath, NAGPUR.

Dt. 5th Sept. 1984

TO,
The Director,
Central Ground Water Board,
Central Region,
NAGPUR-10.

Through Proper Channel

Sub : Request to grant 2 days C.L. on 10-th
and 11th Sept. 84 for availing of
public holidays 7, 8 and 9th with
permission to leave the Headquarter
on 6th Sept. 1984.

Sir,

I would like to join my family at Hyderabad
on the occasion of the festival Idd-u-zuha falling on
7th Sept. 1984,

Therefore, I request to your goodself
kindly to permit me to leave the headquarter on 6th
and grant me 2 days casual leave on 10th and 11th
with permission to avail the public holidays on
7th, 8th and 9th sept. 1984.

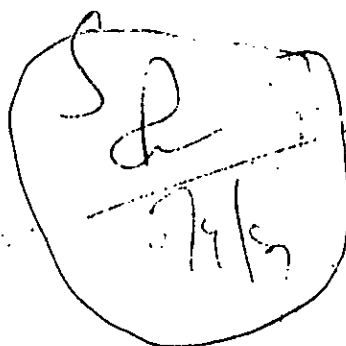
For which act of kindness I shall remain
thankful to you, Sir,

Yours faithfully,

M.A. Haleem
(M.A. HALEEM)
05/9/84

Forwarded

M. Wankar
5/9/84



in Hydrogeologist
see counter P 41

(प/आ)

भारतीय डाक-तार विभाग INDIAN POSTS & TELEGRAPHS DEPARTMENT

अंतर्देशीय तार/Inland Telegram

तार संबंधी शिकायतें बुकिंग की तारीख से 30 दिन के भीतर प्रस्तुत की जानी चाहिए ।

Telegraph complaints should be presented within 30 days from the date of booking

180984

119

<p>संकेत (यदि भेजने वाले द्वारा भरा जाय) सरकारी घण्टाई) Service Indication (e.g. Reply Paid, Same Evenings)</p>	<p>Charges ₹./Rs. 4./P.</p>	<p>भारतीय डाक-तार विभाग द्वारा प्रेषित होने के पारंपरिक काल में तार सेवा बंद होने से इस तार का पारंपरिक या वितरण प्रभावित होने पर उसमें उत्पन्न होने वाली या उसके परिणामस्वरूप किसी हानि, भति या नुकसान की क्षतिपूर्ति देने के लिए सरकार जिम्मेदार नहीं है । (Prepared for transmission subject to Indian Telegraph Act & Rules. The Government is not liable to make compensation for any loss injury or Damage arising or resulting from any failure of service affecting transmission or delivery of this telegram.)</p>	<p>बेजने के बारे में Sent Particulars</p>	<p>तारीख और Date stamp</p>	
<p>कक्षा Class</p>	<p>समय Time</p>	<p>नं. No.</p>	<p>तारीख Date</p>	<p>डिवा ब्यूरो S. I.</p>	<p>वर्क Words</p>

भेजने वाले का नाम/Name : DIRECTOR
BHOJIN
RAMDAS PETH NAGPUR-10

टेलिफोन नं./Telephone No :
टेलिक्स नं./Telex No :
पिन कोड PIN Code :

MOTHER SERIOUS AND HOSPITALISED

PRAY TO EXTEND LEAVE TILL 30TH

HALEEM

(सेवा/From)

बेजने वाले का नाम/Sender's Signature : M. A. Haleem

तार से न भेजा जाए
Not to be telegraphed

नाम/Name : M. A. Haleem 180984

पता/Address : 16-11-15/4/3. Saleemnagar colony near Malakpet

(को काट न हो उसे काट दें/Strike out which is not applicable)

(संघ वितरण की सुविधा के लिए कृपया प्रेषितों का टेलिफोन/टेलिक्स/पिन कोड दें ।)

To enable quick delivery, please indicate Telephone/Telex/PIN Code of the addressee.)

Hyderabad 38

M. A. HALEEM

Jr. Hydrogeologist

Leave Address:

H.No. 16-11-15/4/3,
Saleemnagar Colony No-I,
P.O. Malakpet Colony,
HYDERABAD - 500 036

बीमा नहीं NOT INSURED

अगले गये डाक टिकटों का मूल्य रु. 3.65

Amount of Stamps affixed Rs. 3.65

प्राप्त किया गया/Received & Registered

प्राप्त करने वाले का नाम/Addressed to

प्राप्त करने वाले अधिकारी के हस्ताक्षर/Signature of Receiving Officer

कॉपी/No.

5214

20 984

तारीख/Date

10

प्राप्त करने वाले अधिकारी के हस्ताक्षर/Signature of Receiving Officer

HYDERABAD




भारतीय डाक-तार विभाग

INDIAN POSTS & TELEGRAPHS DEPARTMENT

अंतर्देशीय तार/Inland Telegram

संक्षेप में लिखने की शर्त 30 दिनों के भीतर प्रस्तुत की जानी चाहिए।
 Telegram completion should be preferred within 30 days from the date of booking

01 64 00150 0001650

सेवा निर्देश (जैसे प्रवादी, सरकारी, बगैर) Service Indication (to & Reply Paid, Steam Greetings)	प्रभार Charges R./Rs. P./P.	भारतीय तार अधिनियम और नियमों के अन्तर्गत प्रेषित। तार सेवा प्रदाता होने के इस तार का प्रेषण या वितरण प्रभावित होने पर उससे उत्पन्न होने वाली या उसके परिणामस्वरूप किसी हानि, क्षति या मुकदमा की उत्पत्ति से के लिए सरकार जिम्मेदार नहीं है। (Presented for transmission subject to Indian Telegraphs Act & Rules. The Government is not liable in such compensation for any loss injury or damage arising or resulting from any failure of service affecting transmission or delivery of the message.)	भेजने के कीरे Date Particulars	तार का चक्र  Date stamp
श्रेणी Class 0	समय Time	मूल स्थान Office of Origin	तारीख Date	सेवा का प्रकार S. I. अन्य Remarks

सेवा के लिए DIRECTOR
 BIRMINGHAM
 RAMDAS PATE
 NAGPUR-10

टेलिफोन नं./Telephone No
 टेलिग्राम नं./Telegraph No
 पिन कोड PIN Code

MOTHER NOT YET DISCHARGE. PLEASE EXTEND LEAVE TILL 7TH
 ARRANGE TO SEND C.G.H.S FAMILY CARD, DEMAND DRAFT OF
 SCOTTED ADVANCE AND SALARY CHEQUE = HALLER M =
 IMMEDIATELY BY RETURN OF POST TO (हॉलर/मॉलर)
 REACH NAGPUR

भेजने वाले का नाम/Sender's Signature: M A Heliam
 नाम/Name: M A Heliam
 पता/Address: 11 No 16-11-15/11/3
 Saleem Nagar Colony-51

तार से न भेजा जाए
 Not to be telegraphed

(कोई हानि या क्षति प्रेषण के लिए उत्तरदायी नहीं है।)
 (No liability for any loss or damage in transmission.)
 To enable quick delivery please indicate Telegram Code of the Addressee

(12)

BY REGISTERED POST ACK DUE

From:
M.A.Haleem
Jr. Hydrogeologist.

No. MAH/JHG/CGWBCR/leave-4
Hyderabad - A.P.
Dated: 10 Oct., 1984.

To

The Director,
Central Ground Water Board,
Central Region,
21, New Ramdaspet
NAGPUR - 440 010.

Respected Sir,

Sub:- Request for sanction of E.L for 28 days
from 10 Sept, 1984 to 07 Oct., 1984 to
attend brother's marriage and mother's illness -
(domestic affairs) - Reg.

Ref:- 1. My leave application MAH/JHG/CGWBCR/leave-4
dated: 05 Sept., 1984.
2. My telegram dt. 18 Sept., 1984.
3. My telegram dt. 01 Oct., 1984.


@ @ @

In continuation of my leave application reference
1st cited and Telegrams references 2 & 3rd cited, I am
enclosing herewith the leave application for sanction of
Earned Leave for 28 days from 10 Sept., 1984 to 07 Oct., '84
to attend my brother's marriage and mother's illness in
Hospital (Domestic affairs).

I will be very much thankful if your goodself do
the needful at once and arrange to send the leave salary
at an early date.

Thanking you Sir,

Yours faithfully,

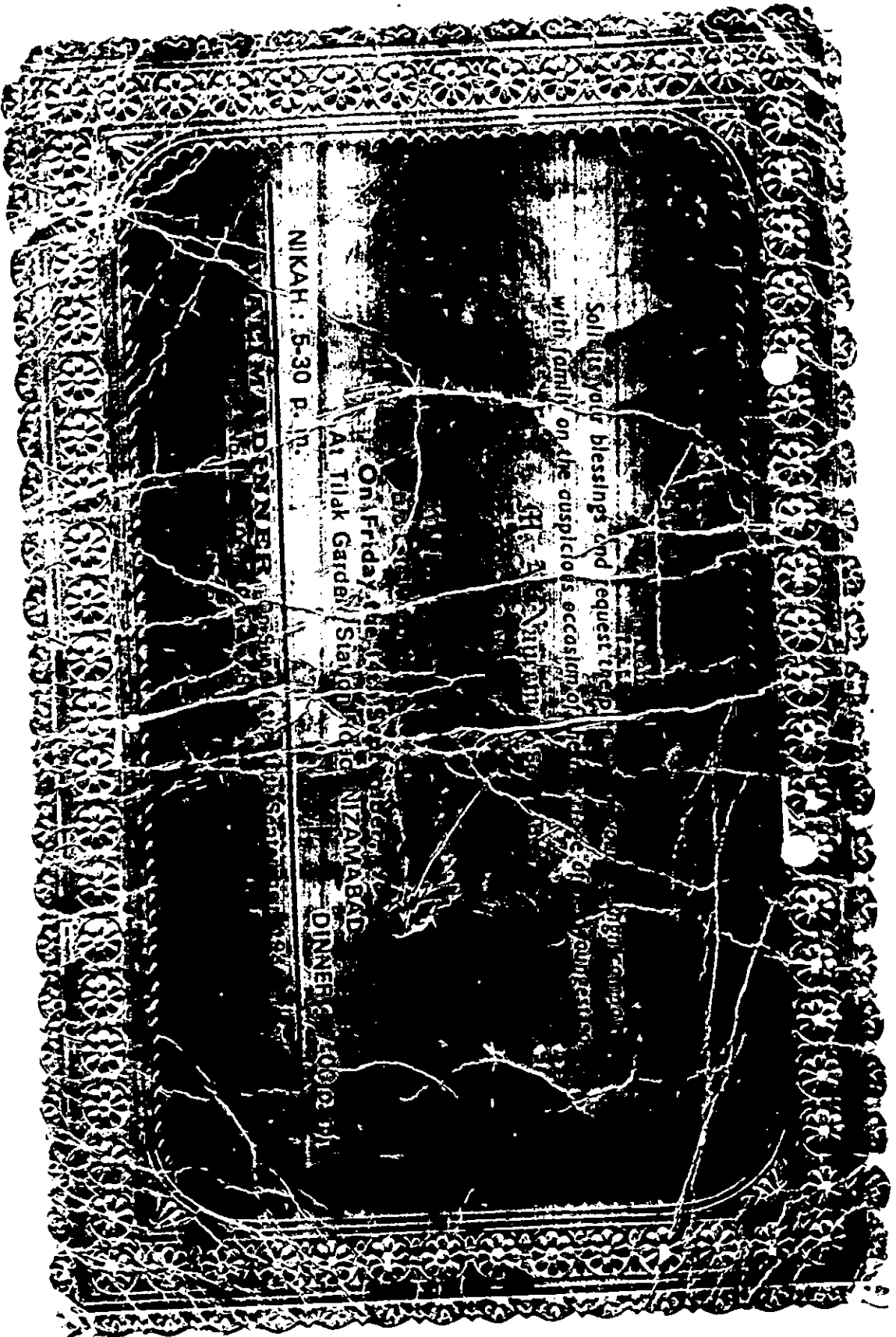

10 10 84
(M.A. HALEEM)

Jr. Hydrogeologist
Central Ground Water Board,
Central Region, Nagpur-10.

Encl: Leave form duly filled in.

LEAVE ADDRESS:

H.No. 16-11-15/4/3,
Saleemnagar Colony No.1,
P.O. Malakpet Colony,
HYDERABAD - 500 036.



124

FOLLOW-UP

DATE	NOTE	SIGNATURE
------	------	-----------

8.10.84

- ① Tab. Sodium Valproate
1 tablet, thrice daily
- ② Tab. Sclerobion
1 tab. , thrice daily
- ③ Tab. Encephabol 100mg.
1 tab. , thrice daily
- ④ Gng. Rectal 2cc; 1m., daily
- ⑤ Gng. Disabolin 25mg. , 1m.,
weekly once

⑥ To come for reviews after 2 weeks ~~OK~~

12.1.85

1 2 3 4 5
6 Laxyaol 1 2 5
+ 5)

Note to Patient: Please keep this card carefully and present it to the Doctor when you wish to get the service of the Hospital.



T 22/10/14 C.G.H.S.
G.C. SHROFF MEMORIAL HOSPITAL
 BARKATPURA, HYDERABAD.

No 0957

DISCHARGE TICKET

Specialist Incharge *Dr. R.M. Saboo*

Name of Patient *Ameena Begum* Age *68y* Sex *F*

Date of Admission *18th Sep '84* Date of Discharge *8th Oct '84*

Condition at Admission *Periods of unconsciousness and consciousness since a week*

Diagnosis *Cerebral Atherosclerosis & Mental changes & Epilepsy*

Investigations
Urine → (5-20 p.w.cells) N.P.F. R.D.S. 40mg/l, C.S.F. n.a.d.
Bl. urea 44mg/l, Urine cl. & sterile
 Treatment Given
I.V. fluids, Lasix, Decadron, F.C.G. → Within normal limits
 Condition at Discharge *Refected, Sodium Valproate, Epilam & phos., Sclerobion, Enterphabol,*

Advised *G.C. Fair*
 (P.T.O.)

[Signature]
 Signature of Medical Officer.

P.T.O.

: 2 :

I, therefore, request to your goodself kindly for grant me a years study leave with effect from 8th Oct., 1984 to 7th of Oct., 1985, to avail my self the opportunity offered to me by the Osmania University in the mutual interest of the self as well as the department. (in public interest)

I shall be further grateful for communication of an early sanction here in prayed for lest it should not put me to an irreparable loss. (both monetary and in carrer)

Thanking you Sir,

Yours faithfully,

M.A. Haleem
(M.A. Haleem)

Jr. Hydrogeologist
Central Ground Water Board,
Central Region, Nagpur-10.

Encl: Permission letter of the Ministry.

2. Vice-Chancellor Osmania University proceedings of admission.
3. Form No. 9 U/R 53(4) C.C.S. leave Rules.

Copy submitted to the Director, Central Ground Water Board, Central Region, Nagpur with a request to to recommend my case to the Chief Hydrogeologist & Member for needful consideration for which act of kindness I shall remain thankful to you Sir.

Advance copy submitted to the Chief Hydrogeologist & Member, Central Ground Water Board, NH-IV Faridabad, Hariyana to avoid delay please.

M.A. Haleem
(M.A. HALEEM)

Jr. Hydrogeologist

LEAVE ADDRESS:

Saiteemhagalli 15/4/3
P.O. Malakpet Colony
HYDERABAD 500 036.

124

BY REGISTERED POST ACK DUE

From:
M.A. Haleem
Jr. Hydrogeologist

No. MAH/JHG/84-85/SL-1
Hyderabad - A.P.
Dated: 10 Oct., 1984.

To:

The Chief Hydrogeologist & Member
Central Ground Water Board
MH IV Faridabad
HARIYANA - 121 001.

Respected Sir,

"THROUGH PROPER CHANNEL"

Sub:- Study Leave:- Intimation of admission to
Ph.D. course and request for sanction of
study leave with salary under Rules 50(1),
51(a), 53(4) and 56/2(a) of C.C.S. leave
Rules 1972 - Reg.

Ref:- 1. Your permission letter No. 3-402/75-UM Estt.
dated 20-12-1983.
2. Your Office order No. 2018 of 84 issued under
letter No. 10-1/83-CH (Estt)-76, dt. 16-6-84.
3. Proceedings of the Vice-Chancellor O.U.
No. FNE Ph.D./Ad-1984 - Session/DS/270
dated 21/25 July, 1984.

@ @ @

I am very much thankful to your goodself for according
me the permission to register my name for Ph.D. degree course
in Osmania University, Hyderabad vide reference 1st cited.

In pursuance thereof I applied and secured admission
in Ph.D. course in the Osmania University vide the reference
3rd cited (Zerom copy of which is enclosed for favour of
aform perusal and information).

I now submit in this connection that during the course
of my seeking admission in Ph.D. I had been transferred through
the reference 2nd cited from Southern Region, Hyderabad to
Central Region, Nagpur and in due obedience of the said orders
I resumed charge of my post at Nagpur on the forenoon of the
27th of August, 1984.

But for my transfer to Nagpur I would have been able
to persue my course of studies and research, without in any
way affecting my duties and exogencies of service, ~~and~~ I not
been distrubed from Hyderabad (by a/c) in a short spain of my
stay at Hyderabad.

However, as I had been transferred Nagpur, I may not
be able to successfully prosecute my studies and research work
in Osmania University. Hyderabad rule 50(1), 51(a), 53(4) and
56/2(a) of C.C.S. leave Rules 1972.

Contd...2/-

BY REGISTERED POST

From:
M.A. HALEEM,
Junior Hydrogeologist,
(On Study Leave)

No. MAH/JGH/84-85/SL-11
Government of India,
Central Ground Water Board,
Central Region,
NAGPUR - 10.

Dated: 20th Sept. 1985.

To:

The Chief Hydrogeologist & Member,
Central Ground Water Board,
NH-IV, Faridabad,
HARIYANA-121001.

"Through Proper Channel"

Respected Sir,

Sub:- Study Leave - Humble request for sanction
of Study Leave w.e.f. 08-10-1985 to 07-10-86
Under Rule 51 (b) of CCS Leave Rules of 1972
for a further period of 12 months as Second
half of 24 months -Regarding.

Ref:- 1) My leave applications even Nos. from 1 to 9.
2) My application No. MAH/JGH/84-85/SL-8,
dt. 27-06-1985.

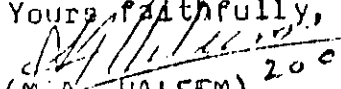
cited above are not yet considered; the reference 2nd
to extend my Study Leave for a further period of 12
months as Second half of the 24 months of Study Leave
w.e.f. 08-10-1985 to 07-10-1986. U/R 51 (b) of the CCS
Leave Rules of 1972.

As I have to appear for my pre-Ph.D examinations
going to be held in October, 1985 and the balance of
the work to be completed during the year 1985-86.

Hence I request to your goodself kindly to
sanction me the Study Leave Prayed w.e.f. 08-10-1985
to 07-10-1986 as Second half of the total 24 months
of Study Leave U/R 51 (b) of the CCS Leave rules
of 1972 or consider my request Prayed already in my
letter reference 2nd cited above as an alternative
for it.

Hope, this time your goodself will definitely
consider any of the alternatives prayed and will
approach higher ups to seek any legal advice or to
safeguard my fundamental rights given under Article 10th
of the Constitution.

Thanking you Sir,
PLACE: HYDERABAD-36

Yours faithfully,

(M.A. HALEEM) 20.09.85
Jr. HYDROGEOLOGIST.
p.t.o.

1. Advance copy submitted to the Chief Hydrogeologist & Member, Central Ground Water Board, NH-IV Faridabad, for favour of information to avoid delay and please.
2. Copy submitted to the Director, Central Ground Water Board, Central Region, Nagpur-440 010, with a request to transmit the same to CH & M for his consideration A/c.

(M.A. HALEEM)

128

By Registered Post/Ack.Due.

No. MAH/JHG/84-85/SL-27

From:

M.A. Haleem
Jr. Hydrogeologist
H.No. 16-11-13/4/3
Saleem Neger Colony No.1.
P.O. Malakpet Colony
HYDERABAD-500 036.

Dated: 4-10-1986.

To
The Chief Hydrogeologist & Member
Central Ground Water Board
NH.IV Faridabad
HARIYANA - 121 001.

(THROUGH PROPER CHANNEL)

Respected Sir,

Sub:- Study leave:- Extension of Study leave from 8-10-86
to 7-2-87 U/R 54/2 CCS leave Rules of 1972.

Ref:- 1) My application No. MAH/JHG/84-85/SL-1 dt. 10-10-84.
2) My leave application No. MAH/JHG/84-85/SL-11
dated 20-09-85.

...

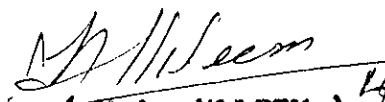
In continuation of my application references cited above
I am extending my study leave for 4 months from 8-10-86 to 7-2-87
U/R 54/2 rules of 1972 for completion of balance of work for
submission of my thesis. (I.U.).

1. Pumping test
2. Geophysical soundings V.E.S.
3. Infiltration test
4. Reduce levels.

the leave applied for a period of 4 months U/R 54/2 from 8-10-86 to
7-2-87 as (EOL) or what ever for eligible for which act of kindness,
I shall remain thankful to you Sir.

Thanking you,

Yours sincerely,


(M.A. HALEEM)
Jr. Hydrogeologist

P.T.O.

INDIAN POSTS AND TELEGRAMS
DEPARTMENT

VO

TELEGRAM NO.

B/14/14/12
1900/8
RIVER
(BF)
(AW)



MRS. MTS

M A HALEEM JUNIOR HYDRO GEOLOGIST NO
16-11-15/4-3 SALMAGAR COLONY NO
1 PO MALAKPT HYDERABAD

THIS MESSAGE

FIRST FOLD

NOTHING TO BE WRITTEN OR GUMMED IN

X 1500 P 200 NAGPUR 15 STE 36

YOUR REQUEST FOR STUDY LEAVE NOT RECOMMENDED (.)
REPORT FOR DUTY IS AT ONCE (.) WORK AFFECTED

DIRECTOR BHUMIJAL

SECOND FOLD

LN 108 P 200 16 11 15/4-3 DIRECTOR BHUMIJAL AS PER

"To enable quick delivery, please give the Telephone/Telex Number of the Addressee"

Note: Sequence of entries in this Telegram is—Class of Telegram, time handed in serial number office of origin, date service instructions (if any) number of words, text and sender's Name (if any). Particulars at the foot of the Telegram are for Departmental use only.

This telegram must accompany any enquiry relating to this Telegram within 30 days of the date of receipt.

F.NO. 6(1)/84-Vig.
Government of India
Ministry of Water Resources

New Delhi, the 2nd February 1986

ORDER

WHEREAS Shri M.A. Haleem, Junior Hydrogeologist, Central Ground Water Board was informed of the proposal to hold an inquiry against him under rule 14 of the Central Civil Services (Classification, Control & Appeal) Rules, 1965 vide this Ministry's Memorandum No. 6/1/84-Vig. dated the 1st January, 1986 for the following charges:-

ARTICLE OF CHARGES

"Shri M.A. Haleem, while functioning as Junior Hydrogeologist, Central Ground Water Board, Central/Region Nagpur, absented himself from duty with effect from 10.9.84 to date unauthorisedly without proper approval or sanction of the competent authority.

By his aforesaid act Shri M.A. Haleem, has shown lack of devotion to duty and has behaved in a manner unbecoming of a Government servant, and of the Central Civil Services (Conduct) Rules, 1964."

Statement of imputation of misconduct and misbehaviour in support of article of charges and lists of documents and witnesses by which the charge was proposed to be sustained were also forwarded with the aforesaid Office Memorandum.

AND WHEREAS, the aforesaid Memorandum dated 1st January, 1986 was acknowledged by Shri M.A. Haleem and he submitted his defence statement denying the charges vide his letter No. MAH/JHG/85-86/MWR/Conf-2 dated the 4th February, 1986 and desired to be heard in person.

AND WHEREAS it was decided to hold an inquiry for which an Inquiring Authority was appointed vide this Ministry Order No. 6(1)/84-Vig.(i) dated the 10th March, 1986 to inquire into the charges levelled against to present the case in support of the charge was also appointed simultaneously.

5. AND WHEREAS, as required under the Rules, the advice of the Union Public Service Commission has also been obtained as per their letter No. F.3/144/86-SI dated the 6th October, 1988. (copy enclosed).

6. AND WHEREAS, the Disciplinary Authority, having examined the records of the case including the report of the Inquiry Officer, evidence adduced during the Inquiry and the advice of the Union Public Service Commission, observed that Shri Haleem was transferred from Southern Region, Central Ground Water Board, Hyderabad, to Central Region, Central Ground Water Board, Nagpur vide order dated 16.6.1984. Shri M.A. Haleem was relieved from Southern Region on 16.8.1984 and transferred to Central Region, Nagpur, Central Ground Water Board where he joined duty on 27.8.1984. He took some casual leave in September, 1984. From 7.9.1984 to celebrate Id-ul-Zuha function with his family at Hyderabad and thereafter, instead of joining duty ground that his extension of leave upto 7.10.1984 on the leave was not granted to Shri Haleem and he was asked to join duty at Nagpur vide telegram dated the 9th October, 1984. Shri M.A. Haleem did not join his duties but subsequently sent an application dated 10.10.1984 asking for grant of earned leave from 10.9.1984 to 7.10.1984 because of his mother's illness and brother's marriage and in another application dated 10.10.1984 Sh. Haleem asked for study leave from 8.10.1984 to 7.10.1985. He was request-~~for~~ informally informed on 15.10.1984 that his report back to duty at once. Shri Haleem ignore should instructions as also the repeated advice of his Director dated 30.11.1984, giving him final notice to report for duty by 15.12.1984, otherwise he would be liable for disciplinary action. Shri Haleem expressed his inability to join duty stating that he was doing Ph.D. course in Osmania University on mutual interest and benefit to the department. In his defence Shri Haleem claimed that when he joined at Nagpur on 27.8.1984, it was his sixth Id-ul-Zuha at Hyderabad with his family in four years. It was also ~~stated~~ second to Nagpur in four years. his mother's health was very poor and that being the eldest son, in deference to her wishes, he had to perform the marriage of his younger brother. Moreover, Osmania University at Hyderabad had granted him admission to Ph.D. Course, permission for which had been given by

the Ministry earlier on 7.12.1983 much before he joined at Nagpur.

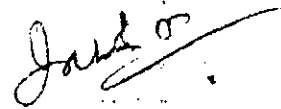
7. The Disciplinary Authority has observed that while applying for permission for registration in the Ph.D. course, Shri Haleem had clearly stated that he would utilise his free time in the study of Ph.D. and that it would not affect the departmental work nor it would interfere with discharging his duties. Since he had asked for permission to register himself as an external candidate and had given the above assurances, permission was granted to him in December, 1983 subject to the condition that his pursuit of studies for Ph.D. would not interfere with his official work in any way and that the grant of leave for fulfilling the residential requirements would be subject to exigencies of Government work. Thereafter he was transferred from Hyderabad to Nagpur, where he joined on 27.8.1984. Despite the fact that permission allowed to him was subject to aforesaid conditions, Shri Haleem secured admission for Ph.D. course in Osmania University, Hyderabad, as a regular student. For the admission, the University authorities had also stipulated a condition that all the non-teacher candidates, who are otherwise employees, should take leave under the rules, or otherwise their admission would be cancelled. The study leave asked for by Shri Haleem subsequently for this purpose, was not granted by the competent authority and he was asked to report for duty. Notwithstanding that, he pursued the Ph.D. course, which according to the University admission condition, as mentioned above, could not have been possible had he revealed the correct position that the Government had not sanctioned him leave for the course, and remained absent from duty unauthorisedly.

from Hyderabad, he could not have performed his official duties as well as undergone the Ph.D. course, since the University Rules, require that a Ph.D. scholar has to be a regular student and has to produce a certificate that he is on leave from the Department. Shri Haleem had been given important work at Nagpur with certain target dates. As a loyal Government servant he should have looked to the interest of the Government rather than remaining away from Nagpur on some grounds or the other. Moreover, the fact that he secured admission in the Ph.D. course and completed the same, in spite of clear University Rules that the official seeking admission for that should be on approved study leave, clearly establishes that he is guilty of suppressing the information from the Osmania University that he was not on study leave, which reflects on his integrity. The Disciplinary Authority is thus fully convinced that Shri Haleem wilfully charge of absents from duty unauthorisedly without

proper approval or sanction of the competent authority thereby showing lack of devotion to duty and behaving in a manner unbecoming of a Government servant, is fully proved against Shri M.A. Haleem. The Disciplinary Authority, therefore, concluded that Shri M.A. Haleem is not a fit person to be retained in Government service and that a major penalty under Central Civil Services (Classification, Control & Appeal) Rules, 1965 is warranted in his case.

9. NOW THEREFORE, the President being the Disciplinary Authority in exercise of the powers conferred on him under Rule 15 of the Central Civil Services (Classification, Control & Appeal) Rules, 1965 hereby imposes upon Shri M.A. Haleem, Junior Hydrogeologist, Central Ground Water Board the major penalty of "Compulsory Retirement" as specified in clause (vii) of Rule 11 ibid and the said Shri M.A. Haleem, Junior Hydrogeologist, Central Ground Water Board stands compulsorily retired from Government service with effect from the afternoon of the date of the issue of this order.

(By order and in the name of the President)



(JOGINDER SINGH)

DEPUTY SECRETARY TO THE GOVERNMENT OF INDIA.

Office Order File.

Copy to:-

- ✓ 1. Shri M.A. Haleem, Junior Hydrogeologist, Central Ground Water Board (through Chairman, CGWB) along with a copy each of:-
 - i) advice given by the Union Public Service Commission vide their letter No. F-3/144/86-SI dated 6.10.1988; and
 - ii) The report of the Inquiring Authority dated 28.8.1986.
2. Chairman, CGWB, Krishna Bhavan, New Delhi. It is requested that the enclosed order meant for Shri M.A. Haleem may please be arranged to be delivered to him and the acknowledgement thereof be sent to this Ministry for reference and record.

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118
BY REGD. A/D

Received 26-4-1991
M. Haleem
26-4-1991
J.H.S.
NO. 6/6/89-Vig.
Government of India
Ministry of Water Resources

New Delhi, the 19 July, 1991.

To

Shri M.A. Haleem,
House No. 16-11-15/4/3,
Saleemnagar Colony No. I,
P.O. Malakket Colony,
Hyderabad - 500 036 (AP).

Subject :- Disciplinary Proceedings initiated against
Shri M.A. Haleem, former Junior Hydrologist,
Central Ground Water Board.

Sir,

I am directed to refer to your telegram dated 4.6.91 in which you have requested the Ministry to forward a copy of Order No. 6/6/89-Vig. dated 24.4.1991, and to say that Ministry's Order No. 6/6/89-Vig. dated 24.4.1991 was sent to you earlier by Registered Post but the same was received back undelivered, to the Ministry, after a long time from the Postal Authorities.

However, as now requested by you in your aforesaid telegram, I am forwarding another Photo copy of the Order No. 6/6/89-Vig. dated 24.4.1991, alongwith its enclosures for enabling you to make a representation, if any, within 15 days from the receipt of this communication. In case no representation is received within the stipulated period, it will be assumed that you have got no representation/ submission to make in the matter and the case shall be processed further.

Yours faithfully,

Joginder Singh

(Joginder Singh)
Deputy Secretary to the Government of India
&
Chief Vigilance Officer.

4/35/73
2/25
Encl: As above.

136/89-2

No. 6(1)/89-Vig.
Government of India
Ministry of Water Resources

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New Delhi, the 21 April, 1991.

O R D E R

WHEREAS in the disciplinary proceedings initiated against Shri M.A. Haleem, former Junior Hydrogeologist, Central Ground Water Board vide Memorandum No. 6(1)/84-Vig. dated 1.1.1986, the major penalty of 'Compulsory Retirement' was imposed upon him by the President vide Ministry of Water Resources Order No. 6(1)/84-Vig. dated 2.2.1989.

2. AND WHEREAS, after hearing the OA No. 403/89 filed by Shri M.A. Haleem challenging the said order of the President of India in the Ministry of Water Resources Order dated 2.2.1989, the Hyderabad Bench of the Hon'ble Central Administrative Tribunal vide their judgement dated 1.1.1991 quashed the order dated 2.2.1989 imposing the penalty of 'Compulsory Retirement from service' on Shri Haleem mainly on the ground that imposing the said punishment without furnishing him a copy of the Inquiry Officer's Report is vitiated. The Hon'ble Tribunal, however, left it open to the disciplinary authority to consider the matter afresh after giving him an opportunity to make a representation against the report of the Inquiry Officer and the opinion of the Union Public Service Commission. The other related matter such as whether disciplinary proceedings should be necessarily continued or not against Shri Haleem, order for deemed suspension under sub-rule 4 of Rule 10 of Central Civil Services (Classification, Control & Appeal) Rules should be passed or he should be re-instated in service, were left by the Hon'ble Tribunal to the discretion of the disciplinary authority.

3. AND WHEREAS, in pursuance of the orders of the Hon'ble Tribunal and after carefully considering the facts relevant to the case, the President, decides as under, and orders accordingly :-

- (i) That the Ministry of Water Resources Order No. 6(1)/84-Vig. dated 2.2.1989 Compulsorily Retiring Shri M.A. Haleem from Government service be cancelled;
- (ii) That, the disciplinary proceedings are continued against Shri M.A. Haleem under Rule 1 of the Central Civil Services (Classification, Control & Appeal) Rules, 1966;
- (iii) That, in terms of the provisions of Rule 10(1) of the CCS (CCA) Rules, 1966 Shri M.A. Haleem is deemed to have been placed under suspension, with effect from 2.2.1989 i.e. the date of the original Order imposing on Shri Haleem the penalty of compulsory retirement from service, until further orders. During the period of suspension, Shri M.A. Haleem will be entitled to payment of subsistence allowance as per provisions of FR 38. The question of regularising the said period of suspension will be considered in the light of final order that may be eventually be passed in this case by the Disciplinary Authority under the relevant rules; and

- (iv) Shri M.A. Haleem be given a copy each of the inquiry officer's report as well as the Union Public Service Commission's advice in this matter to enable him to make a representation, if any, which should be submitted to the disciplinary authority within 30 days from the receipt of this communication. In case no representation is received within the stipulated period, it should be assumed that Shri Haleem has got no representation/submissions to make in the matter and the case shall be processed further for issuing fresh order(s) on the basis of the available facts.

4. NOW, THEREFORE, a copy each of the Inquiry Officer's report and the Union Public Service Commission's letter No. F. 3/144/88-SI dated 6.10.88 is also hereby sent to Shri Haleem for enabling him to make a representation, if any, thereagainst, within the above stipulated period.

By Order and in the name of the President of India.

(J.K. Marwaha)

Under Secretary to the Government of India

Encl: Copy of 1. Inquiry Officer's report
and 2. UPSC's letter No. F.3/144/88-SI
dated 6.10.88 containing Commission's
advice

OFFICE ORDER FOLDER

Copy to:

1. Shri M.A. Haleem S/O M.A. Raheem,
R/O Saleemnagar Colony,
Junior Hydrogeologist, OGBS,
Central Region, BANGPUR - 440 010
2. Chairman, Central Ground Water Board, New Delhi.
3. Ground Water (Desk) with two spare copies for issuing orders regarding subsistence allowance admissible to Shri M.A. Haleem during the period of his suspension as per the provisions of T.C. 33 etc.
3. The Secretary, UPSC, Dhola House, New Delhi with reference to their letter No. F.3/144/88-SI dated 6.10.88

(J.K. Marwaha)

Under Secretary to the Government of India

1427/86-49

(138)

Government of India

Confidential
Registered Parcel

Central Ground Water Board,
*North Western Region,
S.C.O. 3, Sector 26,
Chandigarh-160026.

No. Conf-1/NWR/Vig/86-11642

Dated: 28.8.86

To

Shri A. Rajgopalan,
Deputy Secretary (Vigilance),
Ministry of Water Resources,
Shram Shakti Bhavan,
Rafi Marg, New Delhi-110001.

Sub: Inquiry against Shri M.A. Haleem, Jr. Hydrogeologist,
Central Ground Water Board.

Sir,

I am to enclose herewith two copies of my report on the enquiry held. Both the copies of the report contain as appendices, the following.

1. Bio data of charged officer in form 1.
2. Details in form 5.
3. Daily order sheet for 22nd and 23rd July, 1986.
4. Complete proceedings i.e. statements as emerged during the enquiry on 22nd and 23rd July, 1986.
5. Statement made by Shri M.A. Haleem, Jr. Hydrogeologist (SFC) - the first copy contain all the enclosures given by Shri Haleem along with his statement.
6. Statement made by Shri R. Venkatraman, Director, CGWB, Central Region as Prosecution witness.
7. Brief furnished by Presenting Officer Shri Jatinder Kumar.
8. Brief furnished by Defence Assistant Shri S.S.A. Quasim Haque.
9. Certificate by Shri M.A. Haleem for having examined the documents which were presented as evidence against him.

It may be mentioned here that Article of charge, statement of imputations of misconduct, list of documents by which the articles of charge were to be proved, copy of memorandum addressed to S.P.S. and orders appointing the Inquiry Officer are already available with the Ministry.

All copies of correspondence as received and replied by me are endorsed to the Ministry.

Yours faithfully,

(Signature)
(N.C. BHATNAGAR)

Director, CGWB & Inquiry Officer

Encl: as above.

Forwarded for information to the Chief Hydrogeologist & Member,
Central Ground Water Board, Jamnagar House, Mansingh Road, New Delhi.

(N.C. BHATNAGAR)

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REPORT OF THE INQUIRY OFFICER ON THE CHARGES FRAMED AGAINST
SHRI M.A. HALEEM, JR. HYDROGEOLOGIST, CENTRAL GROUND WATER BOARD

I, N.C. Bhatnagar, Director, Central Ground Water Board, North Western Region, Chandigarh was appointed an Inquiry Officer, to enquire into the charges framed against Shri M.A. Haleem, Jr. Hydrogeologist, Central Ground Water Board by the Appointing Authority vide confidential orders under No.6(1)/84-Vig(i) dated 10th March, 1986, issued by the Ministry of Water Resources, Govt. of India, New Delhi.

The article of charge against Shri M.A. Haleem read as follows.

"Shri M.A. Haleem while functioning as Jr. Hydrogeologist, Central Ground Water Board, Central Region, Nagpur, absented himself from duty with effect from 10.9.1984 to date unauthorisedly without proper approval or sanction of the competent authority.

By his aforesaid act Shri M.A. Haleem, has shown lack of devotion to duty and has behaved in a manner unbecoming of a Government servant and thereby violated the provisions of Rule 3 (i) (ii) and (iii) of the Central Civil Services (Conduct) Rules, 1986."

Before instituting the inquiry under Rule 14 of C.C.S. (CCA) Rules, 1965, the Appointing Authority, had gone through the prescribed regulations by issuing the confidential memorandum No.6(1)/84-Vig. dated 1st January, 1986, through the Ministry of Water Resources, along with the Article of charge, Statement of Imputations of misconduct and misbehaviour in support of article of charge, list of documents by which the articles of charge framed were proposed to be sustained, and list of witnesses by whom the article of charge framed was proposed to be sustained.

A brief description of the case is as follows.

1. Shri M.A. Haleem was transferred from Southern Region, Hyderabad to Central Region, Nagpur.
2. Shri Haleem, handed over the charge of his office at Hyderabad on 16th August, 1984.
3. Shri Haleem, took over the charge of his office at Nagpur on 27th August, 1984.
4. Shri Haleem proceeded on casual leave for 10th and 11th August, 1984 with permission to leave station to celebrate the religious festival of Id-ul-Zuha with permission to suffix the closed holidays on 7th, 8th and 9th September, 1984 and left his headquarters Nagpur on 6th September in the evening.
5. Shri Haleem should have joined his duties on 12th September, 1984 at Nagpur.
6. Shri Haleem sent a telegram on 18th September, 1984 with the request to extend his leave upto 30th September (naturally the leave to be treated as earned leave).
7. Shri Haleem who should have joined his duties on 1st October, 84 again did not join the duties and sent a telegram on 1st October 1984 to extend the leave up-to 7th October, 1984.

- Shri Haleem sent a formal application for earned leave w.e.f. 10th September to 7th October, 1984 on 10th October, 1984.
9. Shri Haleem applied for study leave separately also on 10th October, 1984 for a period of one year, in continuation of his earned leave applied till 7th October, 1984.
 10. Director, Central Region sent a telegram on 9th October, 1984 which was received by Shri Haleem on 10th October, 1984 which ordered him to report immediately as the work was suffering.
 11. Director, Central Region again sent a telegram on 15th October, 1984 to Shri Haleem, saying that study leave applied for has not been recommended and report for duties at once as work was getting affected.
 12. Shri Haleem did not pay heed to the orders of the Director communicated through the two telegrams, as also subsequent orders issued by the Chief Hydrogeologist & Member, CGWB instead he extended his study leave for another year.
 13. Disregard of the orders of superior authorities resulted in the issue of the memorandum alongwith the article of charge by the Ministry of Water Resources through which this inquiry was conducted.

The Inquiry was held at the office of the Director, Central Region, Central Ground Water Board, at Nagpur on 22nd and 23rd July, 1986. The Prosecution case was presented by Shri Jatinder Kumar, Senior Administrative Officer, CGWB (PO). Shri M.A. Haleem, Jr. Hydrogeologist as suspected public servant (SPS) assisted by Shri Quasim-ul-Haq as his Defence Assistant were present to defend the case. Shri R. Venkatraman, Director, Central Ground Water Board, deposed before the Inquiry Officer as a Prosecution witness.

From a perusal of the case as recorded through the daily proceedings, I am of the opinion that the contention of Shri Haleem (SPS) that he was not aware of his extension of leave having been denied by the Director, Central Region, is correct, more so because he was paid his salary till the month of September, 1984 and his other arrears sent to his home address. I am of the opinion that Director, C.R. Nagpur failed to inform Shri Haleem (SPS), on time, that his extension of leave beyond 11th August, 1984 which was duly sanctioned by him, is not sanctioned/allowed and that he should report for duty by a specified date. Director CGWB, Central Region only sent a telegram on 9th October, 1984 i.e. a day after Shri Haleem (SPS) should have joined the duties (8th Oct. 1984) implying therewith that he had no objection in granting him leave upto 7th October, 1984 but now he should join duties. I, therefore, recommend that the leave as applied for till 7th October, 1984 and as admissible be sanctioned and his absence upto 7th October, 1984 be regularised.

My first observation and recommendations would require a change in the date of unauthorised leave by Shri Haleem and the same would now be 8th October, 1984 i.e. from the date he applied for study leave.

Shri Haleem's contention that the leave was approved by the Ministry is not correct. The Ministry only authorised him to join Ph.D. classes, and the case for leave was only to be considered, if and when applied, depending upon the exigencies of work. Permission to join classes/course does not imply that leave would be sanctioned and it certainly does not permit an officer to take it for granted that the leave would be sanctioned at the asking of it and he can proceed without

caring for the orders of his superior authorities. The telegrams from the Director, Central Region, saying that his study leave has not been recommended and that he should report for work should have been, reason enough for Shri Haleem (SPS) to return to his Headquarters (Nagpur) to join his duties, which he failed to even after receiving orders from the Chief Hydrogeologist & Member, Central Ground Water Board.

Shri Haleem's (SPS) contention that had he been allowed to continue at the office of the Director, Southern Region, Central Ground Water Board, Hyderabad he could have continued his Ph.D. course as well as attended to his official duties is also not correct. The University rules clearly say that the course would be pursued only as a Regular student and that any officer would have to produce a certificate of his being on leave to be a regular scholar. Thus Shri Haleem (SPS) could not have joined the course of his studies from Hyderabad also without proceeding on leave. This rebuts the charge of his Defence Assistant made on his transfer from Hyderabad to Nagpur.

Shri Haleem's (SPS) contention is that he was perusing the course of Ph.D. for mutual advantage i.e. his as well as that of the Department. Any mutual benefit would require the agreement of two parties. One party in this case being Shri Haleem (SPS) the order being Central Ground Water Board. By denying study leave to Shri Haleem the C.G.W.B. clearly implies that the exigencies of the work assigned to Shri Haleem takes precedence over his studies for Ph.D. and any ensuing advantage from the same. No body can force an advantage unless accepted/recognised by another party also and therefore, Shri Haleem's (SPS) contention of the advantage / benefit to the Department does not hold good.

Shri Haleem (SPS) joined the Ph.D. course on 24th August, 1984, after handing over charge (16th August, 1984) of his office at Southern Region, Hyderabad and before joining on 27th August, 1984, at Central Region, Nagpur.

His being aware of the fact that while being posted at Nagpur, he would have to take study leave to pursue his course of studies, he should not have joined the course, till such time that he had joined at Nagpur, apprised his Director and applied for leave and the same was sanctioned. Agreed that Director, Southern Region, where Shri Haleem was posted was aware about his intentions of joining Ph.D. course, but it was his duty to have informed his Director at Nagpur of the permission for joining Ph.D. granted by the Ministry, since after his transfer from Southern Region to Central Region, Director, Southern Region does not come into picture.

Shri Haleem (SPS) was aware of the work programme allotted to him and its importance immediately after his joining the Central Region at Nagpur. The work programme which is targeted required his being on duty and the shortage of officers precluded any possibility of recommending his study leave by the Director.

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In fact Shri Haleem (SPS) and his Defence Assistant had, no valid arguments to offer to consider his unauthorised absence as otherwise. I am, therefore, convinced that Shri Haleem (SPS) without regard to the official procedures continued to be on unauthorised leave, always granting himself the privilege knowing fully well that the privilege belonged to his higher authorities. That provisions exist under the rules to grant study leave along with the earned leave does not imply that leave would be granted since leave is very clearly said not to be a matter of right. Absenting continuously against the orders of the superior authority certainly tantamounts to be behaving in a manner unbecoming of a Government servant, and I am convinced Shri Haleem (SPS) did that with impunity and remained on unauthorised leave w.e.f. 8th October, 1984, knowing fully well that exigencies of work required his presence at his headquarters.

H.C. Bhatnagar
28.8.1984

(H.C. BHATNAGAR)
DIRECTOR
CENTRAL GROUND WATER BOARD
&
INQUIRY OFFICER

No. 50(R)/7

संघ लोक सेवा आयोग

धौलपुर हाउस

शाहजहाँ रोड

UNION PUBLIC SERVICE COMMISSION

(SANGH LOK SEVA AYOG)

DHOLPUR HOUSE

SHAHJAHAN ROAD

नई दिल्ली-110011 6-10-88
New Delhi-110011

The Secretary to the Govt. of India,
Ministry of Water Resources,
New Delhi

(Attention: Shri Joginder Singh, Deputy Secretary)

Subject: Shri M.A. Haleem, Junior Hydrogeologist, Central
Ground Water Board - Disciplinary proceedings
against.

Sir,

I am directed to refer to your letter No. 3(1)/84-
Vig. dated the 30th May, 1988 on the subject mentioned above,
and to convey the advice of the Commission as under.

2. In a memorandum dated 1.1.1986 along with charge
sheet etc. issued under Rule 14 of the CCS (CCA) Rules,
1965; Shri Haleem, Junior Hydrogeologist, Central Ground
Water Board, was called upon to answer the following charge:

"Shri M.A. Haleem, while functioning as Junior
Hydrogeologist, C.C.W.B., C.R. Nagpur, absented himself
from duty with effect from 10.9.1984 to date unauthoris-
edly without proper approval or sanction of the
competent authority.

By his aforesaid act Shri M.A. Haleem, has shown
lack of devotion to duty and has behaved in a manner
unbecoming of a Government servant and thereby
violated the provision of Rule 3(1) (ii) & (iii) of
the Central Civil Services (Conduct) Rules, 1964."

3. In his reply dated 4.2.1986 Shri Haleem denied the
charge and desired to be heard in person. The Inquiring
Authority was, therefore, appointed to enquire into the
charges. The Inquiry Officer so appointed, submitted his

Contd:....2/-

report on 28.9.1986, according to which the charge of unauthorised absence was fully proved against Shri Haleem. The Disciplinary Authority, after going through the facts of the case and findings of the Inquiry Officer, held the charge proved against Shri Haleem. The Ministry of Water Resources have accordingly forwarded the records of the case to the Commission for advice as to the orders to be passed by the President in this case.

4. The records of the case have been examined by the Commission carefully as follows:

4.1 The case is that Shri Haleem was transferred from Southern Region, Hyderabad to Central Region, Nagpur, vide order dated 10.6.1984. He was relieved from Southern Region on 18.8.1984 and he joined duty in the Central Region at Nagpur on 27.8.1984. He took some casual leave in September, 1984 from 7.9.1984 to celebrate Id-ul-Zuha function with his family at Hyderabad. He did not join duty thereafter and sought extension of leave upto 7.10.1984 on the ground that his mother was ill. The extension was not granted and he was asked to join duty at Nagpur vide telegram dated 9.10.1984. He did not join and subsequently in an application dated 10.10.1984 he requested for grant of earned leave from 10.9.1984 to 7.10.1984 because of his mother's illness and brother's marriage and in another application of the same date (10.10.1984) he asked for study leave from 8.10.1984 to 7.10.1985. He was again informed telegraphically on 15.10.1984 from the Nagpur Office that his study leave was not recommended and that he should report for duty at once. Shri Haleem ignored these instructions as also the repeated advice of his Director dated 30.11.1984, giving him final notice to report for duty by 15.12.1984, otherwise he would be liable for disciplinary action. Shri Haleem expressed his inability to join duty stating that he was doing Ph.D in mutual interest and benefit to the Department. In this manner he continued to remain on unauthorised absence and the charge-sheet dated 1.1.1986 was issued.

4.2 In his defence, Shri Haleem has claimed that when he joined at Nagpur on 27.8.1984, it was his sixth transfer in nine years and second to Nagpur in four years. He has further stated that when he went to Hyderabad in September, 1984, his mother's health was very poor. As he was the eldest son, in deference to the wishes he had to perform the marriage of his younger brother. Therefore, he could not join duty. Moreover, Osmania University at Hyderabad had granted him admission to Ph.D Course, permission for which had been given by the Ministry earlier on 7.12.1983 - much before the date he joined at Nagpur.

4.3 On going through the records of the case, the Commission find that Shri Haleem ignored repeated instructions from the Director at Nagpur to rejoin duty and that he

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wilfully ignored the various telegrams and other notices sent to him. The Commission observe that even if he had been granted permission earlier to undertake the Ph.D course, subsequently in the exigencies of service which should be the prime consideration of all Govt. servants-he should not have joined the Ph.D course without due authority and approval. They further observe that even if he had been allowed to remain at Hyderabad in the Southern Region, he could not have performed his official duties as well as undergone the Ph.D course since the University Rules require that a Ph.D Scholar has to be a regular student and has to produce a certificate that he is on leave from the Department. Shri Haleem had been given important work at Nagpur with certain target dates. As a loyal Govt. servant, he should have looked to the interest of the Govt. rather than remaining away from Nagpur on some grounds or the other. The Commission have taken a serious view of the unauthorised absence of Shri Haleem for such a long period from 10.9.1984 to 17.3.1987, i.e. nearly two and a half years. Moreover, he suppressed the information from the Osmania University that he was not on study leave which reflects on his integrity.

4.4 In the light of their findings as above and taking into account all other factors relevant to the case, the Commission consider that the ends of justice will be met in this case if the penalty of "compulsory retirement" is imposed on Shri H.A.Haleem. They advise accordingly.

5. The records of the case as per the list attached are returned herewith. The receipt of the same may kindly be acknowledged.

Yours faithfully,

K. K. Srinivasan

(K. KOSRINIVASAN)
UNDER SECRETARY
UNION PUBLIC SERVICE COMMISSION
TELE: 382663

Encls:

1. Three spare copies of this letter.
2. Case records as per list attached.

(146) 22
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List of documents returned with Union Public Service
Commission letter No. F.3/144/88-S.I dated

1. F.No.6(1)/84-Vig. cp 1-191
consisting:
 - i) Charge-sheet cp 50 to 56
 - ii) Inquiry report cp 87 to 90
 - iii) Defence statement cp 65 to 66
2. F.No.3-402/75-CH-EZA (Vol.1) page no. 1 to 78
notes 1 to 382
3. -40- (Vol.II) page no.1 to 69/corr.
4. F.No.35-164/78-MIA Notes page no.1 to 11
page no. 1 to 44/corr.
5. Service particular.

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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL HYDERABAD BENCH AT HYDERABAD

O.A.NO. 52/92.

Date of Order: 30-1-92.

Between:

M.A.Haleem

and

.. Applicant.

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1. Chairman, Central Ground Water Board,
Jamunagar House, New Delhi - 110 011.
2. Under Secretary to the Govt. of India,
Ministry of Water Resources,
New Delhi.

.. Respondents

For the Applicant: Mr. K. Sudhakar Reddy, Advocate.

For the Respondents: Mr.M.Jaganmohan Reddy, Addl. CGSC.

CORAM:

THE HON'BLE MR.C.J.ROY : MEMBER(JUL)

The Tribunal made the following Order:-

Heard Sri K.Sudhakar Reddy, counsel for the applicant
and Sri M.Jaganmohan Reddy, learned counsel for the Respondents.

2. This is a case where subsequent to the directions issued by this Tribunal, the Respondents have chosen to place the applicant under deemed suspension, whereas he was not originally placed under suspension during the pendency of the enquiry. In view of the decision rendered in *Kemchand Vs. Union of India* (AIR 1963 SC 687), which was followed by other Benches of the Central Administrative Tribunal, the case is admitted.

3. In view of the judgment cited supra, para 3(iii) of the Order No.6(6)89-Vig. New Delhi, dt. 24-4-91, is hereby suspended.

4. Issue notice to the Respondents. The respondents are directed to file their reply within 14 days with a copy to the learned counsel for the applicant. Sri K.Sudhakar Reddy, learned counsel for the applicant may file a Rejoinder with an advance copy to the counsel for the respondents, if any.

5. List the case on 13-2-1992.

RECEIVED TO DEPT. COPY
[Signature]
Court Officer
Central Administrative Tribunal
Hyderabad Bench
Hyderabad.

Sd/-A.Mohan Krishnaiah
Deputy Registrar(J)

- To
1. The Chairman, Central Ground Water Board,
Jamunagar House, New Delhi-110 011.
 2. Under Secretary to the Govt. of India, Ministry of Water Resources,
New Delhi.
 3. One copy to Mr.K.Sudhakar Reddy, Advocate, CAT.Hyd.Bench.
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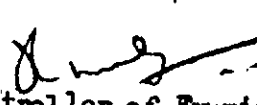
No. 57/Ph. D./M.Phil./Exams/91

Dated: 8-10-91

PRESS NOTE

The following candidates who had presented the thesis/dissertation on the subject mentioned against each for the degree of Ph.D./M.Phil. are declared qualified for the award of Degree of Doctor of Philosophy(Ph.D.)/Master of Philosophy(M.Phil) of Osmania University, Hyderabad.

Sl.No.	Name of the Candidate	Subject	Title
<u>Ph.D.</u>			
1.	Ms. K. Bhaskaramma	Pol. Science.	"Political awareness and political participation of scheduled caste women A case study of Telangana region in Andhra Pradesh"
2.	Mr. Syed Mohammed Ashraf	Chem. Tech.	"Phase equilibria & activity coefficient"
	Mr. Syed Dastagir Pasha	Economics	"The co-operatives and agricultural development in Andhra Pradesh"
4.	Mr. Jai Kishan	Hindi	"Nagarjun ke sahitya mein Marxwadi chetna"
5.	Mr. Md. Abdul Haleem	Geology	"Geological & Hydrogeological investigations in parts of Godavari valley in Sathupally & Ashwaraopet taluks of Khammam Dist. Andhra Pradesh"
6.	Mr. Ashvini Kumar	Chemistry	"Synthesis and X-Ray crystallographic data studies of isomers of 2-phenyl 4-Aryldine-5(4H)-oxazolones"
7.	Ms. Varsha sane Godbole	Psychology	"An exploratory study of the psychological profile of talented musicians"
8.	Ms. K. Raj Lalitha	Telugu	"Kshetravya Sahityamu-Samagra Parishheelanamu"
<u>M.Phil.</u>			
1.	Ms. A. Padma	Economics	"Commodity Taxation in A.P. (1980-81 to 1989-90)"
2.	Mr. G. Sudhakar	English	"Fantasy and realism in the novels of James purdy"


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1. The Candidate Mr. Md. Abdul Haleem
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Gibberman

(L. Gibberman)

General for the above

UNITED STATES DEPARTMENT OF JUSTICE
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HYDERABAD BENCH AT HYDERABAD

ORIGINAL AFFLICTION NO. 479 OF 1993.

BETWEEN :

SHRI M.A. HALEEM

APPLICANT

VERSUS

UNION OF INDIA & OTHERS

RESPONDENTS

COUNTER AFFIDAVIT FILED ON BEHALF OF THE RESPONDENTS.

I, Mrs. Meenakshi Arora, wife of Shri Rakesh Arora, aged 42 years, working as Under Secretary in the Ministry of Water Resources New Delhi do hereby solemnly and sincerely affirm and state as follows :-

1. I am well acquainted with the facts of the case. I am authorized to file this counter affidavit on behalf of all the respondents.

2(a). The Applicant, while working as Jr. Hydrogeologist at Nagpur, applied for 2 days C.L. on 10th and 11th September, 1984. He did not join on 12.9.84 but sought extension of leave till 30.9.84 and thereafter upto 7.10.84 on the ground of his mother's illness. He did not join on 8.10.84. The extension of leave was not allowed and he was asked to join duty immediately vide telegram dated 9.10.84 of Director, CGWB, Nagpur. On 10.10.84, he applied for 28 days earned leave from 10.9.84 to 7.10.84 prefixing/suffixing holidays on the grounds of his brother's marriage and his mother's illness. Further, in continuation, he applied for 12 months study leave from 8.10.84 to 7.10.85. On 15.10.84, Director, Central Ground Water Board, Nagpur directed the applicant to

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duty as the study leave was not granted. As there was no response, the applicant was again directed to join duty by 15.12.84 and also was asked to explain as to why action should not be taken against him for unauthorised absence. In reply he stated that he could not join duty as he joined Ph.D course in Osmania University. The Applicant was asked repeatedly to report for duty but he ignored and did not reply.

2(b) Ultimately major penalty proceedings were initiated vide Memorandum dated 1.1.86 on the charge of unauthorised absence. The Applicant had participated in the enquiry. The Disciplinary Authority after considering the findings of the Inquiry Officer and the advice of the UPSC, came to the conclusion that the major penalty of "Compulsory Retirement" should be imposed on the Applicant vide Memorandum dated 2.2.89. The Applicant challenged the order of the compulsory retirement in his O.A. No. 403/89 filed before this Hon'ble Tribunal and the OA had been disposed of in the judgement dated 1.1.1991 (as per the Third Member in the Dissenting Judgement) quashing the order of compulsory retirement relying on the judgement in Ramzan Khan case, on the ground that a copy of the Inquiry Officer's Report and copy of the advice given by the UPSC were ^{not} given to the Applicant before imposing the penalty, with liberty to take further action against the Applicant after giving reasonable opportunity to represent on the Inquiry Report and the advice of the UPSC, and that it was left to the discretion of the Disciplinary Authority to continue the disciplinary proceedings.

2(c). As per the direction of the Hon'ble Tribunal, the Disciplinary Authority decided to proceed with the inquiry and accordingly the Applicant submitted his representation on the inquiry report and the advice of the UPSC vide his letter dated 6.8.91. The disciplinary authority after taking into account the Inquiry Officer's report, the

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advice of the UPSC and the representation of the Applicant, had come to the conclusion that the applicant was not a fit person to be retained in the service and accordingly the penalty of compulsory retirement has been imposed vide order dated 18.12.92/5.3.93. The Applicant has filed the present O.A. for quashing the penalty and for a direction for granting study leave from 8.10.84 to 7.10.85.

3. In regard to the contents of paras 1,2,3,4 and 5 in so far as they relate to formal clauses of the application do not require any specific reply and they are not contraverted.

4. As regards the contents of the para 6 of the application they are admitted only to the extent they are not inconsistent with the facts hereafter narrated and all averments of facts and law in so far as they are at variance with the facts hereafter narrated may be taken to have been denied.

(i) The Applicant was appointed as Junior Hydrogeologist through Union Public Service Commission w.e.f. 1st September, 1975 and posted to Central Ground Water Board, Sina & Man Project, Sholapur vide Ministry of Agriculture and Irrigation (Department of Agriculture)'s No.7-34/74-MI(A) dated 23/24.7.75 and Notification No. 7-34/74-MI(A) dated 1st December, 1975 (ANNEXURE - I & II).

(ii) According to sub condition No. 'i) of offer of appointment dated 23/24.7.75, he was placed on probation for a period of two years. He was also liable to serve in any part of India as per sub Clause (ii) of the Offer of Appointment.

(iii) During April, 1976, he was transferred from Central Ground Water Board, Sina & Man Project, Sholapur to

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Central Ground Water Board, Southern Region, Hyderabad at his OWN Request considering his family problems vide this Office Order No. 452 of 1976 issued under No.3-402/75-CH(Estt) dated 20.4.76 (ANNEXURE-III). He joined Hyderabad on 7.5.76. Moreover, the performance of Shri Haleem was also not found to be satisfactory during his stay in Sina & Man Project.

- (iv) During the period of stay at Hyderabad, the work of the Applicant was again not found satisfactory. The D.P.C. which met to consider his case for clearance of probation period, recommended for his immediate transfer to a different Region to work under another officer and to watch his work for one year more (ANNEXURE - IV).
- (v) In pursuance of the instruction of the Competent Authority received vide Ministry of Agriculture & Irrigation (Department of Agriculture)'s letter No. 35-184/78-MIA dated 12.9.78 (ANNEXURE - IV), the Applicant was provided an opportunity to work under another officer to improve his work. He was, therefore, transferred from Central Ground Water Board, Southern Region, Hyderabad to Central Ground Water Board, Western Region, Jaipur. He made a representation against the transfer order and also approached for cancellation of his transfer through M.P. His request was sympathetically considered and he was posted to Central Ground Water Board, Central Region, Nagpur, so that he could be nearer to Hyderabad i.e. his home town. (ANNEXURE V).
- (vi) He was relieved from Hyderabad on 30.10.78 and joined at Nagpur on 18.12.78 after availing 38 days leave and 10 days joining time.

(vii) As per the Applicant's representation dated 24.11.78 and 19.2.80, his father expired on 31.10.78 i.e., after his release from Central Ground Water Board, SR, Hyderabad (i.e., on 30.10.78) on transfer to Central Ground Water Board, CR, Nagpur. Hence his statement that he was relieved on transfer on the VERY DAY OF HIS FATHER'S DEMISE is totally baseless and not correct at all.

(ANNEXURE VI & VII)

(viii) At Nagpur he also could not improve his performance very much and there were complaints against him. He also himself made a representation again for his transfer from Central Ground Water Board, Central Region, Nagpur to Central Ground Water Board, Southern Region, Hyderabad on 19.3.80. However, his representation was considered by the Competent Authority on humanitarian grounds and he was again transferred to Hyderabad in September, 1980 at his OWN REQUEST vide Office Order No.598 of 1980 issued under No.3-402/75-CH(Estt) dated 9.5.80 where he joined duties on 15.9.80.

Again the Applicant could not show better results and he had been avoiding field work on one pretext or the other. The Director, Central Ground Water Board, Southern Region, Hyderabad, recommended his transfer from Hyderabad, so that the officer could mend his ways and attend to field work.

(ANNEXURE VIII & IX). He was therefore transferred to Unit Office, Trivandrum. He was granted 39 days leave by the Director, SR, Hyderabad and on the expiry of leave he was deemed to have been relieved from SR, Hyderabad, w.e.f. 28.2.82. Since then the applicant remained on unauthorised absence and did not join duty in Unit Office, Trivandrum.

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This time, the Applicant also made representation for cancellation of his transfer orders. The competent Authority ^{had} considered his request keeping in view his domestic circumstances and therefore he was allowed to report for duty at Hyderabad itself vide this Office Memorandum No. 3-402/75-CH(Estt) dated 8.2.83 (ANNEXURE X). He joined on 11.2.83. His absence was regularised by granting leave due to him at that time. Since there were lot of complaints against him, he was, therefore transferred from SR, Hyderabad to Central Ground Water Board, Central Region, Nagpur where he joined on 27.8.84.

- (ix) In fact, wherever, the Applicant was posted he could not pull on well and there were lot of complaints with regard to his work and conduct. Therefore, he was transferred to Central Ground Water Board, CR, Nagpur in public interest, vide Office Order No. 2018 of 1984 dated 16.6.84. He joined there on 27.8.84. He hardly stayed at Nagpur for 15 days and proceeded on 2 days Casual Leave for 10.9.84 and 11.9.84 and thereafter he sent a telegram on 18.9.84 and again on 25.9.84 requesting for extension of leave upto 7.10.84 on account of his mother's illness and brother's marriage. He was directed by the Director, Central Ground Water Board, Central Region. of the orders, he asked for study leave from 8.10.84 to 7.10.85 which was also not granted to him in exigency of public work and he was directed to report for duty at once. But he did not join and continued to remain on un-authorised absence w.e.f. 10.9.84 to 16.3.87. He finally joined duty on 17.3.87 at Nagpur.

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5. In reply to Para 6(ii) & (iii) of the OA, it is submitted that the fact is that the applicant was transferred from Southern Region, Hyderabad to Central Region, Nagpur vide order dated 16.6.1984 in public interest. The Applicant was relieved from Southern Region, ~~Hyderabad~~ Nagpur on 16.8.1984 and he joined duty in the Central Region, Nagpur on 27.8.1984. Immediately after joining his duties at Central Region, Nagpur the applicant vide his letter dated 5.9.1984/^(Annexure - XI) proceeded on two days casual leave for 10th and 11th September, 1984 on account of the festival of Id-ul-zuha with permission to leave the head-quarters. After the expiry of the two days casual leave, instead of joining his duties, the applicant sought further extension of leave, first upto 30.9.1984 and thereafter upto 7.10.1984 on the grounds of his mother's illness. The extension of leave was not allowed to him and he was asked vide telegram dated 9.10.1984/^(Annexure - XII) from Director, Central Region, Nagpur to join duty immediately as field work was affected. The Applicant did not join his duties at Nagpur but subsequently sent two applications both dated 10.10.1984/^(Annexure - XIII & XIV). In these applications the applicant requested for grant of (i) earned leave for 28 days from 10.9.1984 to 7.10.1984 on the grounds of his mother's illness and brother's marriage and in continuation thereafter (ii) study leave from 8.10.1984 to 7.10.1985 under the Central Civil Services (Leave) Rules, 1972 for his Ph.D Course at Osmania University. The applicant was, however, again informed immediately by Director, Central Region Nagpur vide telegram dated 15.10.1984/^(Annexure - XV) that his request for study leave has not been recommended and, therefore, he should report for duty at once as work was suffering. The applicant did not comply with the instructions of the Government of India and continued to remain on unauthorised absence disregarding and disobeying the

repeated advice of the Director, Central Region, Nagpur for which
 a Memorandum No. 3-402/75-CH(Estt) dated 30.11.1984^(Annx - XVI) was issued to
 him informing that the study leave applied for could not be allowed
 in view of the exigency of work and he was directed to report for
 duty by 15.12.1984 failing which action as deemed fit will be taken
 against him. He was also directed to explain as to why disciplinary
 action should not be taken for his unauthorised absence from duty.
 In reply, the applicant vide his letter dated 12.12.1984^(Annx-XVII) expressed
 his inability to join duty stating that he was pursuing his study
 in Ph.D. Course in mutual interest and benefit of the Government.
 Thereafter Memorandum No.3-402/75-CH(Estt.) dated 26.2.1985,
 15.4.1985, 27.5.1985 and 8.8.1985^(Annx - XVIII, XIX, XX & XXI) were issued to the applicant making
 it quite clear that his explanation was not found satisfactory; per-
 mission for study leave was not granted, absence was unauthorised
 etc. and was directed again and again to join his duties immediately,
 failing which he will be liable to disciplinary action. In the Memo-
 randum No. 3-402/75-CH(Estt.) dated 8.8.1985 the applicant was also
 informed about his transfer and that he could represent his case
 after joining at Nagpur Office. The applicant however, ignored all
 these instructions/advice and continued to remain absent and pur-
 suing his Ph.D. Course in Osmania University totally disregarding
 Government directions.

6. Thereafter, with the approval of the Competent^{Disciplinary} Authority,
 major penalty proceedings under Rule 14 of the Central Civil Services
 (Classification, Control and Appeal) Rules, 1965 were initiated
 against the applicant vide Ministry of Water Resources Memorandum
 No. 6(1)/84-Vig. dated 1.1.1986^(ANNX - XXII) for absenting himself from duty
 with effect from 10.9.1984 unauthorisedly without proper approval

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or sanction of the competent authority, thereby showing lack of devotion to duty and behaving in a manner unbecoming of a Government servant in contravention of Rule 3(1)(ii) and (iii) of the Central Civil Services (Conduct) Rules, 1964. On receipt of applicant's defence statement, wherein he denied the charges, an inquiring authority was appointed to enquire into the charges and the applicant afforded the necessary opportunity to defend his case.

7. The Inquiry Officer, submitted his report on 28.1.1986 ^(Annx - XXIII) according to which the charge levelled against the applicant was fully proved. The disciplinary authority, after going through all the facts relating to the case including the report of the Inquiry Officer and the Union Public Service Commission's advice, observed ^(Annx - XXIV) that while applying for permission for registration in the Ph.D. Course, the applicant had clearly stated that he would utilise his free time in the study of Ph.D. and that it would not affect the departmental work nor it would interfere with discharging his duties. Since he had asked for permission to register himself as an EXTERNAL CANDIDATE and had given assurances, permission was granted to him ^(Annx - XXV) vide letter No. 35-184/R4-GW dated 7.12.1983 subject to the condition that this pursuit of studies for Ph.D. would not interfere with his official work in any way and that the grant of leave for fulfilling the residential requirements would be subject to exigencies of Government work. Thereafter, he was transferred from Hyderabad to Nagpur where he joined on 27.8.1984. Despite the fact that permission allowed to the applicant was subject to aforesaid conditions the applicant nevertheless secured admission for Ph.D. Course in the Osmania University, Hyderabad as Regular Student. For the admission, the University authorities had also stipulated a condition that all the non-teaching otherwise employees should take leave under the rules, or otherwise their admission would be

Under the rules, or otherwise their admission would be

The study leave asked for by the applicant subsequently for this purpose, was not granted by the competent Authority and that he was asked to report for duty. Notwithstanding that the applicant pursued the Ph.D. Course, which according to the University admission condition, as mentioned above, could not have been possible had he revealed the correct position that the Government had not sanctioned him leave for the course he remained absent from duty unauthorisedly.

The Disciplinary Authority further observed that even if the applicant had not been transferred from Hyderabad, he could not have performed his official duties as well as undergone the Ph.D. Course, since the University Rules, require that a Ph.D. Scholar has to be regular student and has to produce a certificate that he is on leave from the Department. The applicant had been given important work at Nagpur with certain target dates. As a loyal Government servant he should have looked to the interest of the Government rather than remaining away from Nagpur on some grounds or the other. Moreover, the fact that he secured admission in the Ph.D. Course and completed

inspite of clear University Rules, that the official seeking admission for

established that he was guilty of suppressing the information

the Osmania University that he was not on study leave, which reflected on his integrity. The Disciplinary Authority has thus fully convinced that the applicant wilfully ignored and disobeyed

Government's order and that the charges of absents from duty unauthorisedly without proper approval or sanction from Competent

Authority thereby showing lack of devotion to duty and behaving in a manner unbecoming of a Government servant was fully proved against

the applicant, and came to the conclusion that the applicant was not a fit person to be retained in Government service and therefore imposed on Shri M.A. Haleem, Junior Hydrogeologist, Central Ground

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Water Board, the major penalty of "Compulsory Retirement" vide order No. 6/1/84-Vig dated 2.2.1989. (Annexure - XXVI)

8. In reply to para 6(iv) & (v), it is submitted that the applicant thereafter filed an O.A. No. 403 of 1989 in the Hyderabad Bench of the Central Administrative Tribunal challenging the said order of the President in the Ministry of Water Resources' Order No. 6/1/84-Vig. dated 2.2.1989. The respondents had filed detailed counter reply where all the grounds made out by the applicant were refuted on valid grounds. After hearing the O.A. No. 403/89 the Hyderabad Bench of the Central Administrative Tribunal pronounced its judgement dated 1.1.1991 quashing the respondent's order dated 2.2.1989 imposing the penalty of "Compulsory Retirement" on Shri M.A. Haleem on the grounds "following the above said decision of the Supreme Court, it will follow that the order imposing the punishment of compulsory retirement from service on the applicant without furnishing him a copy of the Inquiry Officer's Report is vitiated and it is accordingly quashed. It is, however, left open to the disciplinary authority to consider the matter afresh after giving the applicant an opportunity to make a representation against the report of the inquiry officer and the opinion of the Union Public Service Commission and to take further action in the matter. If it proposed to take further action against the applicant on the basis of the report of the Inquiry Officer, reasonable time will be afforded by the disciplinary authority to the applicant to represent against the report of the Inquiry Officer and the recommendations of the Union Public Service Commission. After giving the applicant an opportunity to make a representation, the disciplinary authority will do so untrammelled by either of the opinions/orders passed by the learned Hon'ble Vice Chairman or learned Hon'ble Member (j), Shri J. Narasimha Murthy on

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the merits in this case. It is further made clear that it is for the respondents to choose to continue the disciplinary proceedings and it is not binding on the respondents to necessarily continue the disciplinary proceedings. That is a matter left to the discretion of the disciplinary authority. As a consequence of quashing the compulsory retirement and if it is proposed to continue with the enquiry, it is left open to the disciplinary authority to either pass orders under sub-rule 4 of rule 10 of Central Civil Services Rules so as to deem the applicant to be under suspension from the date on which he was compulsorily retired from service or to reinstate him into service in view of the fact that prior to the order of punishment applicant was in service and not under suspension". However, the Hon'ble Tribunal in its operative part of the judgement dated 1.1.91 had left open the issue for the disciplinary authority to consider the matter afresh after giving him an opportunity to make a representation against the report of the Inquiry Officer and the opinion of the Union Public Service Commission. The other related matter such as whether disciplinary proceedings should be necessarily continued or not against the Central Civil Service (Classification, Control & Appeal) Rules, 1965 should be passed or the applicant should be reinstated in service were left by the Hon'ble Tribunal to the discretion of the disciplinary authority.

9. In pursuance of the Hon'ble Tribunal's directives, the respondent issued an order No. 6(6)/89-Vig. dated 24.4.1991/Annex - XXVII incorporating the following decisions and orders of the President:-

- i. That the Ministry of Water Resources Order No. 6(1)/84-Vig. dated 2.2.1987 compelling Shri M.A. Haleem from Government service is cancelled;
- ii. That the disciplinary proceedings are continued

6/11/91
Date

against Shri M.A. Haleem under Rule 14 of the Central Civil Services (Classification, Control & Appeal) Rules, 1965;

iii. That in terms of the provisions of Rule 10(4) of the Central Civil Services (Classification, Control & Appeal) Rules, 1965 Shri M.A. Haleem is deemed to have been placed under suspension with effect from 2.2.1989 i.e., the date of original order imposing on Shri Haleem the penalty of compulsory retirement from service, untill further orders. During the period of suspension, Shri M.A. Haleem will be entitled to payment of subsistence allowances as per provisions of FR- 53. The question of regularising the said period of suspension will be considered in the light of final order that may eventually be passed in this case by the Disciplinary Authority under the relevant rules; and

iv. Shri M.A. Haleem be given a copy of each of the inquiry officer's report as well as the Union Public Service Commission's advice in this matter to enable him to make a representation, if any, which should be submitted to the disciplinary authority within 30 days from the receipt of this notification. In case no representation is received within the stipulated period, it should be assumed that Shri Haleem has got no representation/submissions to make in the matter and the case shall be processed further for issuing fresh order(s) on the basis of the available facts".

10. As the Hon'ble Tribunal did not quash the disciplinary proceedings in question but only set-aside the order of punishment merely on the grounds that the disciplinary authority did not

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furnish a copy of the inquiry officer's report and Union Public Service Commission's advice; the applicant was placed under deemed suspension with effect from 2.2.1989 i.e., the date of the original order imposing on the applicant the penalty of compulsory retirement from service under provisions contained under Rule 10(4) of Central Civil Services (Classification, Control & Appeal) Rules, 1965. Simultaneously, the earlier compulsory retirement order was cancelled and disciplinary proceedings continued under Rule 14 vide the aforesaid order dated 24.4.1991.

11. In pursuance of the Hon'ble Tribunal's orders, copy of the Inquiry Officer's report and Union Public Service Commission's advice was made available to the applicant. The applicant submitted his representation on the Inquiry Officer's report and Union Public Service Commission's advice which was examined by the Disciplinary Authority under the Central Civil Services (Classification, Control and Appeal) Rules.

12. In the meanwhile the Applicant filed another petition No. 52/92 in the Hyderabad Bench of the CAT challenging the Ministry of Water Resources Order No. 6/6/89-Vig. dated 24.4.1991. The Tribunal, Hyderabad Bench of the CAT vide its interim orders dated 30.1.92 and 13.2.92 suspended Para 3(iii) of Order No. 6/6/89-Vig. dated 24.4.91 till disposal of the O.A.

13. In pursuance with the interim orders of the Hyderabad Bench of CAT, the President passed necessary order vide para 6 of (Annex - XXVIII) Order No. 6/1/92-Vig. dated 30.3.1992 and the applicant was reinstated in service with effect from 30.1.1992 i.e., the date of

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interim order passed by the Hyderabad Bench of the CAT.

14. As per the direction of the Hyderabad Bench of the Central Administrative Tribunal, the applicant submitted his representation on the Inquiry Officer's report and UPSC's opinion vide his letter dated 6.8.91. The Disciplinary Authority after taking into account the Inquiry Officer's report, the representation of the applicant on I.O.'s Report and UPSC's advice, and other relevant facts observed that the contention of the applicant that charge-sheet framed against him is totally illegal and unwarranted as permission was granted to him by authorities for registering his name for Ph.D. Course and the concerned authorities were bent upon rejecting his leave application of flimsy grounds on administrative exigencies, is not true. The fact is that while applying for permission for registration in the PhD Course, the applicant had clearly stated that he would utilise his free time in the study of PhD and that it would not affect the departmental work nor it would interfere with his duties. He had asked for permission to register himself as an External Candidate and had been given permission in December, 1983 to join the course subject to the conditions that his pursuit of study would not interfere with his official work in any way and that the grant of leave would be subjected to exigencies of Govt. work. Therefore, he was transferred from Hyderabad to Nagpur, where he joined on 27.8.84. Despite the fact that the permission allowed to him was subject to the aforesaid conditions, the applicant nevertheless secured admission for PhD Course in Osmania University, Hyderabad as a REGULAR STUDENT. For the admission, the University Authority had also stipulated a condition that all the non-teaching candidates who are otherwise employees, should take leave under the rules, or otherwise their admission would be cancelled. This condition was not for by the applicant subsequently for this purpose was not granted by the Competent Authority due to

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exigency of work and he was asked to report for duty vide telegram dated 15.10.1984. Notwithstanding that he pursued the Ph.D. Course, which according to the University admission conditions could not have been possible had he revealed the correct position that the Government had not sanctioned him leave for the course and he continued to remain absent from duty unauthorisedly.

15. The disciplinary authority imposed the major penalty of "Compulsory Retirement" on the applicant vide Order No. 6/1/84-Vig. (Vol. II) dated 18.12.1992^(Annx - XXIX). There was a technical flaw in the said order and as such a corrigendum No. 6/1/84-Vig. (Vol. II) dated 5.3.93^(Annx - XXX) was issued making the Compulsory Retirement Order effective from 11th January, 1993. OA No. 52/92 filed by the applicant is liable to be dismissed as soon as disciplinary authority passed the said order dated 18.12.92.

16. That the contents of Para 6(vii) being matters of record, need no comments as it is only a reproduction of Ministry of Water Resources Articles of charge.

17. In reply to para 6(viii) it is submitted that the averment made by the applicant in para (viii) is not correct and is denied. The fact is that with the approval of the competent disciplinary authority, disciplinary proceedings as for major penalty under Rule 14 of Central Civil Services (Classification, Control and Appeal) Rules, 1965 were initiated against the applicant as for his unauthorised absence from duty without proper sanction from the competent authority by invoking Rule 3(1)(ii) & (iii) of CCS (Conduct) Rules, 1964. The question of initiating disciplinary action for violating Rule 25(2) of leave rules does not arise as he was not granted any leave at all by the competent authority and the disciplinary action initiated against the applicant is in order

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and no infirmity has been committed on the part of the disciplinary authority while initiating such action under conduct rules.

18. In reply to para 6(ix) & (x) of the O.A., it is submitted that the applicant has quoted some part of the judgement which is favourable to the applicant passed by Madras Bench of the Central Administrative Tribunal i.e., S/Shri K.M. Vedapuri & K. Srinivasan v/s Government of India and Surindra Chandra Das v/s West Bengal & Others - Calcutta High Court, which needs no comments. Each and every case is decided on its own merits.

19. In reply to para 6(xii) it is submitted that the applicant has quoted Ministry of Finance O.M. No. F.8(7)Estt.IV/A/60 dated 6.2.1981 and judgement of case Smt. Sushila Barla v/s GOI and others, Patna Bench which appears to be favourable to the applicant. The fact is that leave cannot be claimed as a right, by a Government servant. In fact, permission was granted to undertake the Ph.D. Course from Osmania University, Hyderabad as an EXTERNAL CANDIDATE ONLY. Thereafter he was transferred from Hyderabad to Nagpur where he had joined his duties on 27th August 1984. The applicant applied for study leave vide his application dated 10.10.1984 from 8.10.1984 to 7.10.1985 which was rejected on 10.10.1984 by Nagpur Office. He was directed to report for duty at once. On the contrary, the instructions as also repeated advice dated 30.11.1984 giving him final notice to report for duty by 15th December, 1984. He was also thereby directed to explain as to why disciplinary action should not be initiated against him. The applicant expressed his inability to join his duties saying that he was doing his Ph.D.

(Signature)

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Course in mutual interest and benefit to the Department. He should not have joined the Ph.D Course as a REGULAR STUDENT without obtaining the approval of the authority. It has also been observed that even if he had been allowed to remain in Hyderabad in Southern Region, he would not have performed his official duties as well as undergone the Ph.D. Course since the University Rules require that a Ph.D. scholar has to be a regular student and has to produce a certificate to the effect that he is on leave from the Department. Moreover, the applicant had been given important work with certain target dates at Nagpur. As a loyal government servant, he should have looked to the interests of the government rather than remaining away from Nagpur on some ground or the other at the particular juncture.

20. In reply to para 6(xiii) of the OA, it is submitted that while he was functioning in the Central Ground Water Board, Southern Region, Hyderabad he had applied for grant of permission to register his name with Osmania University, Hyderabad for Ph.D, in the Topic "Ground Water Balance and Management Studies in the part of Godavari Valley in Watupalli and Aswaraopet Taluka of Khammam Distt., A.P. as external candidate under the Supervision of Dr. Ch. Sudharsana Raju, Reader in Geology Department on 21.10.83.

21. It was granted permission for registering his name for Ph.D degree on the above topic by the Ministry, their letter No.35-184/78/GW dated 7.12.83, subject to the conditions that his studying of Ph.D, will not interfere in the official work in any way. The grant of leave for fulfilling any residential requirement for completion of course will be subject to the exigencies of Govt. Work (ANNEXURE-XXV).

22. According to the Osmania University, Hyderabad's order No.PHD/Ad/1984-Session/DS/270 dated 21/25.7.84, the admission of all the Non-teacher candidates, who are otherwise employees subject to taking of leave

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under the rules or otherwise their admission was liable to be cancelled. (ANNEXURE - XXXI).

23.. The applicant joined the Ph.D course on 24.8.84 under the supervision of Dr. Ch. Sudarsana Raju, Reader in Geology, Department of Osmania University, Hyderabad as informed by him to the Dean, faculty of Science, Osmania University, Hyderabad vide his letter dated 24.8.84 without sanction of study leave or any other kinds of leave due to him at that time by the Competent Authority and without informing about his joining the course to the office. Thus, he suppressed the fact not only from the Authorities of the University but also authorities of the Board/Ministry.

24.. Meanwhile, he was transferred from Central Ground Water Board, Southern Region, Hyderabad to Central Ground Water Board,

Considering the circumstances as explained in para 4(ix). He was relieved from Hyderabad on 16.8.84 and joined in the office of the Director, Central Ground Water Board, Central Region, Nagpur on 27.8.84. Thus, it becomes quite clear that the applicant joined Ph.D. course as regular candidate with Osmania University deleberately knowing that he has already been relieved of his duties on 16.8.84, to join at Nagpur and that without taking/applying for any kind of leave or study leave under Rules.

25. After doing so, the applicant proceeded on Casual leave for September, 1984 with permission to leave Station to celebrate the religious festival Id-ul-Zuha at Hyderabad with permission to prefix the closed holidays on 7,8 and 9th Sept, 1984.

[Signature]

He did not join duty thereafter and sought extension of leave upto 7th Oct, 1984 on the grounds of his mother's illness. The extension of leave was not granted by the Director, Central Ground Water Board, Central Region, Nagpur and he was asked to report for duty at-once by the Director, CR, Nagpur vide his telegram datd. '9.10.84. (ANNEXURE - XII). But he did not join and subsequently in another application dated 10.10.1984, he requested the Director, Central Ground Water Board, CR, Nagpur for grant of Earned leave from 10.9.84 to 7.10.84 on account of his mother's illness and brother's marriage and in another application of the same date (10.10.84) he requested the Director, CGWB, CR, Nagpur to grant of Study leave under CCS (Leave) Rules, 1972 from 8.10.84 to 7.10.85. In return, he was again informed by the Director, Central Region, Nagpur telegraphically on 15.10.84 that his study leave has not been recommended and that he should report for duty at once , as the Govt. work was suffering. However, his Study leave application dated 10.10.1984 was duly forwarded by the Director, CGWB, CR, Nagpur with his recommendations to the Competent Authority of the Headquarter office, Faridabad on 16.10.84 vide his letter No. 1-64/76/Estt/12073 datd. 16.10.84 (ANNEXURE - XXXI)

26. Since, his study leave as applied for by the applicant was not recommended by the Director, CGWB, CR, Nagpur the leave was, therefore, not granted to him by the Competent Authority. He was accordingly informed by Headquarters Office vide Memorandum No.3-402/75-CH(Estt) dated 30.11.84 and subsequent reminders directing him to report for duty by 15th Dec. 84; otherwise he would be liable for disciplinary action under rules. But the applicant expressed his inability to join duty and continued his study for PhD in his OWN INTEREST, despite the facts that permission allowing him to join PhD course was subject to exigency of Govt. work and with proper

Signature

sanction of leave by the Competent Authority. The applicant continued to carry out his PhD as a regular student without sanction of leave and completed the course in Osmania University wilfully. In this manner he continued to be on unauthorised absence from duty with effect from 10.9.84 to 17.3.87 i.e. nearly two and half year. He finally reported for duty at CGWB, CR, Nagpur on 17.3.1987. Since the Study leave application of the applicant was duly forwarded by the Director, Central Region, Nagpur with his recommendations not to grant leave vide his letter No.1-64/75-Estt/12073 dated 16.10.84, the statement of the applicant that his application was not forwarded by the Director, CR, Nagpur and exercising his power ^{in an} arbitrary manner in his case is totally baseless and without any application of mind and not correct at all.

27. As per General Conditions as laid down in Rule 7 of CCS (Leave) Rules, leave can not be claimed as a matter of right and leave may be refused and curtailed or revoked in public interest by the Competent Authority. Moreover Study leave is granted for:

- (1) A special course of study consisting of higher studies or specialised training in professional or technical subject having a direct and close connection with the sphere of duty.
- (2) A course of training or study tour in which attending a regular academic or semi-academic course may not be necessary, but is certified to be definite advantage to Govt. from the point of view of public interest and related to the sphere of duties.
- (3) Studies connected with the frame work or background of

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public Administration, if approved by the Competent Authority to grand leave and subject to the conditions that the Government servant will submit a full report on the work done while on study leave on his return.

- (4) Studies not closely direct connected with the work of a Govt. Servant but which are capable of widening his mind (in a manner likely) to improve his abilities as Civil Servant and to equip him better to collaborate with other employees in other Branches of Public Service.
- (5) To be certified by the Competent Authority that the study shall be definite advantage from the point of view of public interest.

Since, the leave was not recommended by the Director, Central Region, Nagpur and as such his study leave was not considered/granted by the Competent authority seeing the gravity of the case. As regards grant of study leave to S/Shri S.S. Mahalingam, Asst. Executive Engineer and M.A. Beg, Asst. Hydrogeologist of this Board, both the officers had applied for study leave in a proper manner and well within the ambit of rules and that too were also recommended by the Competent Authority of the Board. Accordingly, they were granted study leave (Annex-XXXIII & XXXIV). Facts of the case reveal that the applicant was in the habit of disobeying Govt. orders and he absented himself wilfully and without proper sanction of leave by the Competent Authority, he was therefore, liable to be taken disciplinary action against him, under the Rules. Disciplinary action was taken by the Competent Authority accordingly.

28. In reply to Para 7 & 8, it is submitted that the Applicant is not entitled to any of the relief as prayed for. It is further submitted that he is not entitled to any interim relief in view of the facts and circumstances explained above.

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29. That the contents of Para 9 to 13 being matter of record, needs no comments.

30. For all the reasons stated above, there are no merits in the O.A. and thus Hon'ble Tribunal may be pleased to dismiss the same with further orders as deemed necessary in the circumstances of the case.

New Delhi

Dt. 3/2/1994.

(Signature)
FOR RESPONDENTS
(MEENAKSHI ARORA)

उप सचिव भार
Under Secretary to Govt.
Ministry of Water Resources
New Delhi, New Delhi

ADDITIONAL CENTRAL STANDING COUNSEL

V E R I F I C A T I O N

I, Mrs. Meenakshi Arora, Wife of Shri Rakesh Arora aged 42 years working as Under Secretary in the Ministry of Water Resources verify at New Delhi this the 3rd day of February, 1994 that the contents of official records, and that I have not suppressed any material facts.

Hence verified and signed at New Delhi on this 3rd day of February, 1994.

Attested,

(Signature)
G. Ram Mohan Rao
DIRECTOR
C. O. W. R. = B. R.
HYDERABAD

(Signature)
FOR RESPONDENTS
(MEENAKSHI ARORA)

Under Secretary to Govt.
Ministry of Water Resources
New Delhi, New Delhi

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL: HYDERABAD
BENCH AT HYDERABAD

O.A. No. 479 OF 1993.

BETWEEN :

SHRI M.A. HALEEM APPLICANT

VERSUS

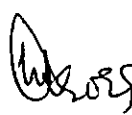
UNION OF INDIA & OTHERS RESPONDENTS

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 ओम्कार प्रसाद मिश्र
 Under Secretary to the Government
 Ministry of Mines and Geology
 13, Lodi Road, New Delhi.

Registered

No. 7-34/74-III(A)
Government of India
Ministry of Agriculture & Irrigation
Department of Agriculture
Krishi Bhawan

New Delhi, the 23rd July, 1975.

24

OFFER OF APPOINTMENT

Recruitment to the post of Junior Hydrogeologist,
Central Ground Water Board Temporary appointment
of Shri. Mr. Abdul Haleem

On the recommendation of the Union Public Service Commission the President is pleased to offer to Shri. Mr. Abdul Haleem a temporary post of Junior Hydrogeologist at the Central Ground Water Board, in the scale of Rs. 700-40-900-EB-1100-50-1300. His initial pay will be fixed in accordance with the rules. He will also be entitled to the dearness and other allowances, if any, at the rates admissible and subject to the conditions laid down in the rules and orders governing the grant of such allowances in force from time to time.

2. The other terms of his appointment are:-

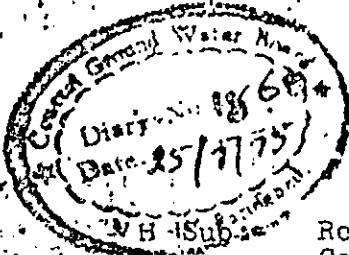
1. The post is temporary and is at present sanctioned upto 29.2.76 but is likely to continue indefinitely.
2. He will be on probation for a period of two years from the date of his assuming charge of the post. The period of probation is, however, subject to extension beyond that at the discretion of the appointing authority. The appointment is liable to be terminated at any time without notice during the period of probation without assigning any reason and thereafter on one month's notice given by either side, viz. the appointing authority or the appointee. The appointing authority, however, reserves the right to terminate the services of the appointee on payment of a sum equivalent to the pay and allowances for the period of notice or the unexpired portion thereof, as may be applicable.
3. The appointee shall be liable to serve in any part of India.
4. Other conditions of service shall be governed by the relevant rules and orders in force from time to time.

The appointment will be further subject to:-

- (a) A declaration to the effect that he is a married/unmarried and his only wife living, being produced.

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[Signature]

Chief Secretary to Government
Ministry of Agriculture & Irrigation
Krishi Bhawan



[Handwritten notes and signatures]
K. M. H. 71
26/7/75
25/7/75
26/7/75

2 by him if not already produced. On his appointment it is found that he has more than one wife living, appointment will be subject to his being exempted from the enforcement of the requirement in his behalf.

(b) On appointment he will be required to take an oath of allegiance to the Constitution of India or make a solemn affirmation to the effect, if not already taken in the enclosed form.

4. If any information furnished by the candidate in his application to the Commission or otherwise proves to be false or if the candidate is found to have willfully suppressed any material information, he will be liable to be removed from service and to such other action as Government may deem necessary.

5. In case the offer of appointment to the post on the above terms and conditions is acceptable to him, he should intimate his acceptance to the undersigned immediately, but before the ~~1.9.1975~~ and should report to the Superintending Engineer,

Central Ground Water Board, Guna Man Project, 230/2 Motipe Road, Post Box No. 319, Sholapur-413003 (Maharashtra)

Sd/-

(S. DIAL)

Deputy Secretary to the Government of India.

To
Mr. M. Abdul Halim,
Room No. 4/2/20, Janakpuri Street,
110 001, New Delhi. (A.F.)

Copy to:-

1. The Secretary, Union Public Service Commission, Dharm House, New Delhi. This is with reference to his letter No. ~~7.11.7/25/50~~ dated 25.1.1975.
2. The Chief Hydrogeologist, Central Ground Water Board, Faridabad.
3. The Accountant General, Commerce, Works & Misc., AGOR Building, Indraprastha Estate, New Delhi.
4. The Superintending Engineer, Central Ground Water Board, Guna Man Project, 230/2 Motipe Road, Post Office Box No. 319, Sholapur-413003 (Maharashtra)
5. External Establishment I Section.
6. Personal file, c/o Chief Hydrogeologist, Central Ground Water Board, Faridabad.
7. The Director, Central Region, Central Ground Water Board, Dr. Moredam Clinic Road, 21, Central Bazar Road, Rameshpur, Mysore.

(S. DIAL)

Deputy Secretary to the Govt. of India.

Dubore

Under Secretary
Ministry of Water Resources
25, Sec 11, New Delhi

(To be published in Part I section 2 of the Gazette of India.)

No. 7-34/74-NI(A) II
Government of India
Ministry of Agriculture & Irrigation
(Department of Agriculture B.)

Krichi Bhawan
New Delhi, The November, 1978.

NOTIFICATION

The President is pleased to appoint **Shri Md. Abdul Haleem** as Junior Hydrogeologist in the Central Ground Water Board in the pay scale of Rs. 700-40-500-22-1100-20-1200 on a temporary basis with effect from the formation of the Board, Sina & Man Basin Project, Sholapur until further September, 1978. He is posted at the Central Ground Water Board, Sina & Man Basin Project, Sholapur until further

35/-
(D.C. HAREY)
Deputy Secretary to the Govt. of India

The Manager,
Government of India Press
Faridabad (Haryana).

Copy forwarded to:-

1. The Secretary, Union Public Service Commission, Sholapur House, New Delhi with reference to his letter No. 1/7/78/RO dated 25th Jan. 1978.
2. The Accountant General, Central, Bombay (Maharashtra) It is certified that Shri Md. Abdul Haleem has been medically examined by a Medical Board and declared fit for appointment as Junior Hydrogeologist.
3. The Chief Hydrogeologist, Central Ground Water Board Jangar House, New Delhi.
4. The Superintending Engineer, Sina Man Project 280/8 Hotige Road, Post Office Box No. 319, Sholapur-413003 (Maharashtra).
5. Shri Md. Abdul Haleem, Junior Hydrogeologist, Central Ground Water Board, Sina Man Project, 280/8 Hotige Road, Post Office Box No. 319, Sholapur-413003.
6. External Establishment I Section
7. Personal file
8. Guard file.

(D.C. HAREY)
Deputy Secretary to the Govt. of India.

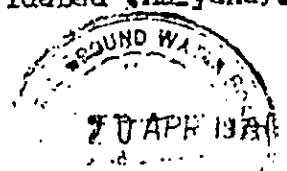
Under Secretary
Ministry of Water Resources
New Delhi

Central Ground Water Board
Sina & Man Basin Project
Sholapur
3305
3/12/78

2362/CH
4/12/78

(42)

2/10/2001
No. 3-502/75-CH (Estt.)
Government of India
Central Ground Water Board
H.N. IV, Faridabad (Haryana).



Dated:-

OFFICE ORDER NO. 452 OF 1976

Sh. M. Abdul Haleem, Junior Hydrogeologist, Central Ground Water Board, Sina Men Project, Solapur is hereby transferred to Central Ground Water Board, Southern Region, Hyderabad with effect from 1/4/76.

Since his transfer has ^{been} ordered at his request, he will not be entitled to G.A./D.A. and joining time.

(D.K. Raweja)
Chief Hydrogeologist & Member

For circulation:-

1. Sh. M. Abdul Haleem, Junior Hydrogeologist, C.G.W.B., Sina Men Project, Solapur.
2. Sh. M. Abdul Haleem, J.H., Southern Region, Hyderabad.
3. The Superintending Engineer, C.G.W.B., Sina Men Project, Solapur.
4. The Deputy Secretary (G) to the Govt. of India, Min. of Agri. and Irrigation (Deptt. of Irrig.), New Delhi.
5. The Accountant General, Central Bombay.
6. The Treasury Officer, Solapur.
7. The Accountant General, A.P. II, Hyderabad.
8. The Pay & Accounts Officer A.P. II, Hyderabad.
9. G.W. Section, C.G.W.B., Faridabad.
10. Shri K.L. Jawa, U.D.C., Jammagar House, New Delhi.
11. Guard File.
12. Office Order Book.

Arora
14/4/76

Arora
Under Secretary to the Government of India
Ministry of Agriculture
New Delhi.

No. 35-134/78-MI(A)
Government of India
Ministry of Agriculture & Irrigation
(Department of Agriculture)

Krishna Bhawan
New Delhi, the 14 Sept, 1978.

The Chief Hydrogeologist,
Central Ground Water Board,
Jamnagar House,
New Delhi.

Sub:- Completion of probationary period of Shri
M.A. Haleem, Junior Hydrogeologist, Central
Ground Water Board.

Sir,

With reference to your letter No. 12-1/78/78 (conf) 845 dated the 16th May, 1978, on the above subject, I am directed to say that the probationary period of two years of Shri M.A. Haleem in the post of Junior Hydrogeologist from 1st September, 1975 to 31st August, 1977 was screened by the Departmental Promotion Committee (Group 'A') of the Department of Agriculture at its meeting held on 29th July, 1978. On the basis of his records and confidential reports, it has been decided by the competent authority that Shri Haleem should be transferred to a different Region to work under another officer and his work for one more year should be watched before a final decision is taken regarding the completion of his period of probation satisfactorily. His case may be submitted to the Department for being placed before the DFC after completion of one year from the date of his joining the new place of posting.

2. Assessment reports and C.R. Dossiers of Shri Haleem are returned herewith, the receipt of which may please be acknowledged.

Yours faithfully,

(K.M. CHADHA)

Deputy Secretary to the Govt. of India

Under Sec. 3 of the Govt. of India
Ministry of Water Resources
New Delhi

31
S.No 35(R) -

11.11.1978 - V 182

P.68

No. MAH/JHG/Estt/78-7

Dated 19-10-1978.

ANNEXURE - V

To

The Chief Hydrogeologist & Member,
Central Ground Water Board,
Jam Nagar House, Man Singh Road,
New Delhi - 110 001,

//Through Proper Channel//

Sub: Establishment-Humble representation of Shri M.A.
Haleem, Junior Hydrogeologist for his retention
in Central Ground Water Board, Southern Region on
"HUMANITARIAN GROUNDS" request reg.

- Ref: 1. CH&M O.O.No.1274 of 1978 dated 28.9.78.
2. Ministry's circular No.7-110/72-MI(A)
January/75(copy enclosed for ready reference).
3. Ministry's circular No.12-4/76-Genl-co-ord.
dt.26.3.76 (copy enclosed for ready reference).
4. CH&M O.O.No.452 of 1976 dt. 20.4.76.

-:~:-

Respected Sir,

With reference to your office order 1st cited
I submit the following for your kind consideration and favour
of sympathetic action.

I was transferred from Simana Project, Sholapur
to the Central Ground Water Board, Southern Region, Hyderabad
through the reference 4th cited on my request and at my own
cost, in view of my/circumstances and my wife working as
Lecturer in Mathematics in Mumtaz College, Malakpet, Hyderabad.
My request for transfer from Sholapur to Hyderabad was given
due kind consideration and effect in the light of Ministry's
circulars 2nd and 3rd cited.

I have completed hardly 2½ years of service in
Central Ground Water Board, Southern Region and I stand
transferred to Central Ground Water Board, Western Region,
Jaipur. In these 2½ years I could attend only to some
extent to my family matters, which are not yet settled since
I was continuously in field with short breaks at headquarters.
This was possible though I was continuously in field because
of proximity of my native place to the field areas which
I could reach within short-time as and whenever warranted
health conditions of my aged father who has been
suffering with high B.P. and kidneys trouble. His condition
is gradually deteriorating and he has become almost blind.

contd...2.

Under
Ministry

to the
Ministry

: 2 :

At this juncture I apprehend that the news of my transfer may come as rude shock to my ailing father since I am the eldest son having the responsibility of looking after my younger brothers.

In view of the circumstances reported above if your goodself could permit me to continue in Central Ground Water Board, Southern Region at Hyderabad for some more time it will enable me to be by the side of my ailing father in his last days and be of solace to him in looking after my younger brothers in addition to a source of confidence to him.

I have been sincere in my duties and obedient to my superiors ever since I joined this department. I assure you, sir, that I would continue to be sincere and obedient. I only request that I may kindly be permitted to continue in Central Ground Water Board, Southern Region for the reasons mentioned above. I will remain ever grateful for the act of kindness in issuing the necessary orders for my retention in Central Ground Water Board, Southern Region, Hyderabad on sympathetic and humanitarian grounds.

Thanking you sir,

Yours faithfully,

Encl: Circular copies.

(M.A. HALEEM),
Junior Hydrogeologist,
Central Ground Water Board,
Southern Region.

Copy Submitted to the Director Central Ground Water Board, Southern Region with a request to keep relieving orders of the under signed in abeyance in view of the above representation.

Copy Submitted to

(M.A. HALEEM)
Junior Hydrogeologist.

Endowment no: 10863 /2/13/MAH/36/17mu

Dt: 20-10-1978

Forwarded to CHAM, CGWB, Hyderabad,
for taking necessary action please.

(Signature)

the Director,
Central Ground Water Board,
S.R., Hyderabad.

Under Secretary to Government
Ministry of Water Resources
Government of India

Copy of D.O. Letter No. 3-265/75-WN dated 28-2-1976. from
Shastri Padma Ramachandran, Officer-on-Special Duty, Department
of Social Welfare to Secretary, Department of Agriculture,
Krishi Bhavan, New Delhi.

Circulated Under Ministry of Agriculture & Irrigation, Department
of Agriculture, letter no. 12-4/76-Genl. Coord. dated 26-3-1976.

C O P Y :

Shri. Padma Ramachandran,
Officer-on-Special Duty.

D.O. No. 3-265/75-WN
Government of India,
Department of Social Welfare,
Shastri Bhavan,
New Delhi, the 28th Feb., 1976.

Subject:- Posting of Husband - Wife Team in the same station.

Dear Shri Singh,

At the meeting of the Consultative Committee of the
Ministry of Education and Social Welfare held on 18th August,
1975 a suggestion was made that husband-wife teams should be
posted in the same station. This, while helping to keep the
family together and lessening the burden of the home wife,
would also ease the problems of transportation and of mobility
of women employees. This matter was also raised at the Viceroy's
meeting of the National Committee on the International Women's
year on 17-2-1976.

I am to request that the matter kindly be given
serious consideration and all possible efforts made to post
husband-wife teams and keep them together. Malakpet, Hyderabad
due to transfer from Tholapur to Hyderabad was
With kind regards

Yours sincerely,

Sd/-
(Padma Ramachandran)

Shri T.P. Singh,
Secretary,
Department of Agriculture,
New Delhi.

Copy forwarded by the COWB, Hq., Faridabad, vide No. 23-22/76-
East-I dated: 20-4-1976.

// True Copy //

Under Secretary to Govt. of India
Ministry of Agriculture & Irrigation
New Delhi

From
M. A. HALEEM
Sr. Hydrogeologist
c/o Dr. Azhuma MBBS.
app. State Excise Office
Maniyem Chelke Street
P.O. NADAGINDA, T.B. & DIST. AP.
N. S. S. 1

Dated 24-11-78
- NADAGINDA

Annexure VI

5750 CH
2-12-78
Respected Sir
Bawaga Subd.

Namaskar, 1st I may be excused for writing for
addressing to you see self personally.

... if permitted I would like to put
... see self some of the genuine facts about
on file and my family circumstances for your kind consideration
AA. (CHAE) N. Sympathetic action on Humanism grounds
Ar. S. 1/10/78

1) As per my promise made before your good self
on 24-10-78 during my visit to Delhi, I have had
the charge of B.H.G. in Southern region on 30-10-78
made reservation for my onwards journey to Mysore
on 8-11-78 by Dakshin Express.

2) The facts of my transfer I never conveyed
my father since he was seriously ill. But some
how the news went to his ears & he felt very sorry
sorry about the same & ultimately on the same
day he has received severe heart attack & expired.
P.T.O.
M. A. Haleem

... he reluctantly bore the shock of my leaving
from him during his last days. (As there was no
in my representation)

3) on 8-11-45 my mother ^{also} got mild heart
attack. So she was bed-ridden on that day. There fore I could
not join duty at Nagpur on 9-11-45.
Thence I have applied leave so that I can attend to
mother during her illness and also to perform
religious traditions during mourning days. Now her
health is under progress, but she always waits for
my presence very near to her. Like most lady
she always asking me a question, Dear son you
father has already left me alone, do you also like
to see me alone in the prevailing circumstances?

This sort of my mother's affection may leads my
resignation from this department I suppose.

4) In case my training in the central region is not
so essential to complete my probation period, I
sincerely request to your good self be kind enough
to re-post me to S. & Office on expiry of my leave
so that I can settled down the problems caused due
to the death of my father staying at Hyderabad for
some time more.

5) Since your good self feels that I should

GRAM: BHOJAJAL
Phone : 24214.

II Remainder
No. MAH/JHG/CGWBCE/79 Estt-7
Central Ground Water Board (CR)
MAOPJR-10.

Dated 19th March 1980.

Annexure VII

To

The Chief Hydrogeologist & Member,
Central Ground Water Board,
IV Secidabad
Bhujana 121 001

(Through Proper Channel)

Sub.: Establishment: Maleem (Shri) M.A. Jr. Hydro-
geologist request for transfer from C.R.
Nagpur to Southern Region Hyderabad under
the provision given in Ministry's Circular
No. 12-4/76 Genl, Co-ord. dated 23.3.76
"on Humanitarian Grounds" Reg-

Ref.: My letter No. MAH/JHG/CGWBCE/79 Estt-5
dt. 14.12.79.

2) My letter No. MAH/JHG/CGWBCE/79 Estt-6
Dt. 1.2.80.

3) Your letter No. 3-402/75-CH-Estt dt. 15.2.80.

4) Director CGWBCE Letter No. 1-64/78 Estt-7891
dt. 15.3.80.

Respected Sir,

Please refer your letter reference 3rd cited above.
In this connection I wish to state that I have requested
for my transfer to Hyderabad more on account of personal
problems than of any health grounds of the self. It is
a fact I was on medical leave from 8.10.79 to 6.11.79.
This facts can be verified from the record of the
Director of C.G.W.B.C.R. Nagpur. (However a copy of the
Medical Certificate is enclosed for ready reference)

In continuation of the above, I wish to bring
to your kind notice the following grievances for your
goodself early sympathetic consideration.

- 1) Since my father's death i.e. 31st October 1978
my family has been living in a very shattered
condition. Being the eldest son I have certain
responsibilities to my family, which I am not
able to attend then living away from them.
- 2) My wife is employed as lecturer in Mathematics
in Mumtaz College, Malakpet, Hyderabad. Since
she is in service in education department, Govt.
of Andhra Pradesh. Therefore she cannot get her
services transfer to outside the State Government.

Under Sec. to Govt. of India

Ministry of Water Resources

- 2 -

For the last one year 4 months on account of my transfer to Central Ground Water Board, Central Region, Nagpur family life for both of us has been disturbed.

In view of the circumstances reported above, once again I request to your goodself to be kind enough and consider my case of transfer sympathetically purely on humanitarian grounds under the provision given in Ministry's Circular No. 12-4/76 Genl-Co-ord. dated 26.3.76 (Copy ~~attached~~ is enclosed for ready reference) for which act of kindness I shall remain ever thankful to your goodself and pray for long life.

An early action in the matter is solicited.

Yours faithfully,

(M.A. HALHEM)

Jr. Hydrogeologist,
C.G.W.B., C.R.
NAGPUR-10.

Encl: 1

Dated: 19.3.80.

Copy submitted to the Deputy Secretary, to the Govt. of India (GW) Ministry of Agriculture, Department of Agriculture, Krishibhavan, New Delhi for favour of information and taking necessary action please.

Copy submitted to the Director, C.G.W.B. C.R. Nagpur, with a request to transmit my representation to the Chief Hydrogeologist & Member, Central Ground Water Board, NH IV Faridabad for his kind consideration alongwith copy of representation to the Deputy Secretary, (G.W), Government of India, Ministry of Agriculture, Department of Agriculture, Krishibhavan, New Delhi for favour of information please.

RECEIVED
Under Secretary to Govt of India
Ministry of Agriculture
Krishibhavan, New Delhi.

(M.A. HALHEM)
Jr. Hydrogeologist,
C.G.W.B. (C.R.)
Nagpur-10.

No.3-402/75-CH.Estt.
Government of India,
Central Ground Water Board,
P.O. IV, Faridabad (Haryana).

Dated the: -

OFFICE ORDER NO. 593 OF 1980

Shri M.A. Haleem Junior Hydrogeologist, Central Ground Water Board Central Region Nagpur is transferred to Central Ground Water Board Southern Region Hyderabad with immediate effect.

Since the transfer has been ordered at his own request, he will not be entitled for TA/DA & Joining time.

(B.K. BAWEJA)
CHIEF HYDROGEOLOGIST & MEMBER

DISTRIBUTION

1. Shri M.A. Haleem, Junior Hydrogeologist, Central Ground Water Board, Central Region, Nagpur.
2. The Director, Central Ground Water Board, Central Region, Nagpur.
3. The Director, Central Ground Water Board, Southern Region, Hyderabad.
4. The Director, Central Ground Water Board, H.Q. Faridabad.
5. The Executive Engineer, Central Ground Water Board, Faridabad.
6. The Senior Hydrogeologist, Central Ground Water Board, H.Q. P.N.B. Building, Faridabad.
7. Shri F.L. Jena, I.D.C. C.G.W.B. Faridabad.
8. File No.10-6/75-CH.Estt.
9. Office Order Book.

[Signature]
Under Secretary to Govt. of India
Ministry of Water Resources
Faridabad

CONFIDENTIAL

DIRECTOR
K.C.B. RAJU

(हवि मंत्र विभाग मन्त्रालय)
Government of India
Central Ground Water Board
(Ministry of Agriculture and Irrigation)
Southern Region
Hyderabad-500 038 (A.P.)

3-6-891, Hyderabad
Hyderabad-500 029.

No. 1/BSF/CGWB/COM-81/13400
dt. December 15, 1981

Dear Dr. Pathak Sahab,

Sub: Sri M.A. Halseen, Jr. Hydrogeologist.....

You are aware that the above cited officer was transferred from Southern Region to Sholapur as his record was not good in this region. Similarly he was transferred from Sholapur to Nagpur and it was also learnt that Sri Halseen could not do any better at Sholapur. His probationary period was extended and only last year this was cleared. This officer was posted back to Southern Region even though he had set up a bad record in this region before he was transferred out from this place. It is also reported by the drivers and others that he is very callous and no driver is willing to go with him to field because of his nature. With great difficulty a driver was persuaded to go with him recently for field work and a vehicle was allotted to him for this purpose. During the entire field season of last year he was on some leave/other or producing false medical certificates and this case was referred to the medical board and the report is still awaited.

He is avoiding field work with some excuse or other this year also. You are aware that the targets for the reappraisal surveys for an officer is 3000 sq. kms. If the officer does not proceed to field even at this juncture, the entire target of the region gets affected which reflects on the Board's activities in general. It is therefore requested to take suitable disciplinary action against this officer and also transfer him out from Hyderabad to any place as this being his home State, I trust suitable action will be taken at an early date so that this indiscipline does not spread further down.

With kind regards,

Yours sincerely

Dr. B.D. Pathak
Chief Hydrogeologist & Member
Central Ground Water Board
Jangar House, Mansingh Road
NEW DELHI-110 011

(K.C.B. RAJU)

Write to Director
on these lines

अतिरिक्त सचिव भारत सरकार
Under Secretary to Govt. of India
नदी निरीक्षण विभाग
Ministry of Water Resources
नई दिल्ली-110 001.

40
1977/78
No. 3-402/73-4 (Estt) - X
Government of India,
Central Ground Water Board,
M.H.IV, Faridabad, (Haryana).

Date: 8/2/83

MEMORANDUM

Reference to his application dated 12-11-82, Shri M.A. Haleem, Junior Hydrogeologist is informed that his request for posting in Southern Region, Hyderabad, has been considered by the competent authority and in view of his domestic circumstances, he is posted to Southern Region, Hyderabad. Shri Haleem is therefore directed to report for duty to the Director, Central Ground Water Board, Southern Region, Hyderabad forthwith.

(B.P.S. SINHA)
CHIEF HYDROGEOLOGIST & MEMBER.

To
Shri M.A. Haleem,
Junior Hydrogeologist,
H.No. 16-11-15-4/3,
Saleemnagar Colony No. I,
P.O. Malakpet Colony,
Hyderabad-5000036.

CCP TO:-

1. The Director, Central Ground Water Board, Southern Region, Hyderabad.
2. The Director, Central Ground Water Board, South Western Region, Bangalore.
3. The Officer Incharge, Central Ground Water Board, Unit Office, Trivandrum.

(B.P.S. SINHA)
CHIEF HYDROGEOLOGIST & MEMBER.

N.O.O.

The Deputy Secretary (GW), to the Govt. of India, Ministry of Irrigation, Krishi Bhawan, New Delhi. Sh. M.A. Haleem, Junior Hydrogeologist has been posted at Hyderabad as per the instructions of the Ministry issued vide D.O. No. 35-184/78-GW dated 3-2-83 though the Junior Hydrogeologist are already in excess of the requirement in the Southern Region, Hyderabad.

(B.P.C. SINHA)
CHIEF HYDROGEOLOGIST & MEMBER.

UPADHYAYA

Under Secretary to the Govt. of India
Ministry of Irrigation & Public Works
New Delhi

M.A. Halseem,
Jr. Hydro-colonist.

10. 11. 1984/COH/C/13L-1 - 34
Govt. of India,
Central Ground Water Board,
Central Division,
21, Central Bazar Road,
Ranchi, Jharkhand.

dt. 5 th Sept. 1984.

To

The Director,
Central Ground Water Board,
Central Division,
Ranchi, Jharkhand.

Through Proper Channel

Sub : Request to grant 2 days C.L. on 10 th
and 11 th Sept. 84 for availing of
public holidays 7, 8 and 9 th with
permission to leave the headquarter
on 6 th Sept. 1984.

Sir,

I would like to join my family at Hyderabad
on the occasion of the festival Id-ul-zuha falling on
7 th Sept. 1984.

Therefore, I request to your goodself
kindly to permit me to leave the headquarter on 6 th
and grant me 2 days casual leave on 10 th and 11 th
with permission to avail the public holidays on
7 th, 8 th and Sept. 1984.

For which act of kindness I shall remain
thankful to you, Sir,

Yours faithfully,

SA/-

Attested (M.A. Halseem)

[Signature]

For the Director,
Central Ground Water Board,
Central Division,
Ranchi, Jharkhand.

92
N.A. HALEEM
HOUSE NO. 16-11-15/4/
SALEEMNAGAR COLONY NO. 1
P.O. MALAKPET COLONY
HYDERABAD- 500 036

ANNEXURE - XII

(193)

" REPORT FOR DUTY OFFICER (.) PROGRESS OF FIELD WORK
AFFECTED " (.)

REGIONAL
OFFICE

N.T.T.

(N. T. T.)
Sd -

NO: 1-6,7 -1934.
GOVERNMENT OF INDIA
CENTRAL BOARD INTER-
STATE RAILWAY
NEW DELHI
RECEIVED - 1934

DATED : 9 OCT 1934

Copy by post in confirmation of the above telegram forward
to Shri N.A. Haleem, Jr. Hydrogeologist, House No. 16-11-15/
Saleemnagar Colony No. 1, P.O. Malakpet Colony, Hyderabad -
500 036 for information and immediate necessary action.

2. Copy to Tel. Operator, S.M.S. O.R., Bangalore
3. Survey Section

True copy

Sd -

(N. T. T.)
Director

Attested by :

1/
(N. A. Haleem)
Sr. Hydrogeologist

[Signature]

MINISTER

1934

BY 1111 1111 1111 1111 1111

From:
M.A. Halcom
Jr. Hydrogeologist.
To

No. MAH/JHG/CGWBOR/leave-4
Hyderabad - A.P.
Dated: 10 Oct., 1984.

The Director,
Central Ground Water Board,
Central Region,
21, New Ramdaspet
NAGPUR - 440 010.

Respected Sir,

Sub:- Request for sanction of E.L for 28 days
from 10 Sept, 1984 to 07 Oct., 1984 to
attend brother's marriage and mother's illness -
(domestic affairs) - Reg.

Ref:- 1. My leave application MAH/JHG/CGWBOR/leave-4
dated: 05 Sept., 1984.
2. My telegram dt. 13 Sept., 1984.
3. My telegram dt. 01 Oct., 1984.

0 0 0

In continuation of my leave application referenced
1st cited and Telegrams references 2 & 3rd cited, I am
enclosing herewith the leave application for sanction of
Earned Leave for 28 days from 10 Sept., 1984 to 07 Oct., '84
to attend my brother's marriage and mother's illness in
Hospital (Domestic affairs).

I will be very much thankful if your goodself do
the needful at once and arrange to send the leave salary
at an early date.

Thanking you Sir,

Yours faithfully,

[Signature]
(M. A. Halcom)

Jr. Hydrogeologist
Central Ground Water Board,
Central Region, Nagpur-440 010.

Encl: Leave form duly filled in.

T. No. 16-11-15/4/1,
Galgam...
P.O. ...
HY

[Signature]
Ministry of ...
...

RECEIVED POST ACK DUE

From: M.A. Haleem
Jr. Hydrogeologist
No. MAH/JHG/84-85/SL-1
Hyderabad - A.P.
Dated: 10 Oct. 1984.

To: The Chief Hydrogeologist & Member
Central Ground Water Board
1H IV Faridabad
HARIYANA - 121 001.

Respected Sir,

"THROUGH PROPER CHANNEL"

Sub:- Study Leave:- Information of admission to Ph.D. course and request for sanction of study leave with salary under Rules 50(1), 51(a), 53(4) and 56/2(a) of C.C.S. leave Rules 1972 - Reg.

- Ref:- 1. Your permission letter No. 3-402/75-CH Estt. dated 20-12-1983.
2. Your Office order No. 2018 of 84 issued under letter No. 10-1/83-CH (Estt)-76, dt. 16-6-84.
3. Proceedings of the Vice-Chancellor O.U. No. MHD Ph.D./Ad-1984 - Session/DS/270 dated 21/25 July, 1984.

I am very much thankful to your goodself for according me the permission to register my name for Ph.D. degree course in Osmania University, Hyderabad vide reference 1st cited.

In pursuance thereof I applied and secured admission in Ph.D. course in the Osmania University vide the reference 3rd cited (Xerox copy of which is enclosed for favour of a/c perusal and information).

I now submit in this connection that during the course of my seeking admission in Ph.D. I had been transferred through the reference 2nd cited from Southern Region, Hyderabad to Central Region, Nagpur and in due obedience of the said orders I resumed charge of my post at Nagpur on the forenoon of the 27th of August, 1984.

But for my transfer to Nagpur I would have been able to pursue my course of studies and research, without in any way affecting my duties and exigencies of service, and I not been disturbed from Hyderabad (by a/c) in a short span of my stay at Hyderabad.

However, as I had been transferred Nagpur, I was not able to successfully prosecute my studies and research in Osmania University, Hyderabad. I am therefore, submitting this request for study leave with salary under Rules 50(1), 51(a), 53(4) and 56/2(a) of C.C.S. leave Rules 1972 - Reg.

[Signature]

Ministry of Water Resources
Hyderabad

2

I, therefore, request to your govt. if
grant me a years study leave with effect from 1st Oct. to 7th of Oct., 1965, to avail myself the opportunity
offered to me by the Omania University in the mutual
interest of the self as well as the department. (in public
interest)

/post

I shall be further grateful for communication of an
early sanction here in prayed for lest it should not put me
to an irreparable loss. (both monetary and in career)

Thanking you Sir,

Yours faithfully,

M. A. Haleem
(M. A. Haleem)

Jr. Hydrogeologist
Central Ground Water Board,
Central Region, Nagpur-40.

Encl: Permission letter of the Ministry.

2. Vice-Chancellor Omania University
proceedings of admission.

3. Form No. 9 U/R 53(4) G.C.S. leave rules.

Copy submitted to the Director, Central Ground Water Board,
Central Region, Nagpur with a request to to recommend my
case to the Chief Hydrogeologist & Member for needful
consideration for which act of kindness I am all remain
thankful to you Sir.

Advance copy submitted to the Chief Hydrogeologist & Member,
Central Ground Water Board, Mi-IV Faridabad, Haryana to
avoid delay please.

M. A. Haleem
(M. A. Haleem)

Jr. Hydrogeologist

PLEASE ADDRESS TO

Mr. A. K. S. 15/4/3
Salomnagar Colony No. 1
P.O. Malakpet Colony
HYDERABAD 500 036.

Director
Under Secretary to Govt. of India
Ministry of Water Resources
New Delhi.

N/A 11

STATE

EXPRESS

TELEGRAM

M.A. HALEEM J.R.,
No. 16-11-15/4/3
SALEEMNAGAR COLONY NO. 1,
P.O. MALAMPET COLONY,
HYDERABAD-500 036.

YOUR REQUEST FOR STUDY LEAVE NOT RECOMMENDED (.) REPORT
FOR DUTIES AT ONCE. WORK AFFECTED.

DIRECTOR
BHUNIJAL

Not to be telegraphed:

Sd/-
(A. Venkataran)
Director.

No.

Government of India,
Central Ground Water Board,
Central Region,
21, Central Bazar Road,
New Bhandaspet, Nagpur-440 010

Date: 15-10-1984

Copy forwarded for information in confirmation to:

1. Shri M.A. Haleem, Jr. Hydrogeologist, No. 16-11-15/4/3, Saleemnagar Colony No. 1, P.O. Malakpet Colony, Hyderabad-500036. His request for study leave is not recommended. He is directed to report duty at once as work is suffering.
2. The Chief Hydrogeologist & Member, CGWB, N.H. IV, Bangalore.
3. Telephone Operator, CGWB, CR, Nagpur.

W. K. S.

P. K. S.

Director.

S.No. 121(9)

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REGISTERED

No. 3402/75-CH (Estt)
Government of India
Central Ground Water Board,
MH-IV Faridabad (Haryana)

Dated:- 30.11.84

MEMORANDUM

Consequent on his trans-fer from Southern Region, Shri Haleem, Junior Hydrogeologist reported for duty at Central Region, Nagpur on 27.8.84. He applied for 2 days casual leave for 10.9.84 and 11.9.84 and left H.Qs Office Nagpur. Thereafter he sent a telegram on 18.9.84 and again on 25.9.84 requesting for leave upto 7.10.84 on the grounds of attending his mother's illness and brother's marriage. He was informed telegraphically by the Director C.R. vide his telegram dated 9.10.84 directing him to report for duty immediately but instead of complying with the instructions of the Director, Shri Haleem sent application dated 10.10.84 requesting for study leave from 8.10.84 to 7.10.85. His application was received in the office of the Director, C.R. on 15.10.84. In view of the exigency of work, Shri Haleem was informed by the Director, C.R. vide his telegram dated 15.10.84 that his request for study leave not recommended and he should report for duty immediately. Shri Haleem did not comply with the instructions of the Director and continued to remain on unauthorised absence.

Shri Haleem was issued No Objection Certificate for getting his name registered for Ph.D on Ground Water Balance and Management studies in parts of Godavari Valley as an external candidate vide ministry's letter No.35-184/78-GW dated 7.12.83. This was subject to the condition that grant of permission for his doing Ph.D will not interfere with his official work in any way. The grant of leave for fulfilling any residential requirement of completion of the course will be subject to the exigencies of Govt. work.

The action of Shri Haleem, first, proceeding on 2 days casual leave and thereafter extending leave on the grounds of his Mother's illness and Brother's marriage is highly irregular as in case he was intending to proceed on long leave, he should have taken prior permission of the Director and got his leave sanctioned before proceeding on leave. His further action in submitting his application from home for study leave w.e.f. 8.10.84 to 7.10.85 is also highly irregular as prior permission of the competent authority is obtained before proceeding on such leave.

Shri Haleem is informed that study leave is granted to him as there are shortages of hydrogeological staff in

Secretary to Govt. of India
Ministry of Water Resources

: 2 :

He is, therefore directed to report for duty to the Director, Central Region, Nagpur by 15.12.84 positively failing which action is deemed fit will be taken against him. He is also directed to explain as to why disciplinary action should not be taken for his unauthorized absence from duty w.e.f. 10.1.84.

(B.P.C. STAFF)
CHIEF HYDROGEOLOGIST & MEMBER

Shri M.A.Haleem,
Jr. Hydrogeologist
16-11-15/4/3
Saloon Nagar Colony No. 7
P.O. Malakpet Colony,
Hyderabad - 500035.

N.O.O

Copy to:-

1. The Director, CCWB, Central Region, Nagpur for information.
2. The Deputy Secretary (GW), Ministry of Irrigation, Kris-hi Bhawan, New Delhi alongwith a copy of Director's letter dated 17.10.84.

(B.P.C. STAFF)

CHIEF HYDROGEOLOGIST & MEMBER

Chloro

Ord.

1984

No. 11/11/84

Reminder No. II
BY REGISTERED POST ACK. DUE.

From:

M.A. Haleem,
Jr. Hydrogeologist,
(on study leave)

No MAH/JHG/84-85/SL-4
Government of India,
Central Ground Water Board
Central Region,
NAGPUR - 10.

Dated: 12-12-1984.

To

The Chief Hydrogeologist & Member,
Central Ground Water Board,
NH IV Faridabad,
HARIYANA - 121 001.

Respected Sir,

(THROUGH PROPER CHANNEL)

Subj:- Study leave:- Humble request for sanction of study/leave with salary already applied for under rule 50 (1), 51 (a), 53 (4) and 56/2 (a) of C.C.S. leave rules of 1972 - Regarding.

Ref:- 1) My letter No. MAH/JHG/84-85/SL-1 dt.10.10.84
2) My telegram dated 24.10.1984
3) My letter No. MAH/JHG/84-85/SL-2 dt.16.11.84
4) Your memo No. 3-402/75-CH (Estt) dt.30.11.84.

Inviting kind-ness and tenor of the memorandum resorted to presumption that I have deliberately absconded from duty keeping the department in dark of my intention to proceed on long leave, and so at the outset I venture to explain first the true and factual circumstances which have humbly forced me to seek long leave as under.

I left Nagpur, after personally applying and obtaining due permission on 5th of Sept 1984 of the Director, Central Ground Water Board, Central Region, on the evening of 6th Sept 84 for leaving the head quarter to join my family at Hyderabad for celebration of the Idd-u-zuha, on 7th and to avail myself of the following closed holidays on 8th and 9th Sept 84 together with casual leave on 10th & 11th. During celebration of Idd with my family at Hyderabad I came to know of my young son's marriage fixed on 14th Sept at 12th. This short interval between as the eldest member of our family. This short interval between a happy emergency forced me to extend my absence officially. Unfortunately, I was not able to inform the

Under

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:: 2 ::

mothers health who had to be actually hospitalised from 18th Sept to 8th October 1984. I enclose copies of the invitation card of my brothers wedding as well as the discharge ticket of my mothers hospitalisation to show the rapidity of the events compelling me, for any one in my possession, which had forced me to hide my leave on which I had proceeded.

I may here recall attention to the ministry's letter No. 35-184/78 Gd dated 7-12-1983 in which I had been permitted to seek registration for Ph.D. course in Osmania University at Hyderabad. In pursuance thereof the Osmania University had been kind enough to grant me admission to the Ph.D. Course. Which fact I had already reported vide my letter reference 1st cited. While the circumstances I was confronted with at Hyderabad were so, I had no other option for in continuation. If the leave I had proceeded on, in my application 1st cited in order that un-disturbed stay at Hyderabad may continue. This reveal that thus has not been any deliberate or willful default on my part for "Un authorised absence from duty w.e.f 10-9-1984 to 12-12-84."

Further my application for grant of study leave in coroboration of prefixing the leave already applied is quite with in the perview of under Rules 54/2 of CCS leave rules 1977.

I therefore submit that now I have been successfully in persuing my studies in Ph.D. Course in the mutual interest of the department I share and my self and so, not in a position to rejoin duty on or before 15-12-1984 as directed in the ference 4th cited. The study leave already applied for by me may kindly be sanction.

An early and needful action in the matter is solicited.

Thanking you Sir,

Place: HYDERABAD.

Dated: 12-12-1984.

Encl:-(As above)

Yours faithfully,

M.A. HALEEM
(M.A. HALEEM)

Copy submitted to the Director, C.G.S.B. Ch Nagpur with a request to transmit the same duly re-comended to the CH & M C.G.S.B. Faridabad - 121 001 for kind consideration please.

✓ Advance copy submitted to the CH & M C.G.S.B. Faridabad - 121 001 for kind consideration please.

Waleed

On

No.3-402/75-CH-Estt.
Government of India
Central Ground Water Board
NH-IV, Faridabad (Haryana)

Dated:- 26/2/85

MEMORANDUM

With reference to his explanation dated 12.12.84 in reply to this office memorandum No.3-402/75-CH-Estt. dated 30.11.84, Shri M.A. Saleem is informed that the explanation furnished by him is not satisfactory. His action consisting of proceeding on 2 days casual leave and thereafter extending leave on various grounds is highly irregular. He is further informed that the permission granted to him for study leave was subject to specific condition that it would not interfere with his official work in any way and the grant of leave for fulfilling any residential requirement of completion of course will be subject to the exigency of Govt. work. He has been clearly told by the Director as well as by this office that in view of the exigency of work no leave can be granted to him and his absence from duty since 10.9.84 is unauthorized. He is, therefore, again directed to report for duty to the Director, C.R., Nagpur immediately and latest by 28.2.1985 failing which necessary action will be taken against him.

(B.P.C. SINHA)
CHIEF HYDROGEOLOGIST & MEMBER

Shri M.A. Saleem
Junior Hydrogeologist
15-11-15/4/3
Saleem Nagar Colony No.1
P.O. Malakapet Colony,
Hyderabad-500036.

N.O.O.P.-
Copy to:-

1. The Director, CGWB, Central Region, Nagpur, for information.

One

By *[Signature]*
Director
Central Region
Nagpur

No.3-402/75-CH-Estt.
Government of India
Central Ground Water Board
NH-IV, Faridabad (Haryana)

Dated:-

MEMORANDUM

With reference to his letter dated 14.2.85 Sh. M.A. Haleem, Junior Hydrogeologist, is informed that as already intimated to him vide this office memo No.3-402/75-CH-Estt. dated 25.2.85. His absence from duty since 10.9.84 is unauthorized as he is absenting himself from duty without prior approval and sanction of leave. While giving him permission for study leave it was clearly stated that it would not interfere with his official work in any way and the grant of leave for fulfilling any residential requirement of completion of course will be subject to the exigency of work. The permission for study leave cannot be taken or granted if it leaves would be availed by him as is convenient to him without the approval of the competent authority. He has been clearly told time and again that his absence is unauthorized and he is liable for disciplinary action under the rules. He is, therefore, again directed that he should report for duty to the Director, CGWB, Central Region, Nagpur immediately as otherwise he would be liable for disciplinary action not only for unauthorized absence but for defiance of Govt. orders also.

(K.B. MEENA)
SP. ADMINISTRATIVE OFFICER
FOR CHIEF HYDROGEOLOGIST & MEMBER

Shri M.A. Haleem,
Junior Hydrogeologist
Central Ground Water Board
Central Region, Nagpur.

[Signature]

Ministry of Water Resources
at New Delhi

REGISTERED A.D.

No. 3-402/75-GH-Estt-
Government of India
Central Ground Water Board
MH-IV, Faridabad (Haryana)

Dated

127 Mar 1985

MEMORANDUM

With reference to his letter dated 12.4.85 Shri M.A. Haleem, is informed that as already intimated to him vide this office memorandum dated 30.11.84, 26.2.85 and 5.4.85, the permission for study leave cannot be granted to him. He is being treated as on unauthorized w.c.f. 10.9.84 and is liable for disciplinary action under the Rules. He is again directed to report for duty to the Director Central Ground Water Board, Central Region, Nagpur, failing which disciplinary action for his unauthorized absence and also for defiance of Govt. orders will be taken against him.

(B.P.C. 3074)
CHIEF HYDROGEOLOGIST & HEAD

Shri M.A. Haleem,
Junior Hydrogeologist,
16-11/15/4/3,
D.O. Malakpet Colony,
Saleem Nagar Colony,
Hyderabad.

H.O.C.
Copy to:

The Director, CHW., Central Region, Nagpur
for information.

(Signature)

(B.P.C. 3074)

59
S. No. 134(1)

ANNEXURE - XXI

REGISTERED

NO. 3-402/75-GI. Fatt
Govt. of India
Central Ground Water Board
Sl. IV, Faridkot

Dated the

8 AUG 1985

MEMORANDUM

With reference to his letter NO. MAH/SAH/84-85/SL-B dt. 27.6.85, Sh. M.A. Haleem, Junior Hydrogeologist, CGWB has already been intimated vide this office memorandum even number dt. 30.11.26.2.85, 5.4.85 and 27.5.85 that the permission for his doing Ph.D will not interfere with his official work in any way and the grant of leave for fulfilling any residential requirement of completion of the course will be subject to the exigencies of work. However, permission for study leave cannot be granted to him due to exigencies of Govt. work.

As regard, his posting to C.G.W.B., Southern Region, Hyderabad and transfer from Southern Region, Hyderabad to Central Region, Nagpur and cancellation of his transfer for Trivendrum, he can represent his case after joining his duty at C.G.W.B., Central Region, Nagpur.

He is once again directed to report for duty immediately in the interest of Govt. work on receipt of this Memo. without any prejudice to the Director, CGWB, Central Region, Nagpur failing which necessary disciplinary action deemed fit for his unauthorized absence from duty will be taken against him.

(D.P.O. SINGH)

CHIEF HYDROGEOLOGIST & MEMBER

Sh. M.A. Haleem,
Junior Hydrogeologist (on study leave)
P.O. Salem P.E.S. Colony,
Salem Nagar,
Hyderabad.

Copy to the Director, CGWB, Central Region, Nagpur for information with reference to his letter NO. 1-54/75/200-7073 dt. 11.7.85.

Under Secretary to the Government

Ministry of Water Resources
22, Feroz Road, Delhi.

PK/29/1/85/

CONFIDENTIAL

No. 6(1)/84-Vig.
Government of India
Ministry of Water Resources

New Delhi, the 1st January, 1986.

M E M O R A N D U M

Subject:- Disciplinary action under Rule 14 of Central Civil Services (Classification, Control and Appeal) Rules, 1965 against Shri M.A. Haleem, Jr. Hydrogeologist, C.G.W.B., C.R., Nagpur.

The President proposes to hold an enquiry against Shri M.A. Haleem, Jr. Hydrogeologist, Central Ground Water Board, C.R., Nagpur under Rule 14 of the Central Civil Services (Classification, Control and Appeal) Rules, 1965. The substance of the imputation of misconduct/misbehaviour in respect of which the inquiry is proposed to be held is set out in the enclosed statement of articles of charge (Annexure I). A statement of the imputations of misconduct/misbehaviour in support of each article of charge is enclosed (Annexure II). A list of documents by which, and a list of witnesses by whom, the articles of charge are proposed to be sustained are also enclosed (Annexure III & IV).

2. Shri M.A. Haleem is directed to submit within 30 days of the receipt of this Memorandum a written statement of his defence and also to state whether he desires to be heard in person.

3. He is informed that an inquiry will be held only in respect of those articles of charge as are not admitted. He should, therefore, specifically admit or deny each article of charge.

4. Shri M.A. Haleem is further informed that if he does not submit his written statement of defence on or before the date specified in para 2 above, or does not appear in person before the inquiry authority or otherwise fails or refuses to comply with the provisions of Rule 14 of the Central Civil Services (Classification, Control and Appeal) Rules, 1965 or the orders/directives issued in pursuance of the said Rule, the inquiry authority will be empowered to proceed against him ex-officio.

Un.

1/1/86

-: 2 :-

5. Attention to Shri M.A. Haleem is invited to Rule 20 of the Central Civil Services (Conduct) Rules, 1964 under which no Government servant shall bring or attempt to bring any political or outside influence to bear upon any superior authority to further his interest in respect of matters pertaining to his service under the Government. If any representation is received on his behalf from another person in respect of matter dealt with in these proceedings it will be presumed that Shri Haleem is aware of such a representation and that it has been made at his instance and action will be taken against him for violation of Rule 20 of the Central Civil Services (Conduct) Rules, 1964.

6. The receipt of this Memorandum may be acknowledged.

(By order and in the name of the President)

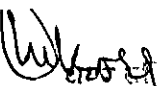
Sd/-
(A. RAJAGOPALAN)
DEPUTY SECRETARY TO THE GOVERNMENT OF INDIA

To

Shri M.A. Haleem,
Jr. Hydrogeologist,
Central Ground Water Board(C.R.),
House No.16-11-15/4/3,
Saleem Nagar Colony No.I,
P.O. Malakpet Colony,
HYDERABAD - 500 036.

Copy forwarded to Sr. Administrative Officer,
Central Ground Water Board, NH-IV, Faridabad.

Sd/-
(A. RAJAGOPALAN)



Under Secretary
Ministry of Water Resources
Hyderabad

ENCLOSURE TO THE MINISTRY OF WATER RESOURCES;
MEMORANDUM NO.6(1)/84-VIG. DATED THE 1ST JANUARY, 1986.

Annexure I

Statement of article of charges framed against Shri M.A. Haleem, Jr. Hydrogeologist, C.G.W.B., C.R., Nagpur.

.....

ARTICLE:

Shri M.A. Haleem, while functioning as Jr. Hydrogeologist, C.G.W.B., C.R., Nagpur, absented himself from duty with effect from 10.9.84 to date unauthorisedly without proper approval or sanction of the competent authority.

By his aforesaid act Shri M.A. Haleem, has shown lack of devotion to duty and has behaved in a manner unbecoming of a Government servant and thereby violated the provision of Rule 3(I), (ii) & (iii) of the Central Civil Services (Conduct) Rules, 1964.

.....

W. Roy

For the Secretary
Ministry of Water Resources
Government of India

ENCLOSURE TO THE MINISTRY OF WATER RESOURCES
MEMORANDUM NO. 6(1)/27-VII, DATED THE 1ST JANUARY, 1986.

Annexure II

Statement of imputations of misconduct and misbehaviour
in support of article of charges framed against Shri M.A.
Haleem, Jr. Hydrogeologist, C.G.W.B., C.R., Nagpur.

.....

ARTICLE I

Shri M.A. Haleem, was transferred from Southern Region, C.G.W.B., Hyderabad to Central Region, C.G.W.B., Nagpur vide Office Order No. 3078 of 1984 issued under letter No. 16-1/83-CH-Estt. 76 dated 16.6.84. Shri Haleem was relieved of his duty from Southern Region on 16.8.84 and he joined duty in C.R. Nagpur on 27.8.84. He proceeded on two days casual leave from 10.9.84 to 11.9.84 with permission to prefix and suffix the public holidays falling on 7th, 8th & 12th September, 1984, to join his family at Hyderabad to celebrate Id-u-Zuha falling on 7th September, 1984. He left Headquarters office, Nagpur on 6th September, 1984. He did not join duty after availing the casual leave and sought extension of leave first upto 30.9.84 and then upto 7.10.84 on the ground of illness of his mother vide telegram dated 18.9.84 and 25.9.84 respectively. The extension of leave was not allowed to him and he was asked to join duty immediately vide a telegram dated 9.10.84 from Director, C.R. Subsequently two applications, both dated 10.10.84, were received from him. In one application Shri Haleem requested for grant of (i) earned leave for the earlier period of absence i.e. from 10.9.84 to 7.10.84 on the ground of leave from 8.10.84 to 7.10.84, which is considered highly irregular. The application for study leave was received in the office of Director, C.R. on 15.10.84, and Haleem was informed telegraphically on same day that the request for study leave was not recommended and therefore, he should report for duty at once. Shri Haleem did not comply with the instructions of the Director and continued to remain on unauthorised absence. As he did not report for duty inspite of Director, Central Region's repeated advice, a Memo No. 3-402/75-CH-Estt. dated 30.11.84 was issued to him by CH&M, CGWB informing him that the study leave applied by him could not be allowed in view of the exigency of work and was directed to report for duty by 15.12.84 failing which necessary disciplinary action would be initiated against him for his

[Signature]
Under Secretary to the Government
Ministry of Water Resources
New Delhi

: 2 :

wilful and unauthorised absence from duty. Shri Haleem instead of complying with these instructions continued to remain on unauthorised absence and expressed his inability to join duty stating that he was pursuing his study in P hd. course in mutual interest and benefit to the Department. This is a lame excuse put forth by Shri Haleem as the Department is not in any way benefited by his studies, rather the Board is suffering badly due to his continuous wilful and unauthorised absence from duty.

Shri Haleem disregarded the repeated instructions of the Government and failed to report for duty at Nagpur and continued on unauthorised absence from duty without proper sanction of leave w.e.f. 10.9.84.

The above acts of commission and omission on the part of Shri M.A. Haleem showed lack of devotion to duty and he has behaved in a manner unbecoming of a Government servant and thereby violated the provision of Rule 3(I), (ii) & (iii) of the Central Civil Services (Conduct) Rules, 1964.

Dr. Roy

Dr. Roy
Secretary
to the Government of India
New Delhi

ENCLOSURE TO THE MINISTRY OF WATER RESOURCES
 MEMORANDUM NO. 6(1)/84-VIG. DATED THE 1ST JANUARY, 1986.

Annexure III

List of documents by which the articles of charge framed against Shri M.A. Haleem, Jr. Hydrogeologist, C.G.W.B., C.R., Nagpur, are proposed to be sustained.

.....

1. Office Order No.2018 of 1984 dated 16.6.84.
2. Relieving Order dated 16.8.84.
3. Joining Report dated 27.8.84 in C.R., Nagpur.
4. C.L. application w.e.f. 10.9.84 to 11.9.84.
5. Telegram dated 18.9.84 and 25.9.84 from Shri Haleem.
6. Telegram dated 9.10.84 from Director, C.R., Nagpur to Shri Haleem.
7. Two applications dated 10.10.84 from Shri Haleem.
8. Telegram dated 15.10.84 from Director, C.R., Nagpur.
9. Memorandum No.3-402/75-CH-Estt. dated 30.11.84.
10. Letter from Shri Haleem in reply to Memo. dated 12.12.84.
11. Memo No.3-402/75-CH-Estt. dated 26.2.85
12. - do - dated 15.4.85
13. - do - dated 27.5.85
14. - do - dated 8.8.85

[Signature]

Under Secretary to Government
 Ministry of Water Resources
 Government of India
 New Delhi

ENCLOSURE TO THE MINISTRY OF WATER RESOURCES
MEMORANDUM NO. 6(1)/84-VIG. DATED THE 1ST JANUARY, 1986.

Annexure IV

List of witnesses by whom the article of charge framed
against Shri M.A. Haleem, Jr. Hydrogeologist, C.G.W.B.,
C.R., Nagpur are proposed to be sustained.

.....

1. Shri R. Venkatraman, Director, C.G.W.B.,
C.R., Nagpur.

[Handwritten signature]

Order

Resources

of India

REPORT OF THE INQUIRY OFFICER ON THE CHARGES FRAMED AGAINST
SHRI M.A. HALEEM, JR. HYDROGEOLOGIST, CENTRAL GROUND WATER BOARD

I, N.C. Bhatnagar, Director, Central Ground Water Board, North Western Region, Chandigarh was appointed an Inquiry Officer, to enquire into the charges framed against Shri M.A. Haleem, Jr. Hydrogeologist, Central Ground Water Board by the Appointing Authority vide confidential orders under No.6(1)/84-Vig(i) dated 10th March, 1986, issued by the Ministry of Water Resources, Govt. of India, New Delhi.

The article of charge against Shri M.A. Haleem read as follows.

"Shri M.A. Haleem while functioning as Jr. Hydrogeologist, Central Ground Water Board, Central Region, Nagpur, absented himself from duty with effect from 10.9.1984 to date unauthorisedly without proper approval or sanction of the competent authority.

By his aforesaid act Shri M.A. Haleem, has shown lack of devotion to duty and has behaved in a manner unbecoming of a Government servant and thereby violated the provisions of Rule 3 (i) (ii) and (iii) of the Central Civil Services (Conduct) Rules, 1986."

Before instituting the inquiry under Rule 14 of C.C.S. (CCA) Rules, 1965, the Appointing Authority, had gone through the prescribed regulations by issuing the confidential memorandum No.6(1)/84-Vig. dated 1st January, 1986, through the Ministry of Water Resources, along with the Article of charge, Statement of Imputations of misconduct and misbehaviour in support of article of charge, list of documents by which the articles of charge framed were proposed to be sustained, and list of witnesses by whom the article of charge framed was proposed to be sustained.

A brief description of the case is as follows.

1. Shri Haleem was transferred from Southern Region, Hyderabad to Central Region, Nagpur.
2. Shri Haleem, handed over the charge of his office at Hyderabad on 16th August, 1984.
3. Shri Haleem, took over the charge of his office at Nagpur on 27th August, 1984.
4. Shri Haleem proceeded on casual leave for 10th and 11th August, 1984 with permission to leave station to celebrate the religious festival of Id-ul-Zuha with permission to suffix the closed holidays on 7th, 8th and 9th September, 1984 and left his headquarters Nagpur on 6th September in the evening.
5. Shri Haleem should have joined his duties on 12th September, 1984 at Nagpur.
6. Shri Haleem's leave upto 30th September (naturally the leave to be treated as earned leave).
7. Shri Haleem who should have joined his duties on 1st October, 84 again did not join the duties and sent a telegram on 1st October 1984 to extend the leave up-to 7th October, 1984.

8. Shri Haleem sent a formal application for earned leave w.e.f. 10th September to 7th October, 1984 on 10th October, 1984.
9. Shri Haleem applied for study leave separately also on 10th October, 1984 for a period of one year, in continuation of his earned leave applied till 7th October, 1984.
10. Director, Central Region sent a telegram on 9th October, 1984 which was received by Shri Haleem on 10th October, 1984 which ordered him to report immediately as the work was suffering.
11. Director, Central Region again sent a telegram on 15th October, 1984 to Shri Haleem, saying that study leave applied for has not been recommended and report for duties at once as work was getting affected.
12. Shri Haleem did not pay heed to the orders of the Director communicated through the two telegrams, as also subsequent orders issued by the Chief Hydrogeologist & Member, CGWB instead he extended his study leave for another year.
13. Disregard of the orders of superior authorities resulted in the issue of the memorandum alongwith the article of charge by the Ministry of Water Resources through which this inquiry was conducted.

The Inquiry was held at the office of the Director, Central Region, Central Ground Water Board, at Nagpur on 22nd and 23rd July, 1986. The Prosecution case was presented by Shri Jatinder Kumar, Senior Administrative Officer, CGWB (PO). Shri M.A. Haleem, Jr. Hydrogeologist as suspected public servant (SPS) assisted by Shri Quasim-ul-Haq as his Defence Assistant were present to defend the case. Shri R. Venkatraman, Director, Central Ground Water Board, deposed before the Inquiry Officer as a Prosecution witness.

From a perusal of the case as recorded through the daily proceedings, I am of the opinion that the contention of Shri Haleem (SPS) that he was not aware of his extension of leave having been denied by the Director, Central Region, is correct, more so because he was paid his salary till the month of September, 1984 and his other arrears sent to his home address. I am of the opinion that Director, C.R. Nagpur failed to inform Shri Haleem (SPS), on time, that his extension of leave beyond 11th August, 1984 which was duly sanctioned by him, is not sanctioned/allowed and that he should report for duty by a specified date. Director CGWB, Central Region only sent a telegram on 9th October, 1984 i.e. a day after Shri Haleem (SPS) should have joined the duties (8th Oct. 1984) implying therewith that he had no objection in granting him leave upto 7th October, 1984 but now he should join duties. I, therefore, recommend that the leave as applied for till 7th October, 1984 and as admissible be sanctioned and his absence upto 7th October, 1984 be regularised.

My first observation and recommendations would require a change in the date of unauthorised leave by Shri Haleem and the same would now be 8th October, 1984 i.e. from the date he applied for study leave.

Shri Haleem's contention that the leave was approved by the Ministry is not correct. The Ministry only authorised him to join Ph. D. Classes, and the case for leave was only to be considered, if and when applied, depending upon the exigencies of work. Permission to join classes/course does not imply that leave would be sanctioned and it certainly does not permit an officer to take it for granted that the leave would be sanctioned at the asking of it and he can proceed without.

Ministry of Water Resources
Government of India
New Delhi

- 3 -

caring for the orders of his superior authorities. The telegrams from the Director, Central Region, saying that his study leave has not been recommended and that he should report for work should have been, reason enough for Shri Haleem (SPS) to return to his Headquarters (Nagpur) to join his duties, which he failed to even after receiving orders from the Chief Hydrogeologist & Member, Central Ground Water Board.

Shri Haleem's (SPS) contention that had he been allowed to continue at the office of the Director, Southern Region, Central Ground Water Board, Hyderabad he could have continued his Ph.D. course as well as attended to his official duties is also not correct. The University rules clearly say that the course would be pursued only as a Regular student and that any officer would have to produce a certificate of his being on leave to be a regular scholar. Thus Shri Haleem (SPS) could not have joined the course of his studies from Hyderabad also without proceeding on leave. This rebuts the charge of his Defence Assistant made on his transfer from Hyderabad to Nagpur.

Shri Haleem's (SPS) contention is that he was perusing the course of Ph.D. for mutual advantage i.e. his as well as that of the Department. Any mutual benefit would require the agreement of two parties. One party in this case being Shri Haleem (SPS) the order being Central Ground Water Board. By denying study leave to Shri Haleem the C.G.W.B. clearly implies that the exigencies of the work assigned to Shri Haleem takes precedence over his studies for Ph.D. and any ensuing advantage from the same. No body can force an advantage unless accepted/recognised by another party also and therefore, Shri Haleem's (SPS) contention of the advantage / benefit to the Department does not hold good.

Shri Haleem (SPS) joined the Ph.D. course on 24th August, 1984, after handing over charge (16th August, 1984) of his office at Southern Region, Hyderabad and before joining on 27th August, 1984, at Central Region, Nagpur.

His being aware of the fact that while being posted at Nagpur, he would have to take study leave to pursue his course of studies, he should not have joined the course, till such time that he had joined at Nagpur, reported to his Director and applied for leave and the same was sanctioned. aware about his intentions or joining. where Shri Haleem was posted was have informed his Director at Nagpur of the permission for his duty to granted by the Ministry, since after his transfer from Southern Region to Central Region, Director, Southern Region does not come into picture.

Shri Haleem (SPS) was aware of the work programme allotted to him and its importance immediately after his joining the Central Region at Nagpur. The work programme which is targeted required his being on duty and the shortage of officers precluded any possibility of recommending his study leave by the Director.

[Signature]
Under Secretary to Govt. of India
Ministry of Water Resources
New Delhi

- 80 -

- 4 -

In fact Shri Haleem (SPS) and his Defence Assistant had no valid arguments to offer to consider his unauthorised absence as otherwise. I am, therefore, convinced that Shri Haleem (SPS) without regard to the official procedures continued to be on unauthorised leave, always granting himself the privilege knowing fully well that the privilege belonged to his higher authorities. That provisions exist under the rules to grant study leave along with the earned leave does not imply that leave would be granted since leave is very clearly said not to be a matter of right. Absenting continuously against the orders of the superior authority certainly tantamounts to be behaving in a manner unbecoming of a Government servant, and I am convinced Shri Haleem (SPS) did that with impunity and remained on unauthorised leave w.e.f. 8th October, 1984, knowing fully well that emergencies of work required his presence at his headquarters.

W.C. Bhatnagar
 26.8.1986
 (W.C. BHATNAGAR)
 DIRECTOR
 CENTRAL GROUND WATER BOARD
 &
 INQUIRY OFFICER

W.C. Bhatnagar

Ministry of Water Resources
 Government of India

BIO DATA OF S.P.S.

FORM 1 (See para 1.1)

1. Name and designation of the S.P.S. : Shri M.A. Haleem
2. Post held by him with the scale : Junior Hydrogeologist
at the time of commission of the : Rs.700-40-900-EB-100-50-1300
lapses.
3. Discipline and Appeal Rules / : CCS(CC&A) Rules, 1965
Pension rules applicable to him. : CCS(Pension)Rules, 1972.
4. Date of superannuation and whether : 31.12.2000
the same inquiry can be continued
under Pension Rules : Yes
5. Present pay with scale and date : Rs.1060/- p.m. w.e.f.
from which it is drawn. : 1.3.1985
6. Date of next increment : 1.3.1986
7. Service to which he belongs : C.S. (Group A) Gazetted.
8. Expected date of the next
promotion and the scale to
which he will be promoted. :

(Signature)
APPROVED
BY
10/10/1985

FORM 5

Appendix to the Report

1. Name and designation of SPS : Shri M.A. Haleem, Jr. Hydrogeologist, CGWB
2. Name & designation of the Presenting Officer. : Shri Jatinder Kumar, Sr. Administrative Officer, Central Ground Water Board.
3. Name & designation of Defence Assistant. : Shri Quasim-ul-Haq, Retd. Spl. Grade Deputy Collector Civil Services, Andhra Pradesh.
4. Service particulars of the SPS :
 (a) Date of superannuation : 31.12.2000
 (b) Present pay with scale : Rs. 1060/- (Rs. 700-40-900-EB-1000-50-1300).
 (c) Date from which the present pay is drawn : 1.3.1985
 (d) Date of next increment : 1.3.1986
 (e) Service to which he belongs : Central Civil Service (Group A) Gazetted
5. Date of receipt of (a) appointment order and (b) other documents from the disciplinary authority. : 17.3.1986 (b) 4.4.1986
6. Date of first appearance of the charges officer before the I.I. : 22nd and 23rd July, 1986.
7. Date of preliminary hear. : X
8. Date of completion of inspection of documents. : X
9. Dates of regular hearings. : X
10. Date of submission of report : 28th August, 1986.
11. Time taken for submission of the report from the date at 5 above. : About 5 months.
12. Suggestions for improvement in procedure, or investigation and presentation of case, if any. : No deficiency in procedure, investigation or presentation exists.
 (If there are no suggestions, please state that no deficiency in procedure, investigation or presentation exists).

(Signature)
 (N.C. BHATNAGAR)

DIRECTOR

CENTRAL GROUND WATER BOARD, NWR

&
 Joint Inquiry Officer

(Signature)
 Under Secretary

Ministry of Water Resources

S.No. (K)

p. 202

FROM:

M.A. HALEEM,
Junior Hydrogeologist

No: MAH/JHG/CGWB/Research/1-

Central Ground Water Board
Southern Region, 3-6-291
Hyderguda, Hyderabad-500029

Dated the 21st of October, 1983

TO

THE CHIEF HYDROGEOLOGIST & MEMBER,
Central Ground Water Board,
N.H.IV, FARIDABAD, HARYANA-121001.

" THROUGH PROPER CHANNEL "

SUB: Humble request for permission to registration in
admission to the course of Ph.D degree course as
an External Candidate in Osmania University, Hyd-Reg.

REF:

- Arising -

Respected sir,

I submit the following for your kind
consideration and needful action.1. In this Organisation I am working as
Junior Hydrogeologist from 1st of September, 1975.2. I have contacted Hydro-Geology Department
of Osmania University for admission, as an External Candi-
date for Ph.D., I wish to improve my knowledge in the field
of Hydrogeology so as I am enable to discharge the duties
of Hydrogeologist in the Department.3. In this connection I assure that I shall
be utilising my free time for this study. This would not
affect the Departmental work nor it will interfere in
discharging my duties.In view of the facts mentioned above
I request your goodself to kindly permit me to register
my name as an External Candidate in the Osmania University,
Hyderabad for the award of Ph.D degree in the subject of
Hydrogeology during December, 1983.

An early action in the matter is solicited.

Yours faithfully,

M.A. HALEEM
(M.A. HALEEM)
Jr. Hydrogeologist3216/CH EST
11/11

PTO

Jr. Hydrogeologist
Ministry of Resources
Hyderabad

S/No 104 (K)

Annexure - ~~XXX~~ 2201. ~~Annexure~~ XI

p. 205

No. 35-184/78-GW
GOVERNMENT OF INDIA
MINISTRY OF IRRIGATION

New Delhi, the 7th December, 1983.

The Chief Hydrogeologist,
Central Ground Water Board,
FaridabadSubject:- Permission to register the name for Ph.D.
degree to Shri M.A. Haleem, Jr. HG, CGWB.

Sir,

I am directed to refer to your letter No. 3-402/75-CH(Estt) dated 26-11-1983, on the above subject, and to say that this Ministry have no objection to Shri M.A. Haleem, Jr. Hydrogeologist, CGWB, registering his name for Ph.D. degree in 'Ground Water Balance and management studies in parts of Godavari Vally in Setupalli & Aswaraopet taluka of Khammam distt., A. P. with the Osmania University, Hyderabad as an External candidate.

2. The grant of permission is however subject to the condition that his doing Ph.D. will not interfere with his official work in any way. The grant of leave for fulfilling any residential requirement for completion of the course will be subject to the exigencies of Government work.

Yours faithfully,

AM

(A. Natarajan)

Deputy Secretary to the Govt. of India.

Copy for Guard file.

No. 3-402/75-CH(Estt)

1. Ca/n/ with the Director CGWB, Hyderabad

Shri M.A. Haleem Jr. HG, CGWB, Hyderabad

Under Secretary
Ministry of Irrigation
New Delhi.

(AHO)

AAE(11)

9/12

Am. Park
29/125416 C/1
12/12

copy of the report to the Director, G. O. P. B. S. D. Hyderabad
 and to the Government of Andhra Pradesh
 recommended to the Chief Engineer, Hyderabad
 for taking up the project as a matter of priority.

M. A. H. M. S.
 Hydrogeologist

Ground water balance and management studies
 in parts of Godavari valley in Satapalli and AS. W. R. S. D.
 Taluk of Khammam Dist. A.P.

1981

24 05 1983

No. 2-13/M.H. (76-Adm) II 8380

24 05 1983

Forwarded to: C.H. & M. P. B. S. D. N.H. IV, Hyderabad
 for necessary action

Under Secretary
 Ministry of Water Resources
 Hyderabad

For Director
 Central Ground Water Board
 B.R. Hyderabad

F.NO. 6(1)/84-Vig.
Government of India
Ministry of Water Resources

New Delhi, the

2nd Feb 1986

O R D E R

WHEREAS Shri M.A. Haleem, Junior Hydrogeologist, Central Ground Water Board was informed of the proposal to hold an inquiry against him under rule 14 of the Central Civil Services (Classification, Control & Appeal) Rules, 1965 vide this Ministry's Memorandum No. 6/1/84-Vig. dated the 1st January, 1986 for the following charges:-

ARTICLE OF CHARGES

1. "Shri M.A. Haleem, while functioning as Junior Hydrogeologist, Central Ground Water Board, Central/Region Nagour, absented himself from duty with effect from 10.9.84 to date unauthorisedly without proper approval or sanction of the competent authority.

By his aforesaid act Shri M.A. Haleem, has shown lack of devotion to duty and has behaved in a manner unbecoming of a Government servant and thereby violated the provision of Rule 3(1)(ii) & (iii) of the Central Civil Services (Conduct) Rules, 1964."

Statement of imputation of misconduct and misbehaviour in support of article of charges and lists of documents and witnesses by which the charge was proposed to be sustained were also forwarded with the aforesaid Office Memorandum.

2. AND WHEREAS, the aforesaid Memorandum dated 1st January, 1986 was acknowledged by Shri M.A. Haleem and he submitted his defence statement denying the charges vide his letter No. MAH/JHG/85-86/MWR/Conf-2 dated the 4th February, 1986 and desired to be heard in person.

3. AND WHEREAS it was decided to hold an inquiry for which an Inquiring Authority was appointed vide this Ministry Order No. 6(1)/84-Vig. (i) dated the 10th March, 1986 to inquire into the charges levelled against the said Shri M.A. Haleem. The Presenting Officer to present the case in support of the charge was also appointed simultaneously.

- 2 -

4. AND WHEREAS the Inquiring Authority so appointed submitted his report on the 28th August, 1986 (copy enclosed) according to which the charge levelled against Shri M.A. Haleem was fully proved.

5. AND WHEREAS, as required under the Rules, the advice of the Union Public Service Commission has also been obtained as per their letter No. F.3/144/86-SI dated the 6th October, 1988. (copy enclosed).

6. AND WHEREAS, the Disciplinary Authority, having examined the records of the case including the report of the Inquiry Officer, evidence adduced during the Inquiry and the advice of the Union Public Service Commission, observed that Shri Haleem was transferred from Southern Region, Central Ground Water Board, Hyderabad, to Central Region, Central Ground Water Board, Nagpur vide order dated 16.6.1984. Shri M.A. Haleem was relieved from Southern Region on 16.8.1984 and transferred to Central Region, Nagpur, Central Ground Water Board where he joined duty on 27.8.1984. He took some casual leave in September, 1984 from 7.9.1984 to celebrate Id-ul-Zuha function with his family at Hyderabad and thereafter instead of joining duty, sought further extension of leave upto 7.10.1984 on the ground that his mother was ill. However, the extension of leave was not granted to Shri Haleem and he was asked to join duty at Nagpur vide telegram dated the 9th October, 1984. Shri M.A. Haleem did not join his duties but subsequently sent an application dated 10.10.1984 asking for grant of earned leave from 10.9.1984 to 7.10.1984 because of his mother's illness and brother's marriage and in another application dated 10.10.1984 Sh. Haleem asked for study leave from 8.10.1984 to 7.10.1985. He was again telegraphically informed on 15.10.1984 that his request for study leave was not recommended and he should report back to duty at once. Shri Haleem ignored these instructions as also the repeated advice of his Director dated 30.11.1984, giving him final notice to report for duty by 15.12.1984, otherwise he would be liable for disciplinary action. Shri Haleem expressed his inability to join duty stating that he was doing Ph.D. course in Osmania University on mutual interest and benefit to the department. In his defence Shri Haleem claimed that when he joined at Nagpur on 27.8.1984, it was his sixth transfer in nine years and second to Nagpur in four years. It was also further stated that when he went to celebrate Id-ul-Zuha at Hyderabad with his family in September, 84, his mother's health was very poor and that being the eldest son, in deference to her wishes, he had to perform the marriage of his younger brother. Moreover, Osmania University at Hyderabad had granted him admission to Ph.D. Course, permission for which had been given by

Under

3/-

-3-

the Ministry earlier on 7.12.1983 much before he joined at Nagpur.

7. The Disciplinary Authority has observed that while applying for permission for registration in the Ph.D. course, Shri Haleem had clearly stated that he would utilise his free time in the study of Ph.D. and that it would not affect the departmental work nor it would interfere with discharging his duties. Since he had asked for permission to register himself as an external candidate and had given the above assurances, permission was granted to him in December, 1983 subject to the condition that his pursuit of studies for Ph.D. would not interfere with his official work in any way and that the grant of leave for fulfilling the residential requirements would be subject to exigencies of Government work. Thereafter he was transferred from Hyderabad to Nagpur, where he joined on 27.8.1984. Despite the fact that permission allowed to him was subject to aforesaid conditions, Shri Haleem secured admission for Ph.D. course in Osmania University, Hyderabad, as a regular student. For the admission, the University authorities had also stipulated a condition that all the non-teacher candidates, who are otherwise employees, should take leave under the rules, or otherwise their admission would be cancelled. The study leave asked for by Shri Haleem subsequently for this purpose, was not granted by the competent authority and he was asked to report for duty. Notwithstanding that, he pursued the Ph.D. course, which according to the University admission condition, as mentioned above, could not have been possible had he revealed the correct position that the Government had not sanctioned him leave for the course, and remained absent from duty unauthorisedly.

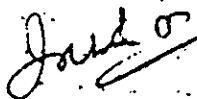
8. Further, even if he had not been transferred from Hyderabad, he could not have performed his official duties as well as undergone the Ph.D. course, since the University Rules require that a Ph.D. scholar has to be a regular student and has to produce a certificate that he is on leave from the Department. Shri Haleem had been given important work at Nagpur with certain target dates. As a loyal Government servant he should have looked to the interest of the Government rather than remaining away from Nagpur on some grounds or the other. Moreover, the fact that he secured admission in the Ph.D. course and completed the same, in spite of clear University Rules that the official seeking admission for that should be on approved study leave, clearly establishes that he is guilty of suppressing the information from the Osmania University that he was not on study leave, which reflects on his integrity. The Disciplinary Authority is thus fully convinced that Shri Haleem wilfully ignored and disobeyed Government's orders and that the charge of absention from duty unauthorisedly without

-4-

proper approval or sanction of the competent authority thereby showing lack of devotion to duty and behaving in a manner unbecoming of a Government servant, is fully proved against Shri M.A. Haleem. The Disciplinary Authority, therefore, concluded that Shri M.A. Haleem is not a fit person to be retained in Government service and that a major penalty under Central Civil Services (Classification, Control & Appeal) Rules, 1965 is warranted in his case.

9. NOW THEREFORE, the President being the Disciplinary Authority in exercise of the powers conferred on him under Rule 15 of the Central Civil Services (Classification, Control & Appeal) Rules, 1965 hereby imposes upon Shri M.A. Haleem, Junior Hydrogeologist, Central Ground Water Board the major penalty of "Compulsory Retirement" as specified in clause (vii) of Rule 11 ibid and the said Shri M.A. Haleem, Junior Hydrogeologist, Central Ground Water Board stands compulsorily retired from Government service with effect from the afternoon of the date of the issue of this order.

(By order and in the name of the President)



(JOGINDER SINGH)

DEPUTY SECRETARY TO THE GOVERNMENT OF INDIA.

Office Order File.

Copy to:-

1. Shri M.A. Haleem, Junior Hydrogeologist, Central Ground Water Board (through Chairman, CGWB) along with a copy each of:-

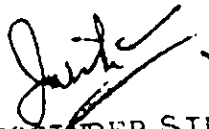
i) Advice given by the Union Public Service Commission vide their letter No. F-3/144/86-SI dated 6.10.1988; and

ii) The report of the Inquiring Authority dated 28.8.1986.

2. Chairman, CGWB, Krishi Bhavan, New Delhi. It is requested that the enclosed order meant for Shri M.A. Haleem may please be arranged to be delivered to him and the acknowledgement thereof be sent to this Ministry for reference and record.

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3. Secretary, Union Public Service Commission,
Dholpur House, Shahjahan Road, New Delhi
with reference to his letter No.
F-3/144/86-SI dated 6.10.1988.
4. The Director(GW/MI), Ministry of Water Resources.
5. Confidential Report folder of Sri M.A.Haleem.
6. Hindi Section for Hindi version.



(JOGINDER SINGH)

DEPUTY SECRETARY TO THE GOVERNMENT OF INDIA.



Ministry of Water Resources

GOI

No. 6(6)/89-Vig.
Government of India
Ministry of Water Resources
.....

New Delhi, the 24 April, 1991.

ORDER

WHEREAS in the disciplinary proceedings initiated against Shri M.A. Haleem, former Junior Hydrogeologist, Central Ground Water Board vide Memorandum No. 6(1)/84-Vig. dated 1.1.1986, the major penalty of 'Compulsory Retirement' was imposed upon him by the President vide Ministry of Water Resources Order No. 6(1)/84-Vig. dated 2.2.1989.

2. AND WHEREAS, after hearing the OA No. 403/89 filed by Shri M.A. Haleem challenging the said order of the President of India in the Ministry of Water Resources Order dated 2.2.1989, the Hyderabad Bench of the Hon'ble Central Administrative Tribunal vide their judgement dated 1.1.1991 quashed the order dated 2.2.1989 imposing the penalty of 'Compulsory Retirement from service' on Shri Haleem mainly on the ground that imposing the said punishment without furnishing him a copy of the Inquiry Officer's Report is vitiated. The Hon'ble Tribunal, however, left it open to the disciplinary authority to consider the matter afresh after giving him an opportunity to make a representation against the report of the Inquiry Officer and the opinion of the Union Public Service Commission. The other related matter such as whether disciplinary proceedings should be necessarily continued or not against Shri Haleem, order for deemed suspension under sub-rule 4 of Rule 10 of Central Civil Services (Classification, Control & Appeal) Rules should be passed or he should be re-instated in service, were left by the Hon'ble Tribunal to the discretion of the disciplinary authority.

3. AND WHEREAS, in pursuance of the orders of the Hon'ble Tribunal and after carefully considering the facts relevant to the case, the President, decides as under, and orders accordingly :-

- (i) That the Ministry of Water Resources Order No. 6(1)/84-Vig. dated 2.2.1989 Compulsorily Retiring Shri M.A. Haleem from Government service be cancelled;
- (ii) That, the disciplinary proceedings are continued against Shri M.A. Haleem under Rule 14 of the Central Civil Services (Classification, Control & Appeal) Rules, 1965;
- (iii) That, in terms of the provisions of Rule 10(4) of the CCS(CCA) Rules, 1965 Shri M.A. Haleem is deemed to have been placed under suspension, with effect from 2.2.1989 i.e. the date of the original Order imposing on Shri Haleem the penalty of compulsory retirement from service, until further orders. During the period of suspension, Shri M.A. Haleem will be entitled to payment of subsistence allowance as per provisions of FR 52. The question of regularising the said period of suspension will be considered in the light of final order that may be eventually be passed in this case by the Disciplinary Authority under the relevant rules; and

Contd....2/-

- (iv) Shri M.A. Haleem be given a copy each of the inquiry officer's report as well as the Union Public Service Commission's advice in this matter to enable him to make a representation, if any, which should be submitted to the disciplinary authority within 30 days from the receipt of this communication. In case no representation is received within the stipulated period, it should be assumed that Shri Haleem has got no representation/submissions to make in the matter and the case shall be processed further for issuing fresh order(s) on the basis of the available facts.

4. NOW, THEREFORE, a copy each of the Inquiry Officer's report and the Union Public Service Commission's letter No. F. 3/144/88-SI dated 6.10.88 is also hereby sent to Shri Haleem for enabling him to make a representation, if any, thereagainst, within the above stipulated period.

By Order and in the name of the President of India.

J.K. Marwaha

(J.K. Marwaha)

Under Secretary to the Government of India

Encl: Copy of 1. Inquiry Officer's report
and 2. UPSC's letter No. F.3/144/88-SI
dated 6.10.88 containing Commission's
advice

✓
OFFICE ORDER FOLDER

Copy to:

1. Shri M.A. Haleem S/O M.A. Raheem,
R/O Saleemnagar Colony,
Junior Hydrogeologist, CGWB,
Central Region, NAGPUR - 440 010 — with enclosures as above
2. Chairman, Central Ground Water Board, New Delhi.
3. Ground Water (Desk) with two spare copies for issuing orders regarding subsistence allowance admissible to Shri M.A. Haleem during the period of his suspension as per the provisions of FR-53 etc.
3. The Secretary, UPSC, Dhoolpur House, New Delhi with reference to their letter No. F.3/144/88-SI dated 6.10.88

Aditya

J.K. Marwaha

(J.K. Marwaha)

Under Secretary to the Government of India

No.6(1)/92-Vig.
Government of India
Ministry of Water Resources

Legd. AD (229)

New Delhi, dated,

30-3, 1992.

O R D E R

WHEREAS in the disciplinary proceedings initiated against Shri M.A.Haleem, former Junior Hydrogeologist, Central Ground Water Board vide Memorandum No.6(1)/84-Vig. dated 1.1.1986, the major penalty of 'Compulsory Retirement' was imposed upon him by the President vide Ministry of Water Resources Order No.6(1)/84-Vig. dated 2.2.1989.

2. AND WHEREAS, Shri M.A.Haleem filed OA No.403/89 challenging the said order of the President of India in the Ministry of Water Resources Order dated 2.2.1989, and the Hyderabad Bench of the Central Administrative Tribunal vide their judgement dated 1.1.1991 quashed the order dated 2.2.1989 imposing the penalty of 'Compulsory Retirement from Service' on Shri Haleem mainly on the ground that imposing the said punishment without furnishing him a copy of the Inquiry Officer's Report is vitiated.

3. AND WHEREAS, in pursuance of the orders of the Hon'ble Tribunal and after carefully considering the facts relevant to the case, the President, passed the following orders vide para 3 of order No.6(6)/89-Vig. dated 24.4.1991.

- " (1) That the Ministry of Water Resources order No.6(1)/84-Vig. dated 2.2.89 Compulsorily Retiring Shri M.A.Haleem from Government Service be cancelled;
- (ii) That the disciplinary proceedings are continued against Shri M.A.Haleem under Rule 14 of the Central Civil Services (Classification, Control & Appeal) Rules, 1965;
- (iii) That in terms of the provisions of Rule 10(4) of the CCS(CCA) Rules, 1965 Shri M.A.Haleem is deemed to have been placed under suspension, with effect from 2.2.1989 i.e. the date of the original order imposing on Shri Haleem the penalty of compulsory retirement from service, until further orders. During the period of suspension, Shri M.A.Haleem will be entitled to payment of subsistence allowance as per provisions of Pt 53. The question of regularising the said period of suspension will be considered in the light of final order that may be

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- 3 -

OFFICE ORDER FOLDER

Copy to:

1. Shri M.A.Haleem, S/O M.A.Rahcem,
H.No.16-11-15/4/3,
Saleem Nagar Colony No. 1,
P.O. Malakpet Colony,
Hyderabad - 500 036.
2. Chairman, Central Ground Water Board,
New Delhi.
3. Ground Water(Desk) with two spare copies.
4. The Secretary, UPSC, Dholpur House,
New Delhi with reference to their letter
No.F.3/14/E8-SI dated, 6.10.88.

sd/-

(R.K.SAIGAL)

Under Secretary to the Govt. of India.

*(Signature)**2/11/88*

eventually passed in this case by the Disciplinary Authority under the relevant rules; and

- (iv) Shri M.A.Haleem be given a copy each of the inquiry officer's report as well as the Union Public Service Commission's advice in this matter to enable him to make a representation, if any, which should be submitted to the disciplinary authority within 30 days from the receipt of this communication. In case no representation is received within the stipulated period, it should be assumed that Shri Haleem has got no representation/submission to make in the matter and the case shall be processed further for issuing fresh order(s) on the basis of the available facts."

4. AND WHEREAS Shri M.A.Haleem then filed OA No.52/92 in the Hyderabad Bench of the C.A.T challenging the Ministry of Water Resources' Order No.6(6)/89-Vig. dated 24.4.91.

5. AND WHEREAS after hearing the OA No.52/92 filed by Shri Haleem, the Hyderabad Bench of C.A.T vide their Interim orders dated 30.1.92 and 13.2.92 suspended para 3(iii) of Order No.6(6)/89-Vig. dated 24.4.91 till the disposal of the original application.

6. NOW THEREFORE in pursuance of the aforesaid interim order of the C.A.T (Hyderabad Bench) after carefully considering all relevant facts of the case, the President orders as under:

- (i) Operation of para 3(iii) of the Ministry of Water Resources Order No.6(6)/89-Vig. dated 24.4.91 shall be kept in abeyance till final orders of the Tribunal;
- (ii) Shri Haleem be allowed to join duty in CGWB with effect from 30.1.92 (i.e. the date on which the Hon'ble Tribunal passed the interim orders) and continue on duty till further orders;
- (iii) the question of regularising the period of suspension with effect from 2.2.1989 light of (a) final order passed in the OA 52/92 and (b) final order that may eventually be passed in the disciplinary case by the Disciplinary Authority under the relevant rule.

By Order and in the name of the President.

(R.K.SAIGAL)

Under Secretary to the Govt. of India

S.No. 15 (I) 81
ANNEXURE-XXIX
232

F.NO.6/1/84-VIG [VOL-III]
GOVERNMENT OF INDIA
MINISTRY OF WATER RESOURCES

NEW DELHI, DATED 18/12/92

O R D E R

WHEREAS disciplinary proceedings under Rule 14 of the Central Civil Services (Classification, Control & Appeal) Rules, 1965 were initiated against Shri M.A.Haleem, Junior Hydrogeologist, Central Ground Water Board vide Ministry's Memorandum No. 6/1/84-Vig dated the 1st January, 1986 on the following charge :

- " Shri M.A.Haleem, while functioning as Jr. Hydrogeologist, C.G.W.B., C.R., Nagpur absented himself from duty with effect from 10.9.1984 to date unauthorisedly without proper approval or sanction of the competent authority.

By his aforesaid act Shri M.A.Haleem, has shown lack of devotion to duty and has behaved in a manner unbecoming of a Government servant and thereby violated the provision of Rule 3 (i), (ii) & (iii) of the Central Civil Services (Conduct) Rules, 1964."

The statement of imputations of misconduct/misbehaviour in support of the article of charge and list of witnesses by whom the charge was proposed to be substantiated were also attached to the aforesaid Memorandum dated 1-1-1986.

2. AND WHEREAS Shri M.A.Haleem submitted his defence statement vide his letter No. NHA/JHG/85-86/MWR/Conf-Be'nead-4-2-1986 wherein he denied the charge and desired to

3. AND WHEREAS it was decided to hold an Inquiry for which an Inquiring Authority was appointed vide Ministry's Order No. 6/1/84-Vig(1) dated 10-3-1986 to inquire into the charges framed against the said Shri M.A.Haleem. The Presenting Officer was also appointed simultaneously. The Inquiring Authority so appointed submitted his report on the 28th August, 1986 according to which charge levelled against Shri M.A.Haleem was fully proved.

4. AND WHEREAS as required under the rules, advice of UPSC in the matter was also obtained vide their letter No. F.3/144/88-S1 dated 6th October, 1988.

Under Secretary

AND WHEREAS the disciplinary authority after fully considering all the aspects of the case and the evidence adduced during the inquiry and in consultation with UPSC imposed the major penalty of " Compulsory Retirement " as specified under clause (vii) of Rule 11 of CCS(CC&A)Rules,1965 on Shri M.A.Haleem vide Order No. 6/1/84-Vig dated 2nd February, 1989 compulsorily retiring him from government service with effect from the after noon of the date of the issue of the said order.

6. AND WHEREAS Shri M.A.Haleem aggrieved by the order of the disciplinary authority of " Compulsory Retirement " imposed vide order No.6/1/84-Vig dated the 2nd February, 1989 filed a writ petition OA.No.403/89 in the Hyderabad Bench of the Central Administrative Tribunal challenging the aforesaid order of the disciplinary authority. The Hyderabad Bench of the C.A.T had quashed the disciplinary authority's order of Compulsory Retirement imposed on Shri M.A.Haleem from government service vide its judgement dated 1-1-1991 mainly on the technical ground that a copy of the inquiry officer's report was not furnished to Shri Haleem. The Hon'ble Tribunal, however, left it open to the disciplinary authority to consider the matter afresh after giving him an opportunity to make a representation against the report of the inquiry officer and opinion of the UPSC. The other related matters such as whether disciplinary proceedings should be necessarily continued or not against Shri Haleem, order for deemed suspension under sub-rule 4 of Rule 10 of CCS(CCA) Rules, 1965 should be passed or he should be re-instated in service, were left to the discretion of the disciplinary authority itself.

7. AND WHEREAS in pursuance with the orders of the Hyderabad Bench of the C.A.T in OA.No. 403/89 after carefully considering the matter, the President passed the 24th April, 1991 :

- "(i) That the Ministry of Water Resources Order No.6/1/84-Vig dated 2.2.1989 Compulsorily Retiring Shri M.A.Haleem from Government service be cancelled ;
- (ii) That, the disciplinary proceedings are continued against Shri M.A. Haleem under Rule 14 of the Central Civil Services (Classification, Control & Appeal) Rules, 1965 ;
- (iii) That, in terms of the provisions of Rule 10(4) of the CCS(CC&A) Rules, 1965 Shri M.A.Haleem is deemed to have been placed under suspension, with effect from 2.2.1989 i.e. the date of the original Order imposing on Shri Haleem the penalty of compulsory

(11) That, the disciplinary proceedings are continued against Shri M.A. Haleem under Rule 14 of the Central Civil Services (Classification, Control & Appeal) Rules, 1965 ;

(iii) That, in terms of the provisions of Rule 10(4) of the CCS(CC&A) Rules, 1965 Shri M.A.Haleem is deemed to have been placed under suspension, with effect from 2.2.1989 i.e. the date of the original Order imposing on Shri Haleem the penalty of compulsory

Q. dt

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retirement from service, until further orders. During the period of suspension, Shri M.A.Haleem will be entitled to payment of subsistence allowance as per provisions of FR 53. The question of regularising the said period of suspension will be considered in the light of final order that may eventually be passed in this case by the disciplinary authority under the relevant rules ; and

- (iv) Shri M.A.Haleem be given a copy of the inquiry officer's report as well as the Union Public Service Commission's advice in this matter to enable him to make a representation, if any, which should be submitted to the disciplinary authority within 30 days from the receipt of this communication. In case no representation is received within the stipulated period, it should be assumed that Shri Haleem has got no representation/submissions to make in the matter and the case shall be processed further for issuing fresh order(s) on the basis of the available facts."

As such a copy of the Inquiry Officer's report and opinion of the UPSC was made available to Shri Haleem to enable him to make a representation, if any, to be submitted to the President within 30 days from receipt of the communication.

8. AND WHEREAS in the meanwhile Shri M.A.Haleem then filed another writ petition OA.No. 52/92 in the Hyderabad Bench of the C.A.T challenging the Ministry of Water Resources's Order No. 6/6/89-Vig dated 24-4-1991.

Filed by Shri M.A.Haleem; "THE HYDERABAD BENCH OF THE C.A.T. NO. 52/92 its INTERIM ORDERS dated 30-1-92 and 13-2-1992 suspended para 3 (iii) of Order No. 6/6/89-Vig dated 24-4-1991 till the disposal of the original application.

10. AND WHEREAS in pursuance of the INTERIM ORDERS OF THE HYDERABAD BENCH OF C.A.T and after carefully considering the facts relevant to the case, the President passed the following orders vide para 6 of order No.6/1/92-Vig dated 30-3-1992 :

"[i] Operation of para 3(iii) of the Ministry of Water Resources Order No. 6/6/89-Vig dated 24.4.1991 shall be kept in abeyance till final orders of the Tribunal ;

Signature

unc

Shri Haleem be allowed to join duty in CGWB with effect from 30-1-1992 (i.e. the date on which the Hon'ble Tribunal passed the interim orders) and continue on duty till further orders ;

[iii] the question of regularising the period of suspension with effect from 2.2.1989 to 29.1.1992 will be considered in the light of (a) final order that may be passed by the Hon'ble Tribunal in OA.52/92 and (b) final order that may eventually be passed in the disciplinary case by the disciplinary authority under the relevant rule."

Thus, Shri Haleem was re-instated in service w.e.f. 30th January, 1992 (i.e. the date on which the Hyderabad bench of CAT passed the said interim orders) and continues in duty till further orders.

11. AND WHEREAS, Shri M.A.Haleem submitted his representation dated 6.8.1991 against the Inquiry Officer's Report and opinion of the UPSC .

12. AND WHEREAS, the advise of the UPSC in connection with the issue of final orders has also been obtained as per their letter No.F.3/87/92-SI dated 15.9.1992(Copy enclosed).

13. AND WHEREAS, Shri M.A.Haleem in his representation dated 6.8.91 has stated as under :

- a) He was transferred from Southern Region, Hyderabad to Central Region, Nagpur and he took charge of the office at Nagpur on 27.8.1984.
- b) He joined Ph.D course in Osmania University on 10.10.1984 in pursuance of the permission granted to him on 194/78-GW Dated 7.12.1983.
- c) He immediately applied for study leave on 10.10.1984 but authorities on administrative exigencies rejected his study leave application on flimsy ground as there were a number of Junior Hydrogeologist at Nagpur who could have looked after the work in his absence.
- d) The findings of the inquiry officer is totally baseless and it is an unilateral decision by the authority. Inquiry Officer failed to give reasons why his request for study leave was not granted and what were the administrative exigencies. The Inquiry Officer's findings are totally biased and made up his mind to prove the charge.

[Signature]
Under Secretary to Govt. of India

- e) Having given permission for Ph.D course in the year 1983 and refusing to grant him study leave on unreasonable grounds is nothing but an arbitrary action to prevent him from prosecuting his studies.
- f) He had more than 13 years of unblemished service to his credit. The inquiry officer ignored provision of CCS(Leave) Rules for study leave as he fulfilled all conditions laid down under study leave rule 50 (5) as he had 12 years service left.
- g) Charge framed is totally illegal and unwarranted and disciplinary proceedings are illegal and void ab-initio.

14. AND WHEREAS, the disciplinary authority after taking into account the inquiry officer's report, the representation of Shri Haleem on Inquiry officer's report and UPSC's advice, and other relevant facts has observed that the contention of Shri Haleem that charge sheet framed against him is totally illegal and unwarranted as permission was granted to him by authorities for registering his name for Ph.D course and the concerned authorities were bent upon rejecting his leave application on flimsy grounds on administrative exigencies, is not true. The fact is that while applying for permission for registration in the Ph.D course, Shri Haleem had clearly stated that he would utilise his free time in the study of Ph.D and that it would not affect the departmental work nor it would interfere with his duties. He had asked for permission to register himself as an External Candidate and had been given permission in December, 1983 to join the course, subject to not interfere with that his departmental work in any way and that the grant of leave would be subject to exigencies of government work. Thereafter, he was transferred from Hyderabad to Nagpur, where he joined on 27.8.1984. Despite the fact that permission allowed to him was subject to aforesaid conditions, Shri Haleem nevertheless secured admission for Ph.D Course in Osmania University, Hyderabad as a REGULAR STUDENT. For the admission, the University Authority had also stipulated a condition that all the non-teaching candidates, who are otherwise employees, should take leave under the rules, or otherwise their admission would be cancelled. The study leave asked for by Shri Haleem subsequently for this purpose was not granted by the competent authority due to exigency of work and he was asked to report for duty vide telegram dated 15-10-1984. Notwithstanding that he pursued the Ph.D course, which according to the University admission conditions could not have been possible had he revealed the correct position that the government had not sanctioned him leave for the course and he continued to remain absent from duty unauthorisedly.

14.1 Shri Haleem had also stated that the findings of the inquiry officer is totally baseless and a unilateral decision by the authority, biased and made up his mind to prove the charge is not true and lacks conviction and cannot be believed. The fact is that Shri Haleem did not raise these points during the course of oral inquiry when it was in progress or even when the inquiry officer had submitted his report to the disciplinary authority or even for that matter at a later date. Otherwise his plea of bias could have been examined and appropriate action taken. But Shri Haleem has now raised this point of bias against the inquiry officer when he was directed to submit a representation against the inquiry officer's report and UPSC's report/advice. This fact is taken as nothing but an after thought and he is trying to mislead the disciplinary authority about the grave misconduct he had committed i.e. unauthorised absence for nearly two and a half years for his selfish aim for pursuing his Ph.D course. Furthermore, Shri Haleem could have cross examined the prosecution witness i.e. Shri R.Venkatranaman, Director, CGWB as regards the reasons for rejecting his study leave etc; whereas he did nothing like this. His arguments in these matter are totally bereft of any merits. The matter of fact is that he remained on unauthorised absence from duty for nearly two and a half years from 10-7-1984 to 16-3-1987 totally disregarding directions to report for duty in CGWB.

14.2 Shri Haleem has also stated that he fulfilled all the conditions laid down under study Rule 50(5) whereas he has been denied this study leave. The fact is that leave cannot be claimed as a right, by a government servant. In fact, permission was granted to undertake the Ph.D Course from Osmania University, Hyderabad as an EXTERNAL CANDIDATE ONLY. Thereafter he was transferred from Hyderabad to Nagpur where he had joined his duties on 27th August, 1984. Shri Haleem applied for study leave vide his application dated 10-10-1984 from 8.10.1984 to 7.10.1985 which was rejected vide telegram dated 15-10-1984 by Nagpur Office. He was directed to report for duty at once. On the contrary, Shri Haleem ignored these instructions as also repeated advice dated 30-11-1984 giving him final notice to report for duty by 15th December, 1984. He was also thereby directed to explain as to why disciplinary action should not be initiated against him. Shri Haleem expressed his inability to join his duties saying that he was doing his Ph.D Course in mutual interest and benefit to the department. He should not have joined the Ph.D Course as a REGULAR STUDENT without obtaining the approval of the authority. It has also been observed that even if he had been allowed to remain in Hyderabad in Southern Region, he could not have performed his official duties as well as undergone the Ph.D course since the University Rules require that a Ph.D scholar has to be a regular student and has to produce a certificate to the effect that he is on leave from the Department. Moreover, Shri Haleem had been given important work with certain target dates at Nagpur. As a loyal government servant, he should

have looked to the interests of the government rather than remaining away from Nagpur on some ground or the other at the particular juncture.

14.3 Shri Haleem in his representation has also stated that article of charge should have been framed under Rule 25(2) of the Central Civil Services[Leave] Rules and not under Conduct Rules. Hence the entire disciplinary proceedings are illegal and void ab-initio. The fact is that with the approval of the competent disciplinary authority, disciplinary proceedings as for major penalty under Rule 14 of Central Civil Services[Classification, Control & Appeal] Rules, 1965 were initiated against Shri M.A.Haleem as for his unauthorised absence from duty without proper sanction from the competent authority. The question of initiating disciplinary action for violating Rule 25(2) of leave rules does not arise as he was not granted any leave at all by the competent authority and the disciplinary action initiated against Shri Haleem is in order and no infirmity has been committed on the part of the disciplinary authority while initiating such action under conduct rules.

14.4 After analysing the evidence on record and other relevant facts connected with the case, the disciplinary authority has observed that Shri M.A.Haleem is not a fit person to be retained in government service in view of the facts discussed in the preceding paragraphs.

15. AND WHEREAS, the disciplinary authority has considered the charges framed against Shri M.A.Haleem, report of the inquiry officer, representation of Shri Haleem on the case and holds that the charge and relevant facts of M.A.Haleem as above and the penalty of compulsory retirement earlier imposed on Shri M.A.Haleem vide Order No. 6/1/84-VII dated 2.2.89 does not merit any modification.

16. NOW THEREFORE, the Disciplinary Authority i.e the President in exercise of powers conferred under Rule 15 of the CCS(CCA) Rules, 1965 hereby imposes upon Shri M.A.Haleem, Junior Hydrogeologist, Central Ground Water Board the major penalty of "Compulsory Retirement" as specified in clause (vii) of Rule 11 ibid and the said Shri M.A.Haleem, Junior Hydrogeologist, CGWB stands compulsorily retired from Government service from the afternoon of the date of the issue of this order.

[By Order and in the name of the President.]

ofc

(PRAMILA BHARDWAJ)

DEPUTY SECRETARY TO THE GOVERNMENT OF INDIA

SHRI M.A.HALEEM
JUNIOR HYDROGEOLOGIST
CENTRAL GROUND WATER BOARD
H.NO. 16-11-15/47
SOLEEM NAGAR COLONY PHASE
P.O. POLICE STATION COLONY
HYDERABAD - 500 024
(THROUGH CHAIRMAN, CGWB)

With a copy of UPSC's
letter No. F.3/87/92-S1
dated 15-09-92.

COPY TO :

1. CHAIRMAN, CGWB
NH-IV, FARIDABAD
HARYANA

It is requested that the enclosed order meant for Sh.M.A.Haleem may please be arranged to be delivered to him and the acknowledgement thereof sent to this Ministry for reference and record.

2. GROUND WATER [DESK] WITH TWO SPARE COPIES.
3. THE SECRETARY, UPSC, DHOLPUR HOUSE, SHAHJAHAN ROAD, NEW DELHI WITH REFERENCE TO THEIR LETTER NO. F.3/87/92-SI DATED 15-9-1992.
4. OFFICE ORDER FOLDER.

24/10/92
01/11/92

or

Pharby

(FROMILA BHARDWAJ)
DEPUTY SECRETARY TO THE GOVERNMENT OF INDIA

Cherry
one copy to be sent to the
Ministry of Water Resources
for their reference and record.

Issued

19/12/92

No. 6(1)/84-Vig. (Vol.II)
Government of India
Ministry of Water Resources

240

New Delhi, the

5.3.93
February, 1993.C O R R I G E N D U M

Reference Ministry of Water Resources Order No.
6(1)/84-Vig. (Vol.II) dated the 18th December, 1992.

2. In the aforesaid Order Para 16 is substituted to
read as follows:-

" 16. NOW, THEREFORE, the Disciplinary Authority
i.e. the President in exercise of powers conferred
under Rule 15 of the Central Civil Services
(Classification, Control & Appeal) Rules, 1965
hereby imposes upon Shri M.A. Haleem, Junior
Hydrogeologist, Central Ground Water Board the
Major Penalty of "Compulsory Retirement" as specified
in clause (vii) of Rule 11 ibid and the said
Shri M.A. Haleem, Junior Hydrogeologist, Central
Ground Water Board stands compulsorily retired from
Government service from the afternoon of 11th January,
1993."

(By Order and in the Name of the President)

N. Ravi Shanker.

(N. Ravi Shanker)

Deputy Secretary to the Government of India

Shri M.A. Haleem,
Junior Hydrogeologist (former),
Central Ground Water Board,
H.No. 16-11-15/4/3,
Saleem Nagar Mod I,
P.O. Malakpet Colony,
Hyderabad - 500 034
Through Chairman, CGWB)

Copy to:

- Chairman,
C.G.W.B.,
(Ministry of Water Resources, New Delhi)

It is requested that the
enclosed order meant for
Shri M.A. Haleem may please be
sent to this Ministry for
reference and record.

(Signature)
Under Secretary

Contd...2/-

2. Ground Water Desk with two spare copies.
3. The Secretary, UPSC, Dholpur House, Shahjahan Road, New Delhi with reference to their letter No. F. 3/87/92-S.I. dated 15.9.1992.
4. Office Order Folder.

N. Ravi Shanker.

(N. Ravi Shanker)

Deputy Secretary to the Government of India.

Issued
Sl
5.3.93

d/c

[Signature]
Chakravarty

Under Secretary to Govt. of India
Ministry of Water Resources

OFFICE OF THE DEAN, FACULTY OF SCIENCE
OSMANIA UNIVERSITY, HYDERABAD.

No. Ph.D/Ad/1984-Session/DS/270

July 21/25, 1984.

ORDERS

Subj:- Faculty of Science - Admission to Ph.D. for
the year 1984 - Orders - Issued.

On the recommendation of the Admission Committee and with the approval of the Vice-Chancellor, the following candidates who had applied for admission to Ph.D. course for the year 1984 in the Faculty of Science are provisionally admitted to work for the degree of the Ph.D. from the date of Admission Committee or from the date of the candidates have reported for research work, whichever is later. The Head of Departments are required to send the following details of the candidates in their respective Departments office.

They have to appear for the preliminary test for Ph.D. which will be conducted by the University in the month of August after six months and before the completion of one year from the actual date of joining research and pass the same before their registration is confirmed. In case a candidate fails to pass the Pre-Ph.D. test within two consecutive chances or does not take the test before the stipulated time prescribed his/her admission will be cancelled.

Candidates must report to supervisors within (15) fifteen days from the date of issue of these orders and intimate the date of reporting through the Supervisor and Head of Department to the Dean under intimation to the Principal concerned. They should also pay a fee of Rs. 10/- (Ten rupees) only towards admission fee to the Bank of Hyderabad, C.F. Branch and Hyderabad. They should also submit with a copy of date of registration to the Head of the Department concerned.

Candidates who do not accept and join the Ph.D. course within the stipulated time allowed, will be cancelled without further notice and correspondence.

All the non-teacher candidates, who are otherwise employees should take leave under the rules, as otherwise their admission will be cancelled.

Candidates are asked to give an undertaking that they have read the rules and regulations of the Ph.D. course and that they would abide by them.

In regard to the candidates selected for Ph.D. with the remarks "Subject to Fellowship" in the remarks column, the following procedure may be followed:

If the guide and the Head of the Department satisfy themselves that the candidate can work without any financial assistance from any agency, then the Head of the Department should certify to this effect. In such cases, registration be effective from the date of issue of such permission from the concerned Head of the Department. All such cases may be communicated to the Dean's Office, with the necessary certificates.

Candidates in the waiting list will be admitted to Ph.D. course if and when the conditions stipulated against their name is satisfied within the current academic year in order of merit. The topic of research should be specified in their joining reports.

[Signature]
Under Secretary to Govt. of India
Ministry of Higher Resources
New Delhi.

S/-
Dean,
Faculty of Science.

~~ANNEXURE II~~

Annex 2

(244)

Hyderabad - A.P.
Date: 24th of August, 1984.

To

The Dean,
Faculty of Science,
Osmania University,
HYDERABAD - 500 007.

Respected Sir,

(THROUGH PROPER CHANNEL)

Subject: Joining report for Ph.D. admission for
the year 1984 - Reg.

Ref:- your Lr.No. Ph.D./AD/1984-Session/DS/270,
dated July 21/15, 1984.

In compliance of the orders cited above, I hereby
submit my joining report to work for the degree of Ph.D.
on the topic "Ground Water Balance and management studies in
parts of Godavari Vally in Satupalli and Aswarajpet taluk
of Khammam dist., A.P." during the 1984 session in forenoon
of 24.4.1984 under the supervision of Dr.Ch.Gudarsana Raju,
Reader in Geology Department, O.U.

I shall abide by the rules as shown in the orders.

Yours faithfully,

M. A. Haleem
(M. A. Haleem)

Encl: Bank Chalan No.8,
Date: 24.8.1984,
Amount Rs. 10/-

Identified that Shri M.A. Haleem is doing research
work under my supervision.

Dr. Ch. Gudarsana Raju
Under Secretary to Govt. of India
Ministry of Education
New Delhi

SUBJECT: GEOLOGY

Name of the Candidate	Category	Name of the Supervisor	
1. Mr. Krishna Reddy, M.Sc. (OU) I	Regular	Prof. C. Lakshminarayana	to vacancy (OSIP)
2. Mr. S.S.V. Sankar, M.Sc. (OU) I	Regular	Prof. S.E. Vijayar	to vacancy (OSIP)
3. Mr. V. Arul Kumar, M.Sc. (OU) I	Regular	Prof. S.E. Vijayar	to vacancy (OSIP)
4. Mr. K. Ravi, M.Sc. (OU) I	Regular	Prof. S.E. Vijayar	to vacancy (OSIP)
5. Mr. S. Sankar Roy, M.Sc. (OU) I	Regular	Prof. S.E. Vijayar	to vacancy (OSIP)
6. Mr. J. Sreenivas Reddy, M.Sc. (OU) I	Regular	Prof. S.E. Vijayar	to vacancy (OSIP)
7. Mr. M. Haleem, M.Sc. (OU) I	Regular	Prof. S.E. Vijayar	to vacancy (OSIP)
8. Mr. J. Sreenivas Reddy, M.Sc. (OU) I	Regular	Prof. S.E. Vijayar	to vacancy (OSIP)
9. Mr. M. Haleem, M.Sc. (OU) I	Regular	Prof. S.E. Vijayar	to vacancy (OSIP)
10. Mr. J. Sreenivas Reddy, M.Sc. (OU) I	Regular	Prof. S.E. Vijayar	to vacancy (OSIP)
11. Mr. M. Haleem, M.Sc. (OU) I	Regular	Prof. S.E. Vijayar	to vacancy (OSIP)
12. Mr. J. Sreenivas Reddy, M.Sc. (OU) I	Regular	Prof. S.E. Vijayar	to vacancy (OSIP)
13. Mr. M. Haleem, M.Sc. (OU) I	Regular	Prof. S.E. Vijayar	to vacancy (OSIP)
14. Mr. J. Sreenivas Reddy, M.Sc. (OU) I	Regular	Prof. S.E. Vijayar	to vacancy (OSIP)
15. Mr. M. Haleem, M.Sc. (OU) I	Regular	Prof. S.E. Vijayar	to vacancy (OSIP)
16. Mr. J. Sreenivas Reddy, M.Sc. (OU) I	Regular	Prof. S.E. Vijayar	to vacancy (OSIP)
17. Mr. M. Haleem, M.Sc. (OU) I	Regular	Prof. S.E. Vijayar	to vacancy (OSIP)
18. Mr. J. Sreenivas Reddy, M.Sc. (OU) I	Regular	Prof. S.E. Vijayar	to vacancy (OSIP)

Under Secretary to Govt of
Ministry of W. Resources
at Hyderabad

No.1-64/78-Estt/120/13

Government of India,
Central Ground Water Board,
Central Region,
21, Central Bazar Road,
New Ramdaspet, Nagpur-440 010

Date: 16 OCT 1984

To: The Chief Hydrogeologist & Member,
Central Ground Water Board,
M.H.IV, Faridabad-121001

Sub: Study Leave.

Ref: Letter No. MAH/JHG/84-85-SI-1 dated 10th October,
1984 from Shri M.A. Haleem, Jr. Hydrogeologist.

Kindly refer to the above cited letter (enclosed) where
Shri M.A. Haleem, Jr. Hydrogeologist has requested for study leave
from 8th October, 1984 to 7th October, 1985. In this connection
the following are brought to your kind notice.

Shri M.A. Haleem, Jr. Hydrogeologist, had applied on
5.9.1984 for 2 days C.L. on 10th and 11th September,
1984 and left Headquarters. Thereafter, he sent a
telegram once on 18th September, 1984 and again on
25.9.1984 ultimately requesting for leave till 7th
October, 1984 to attend to his brother's marriage and
mother's illness. He has not reported for duties even
though his request for B.L. expired on 7.10.1984.

2. His application dated 10/10/1984 requesting for study
leave from 8.10.1984 to 7.10.1985 is defective in the
sense he has absented from duties without prior sanction
and submitting the application for study leave after
absenting from duties.

3. Shri M.A. Haleem was assigned under this office letter
No. 12/1/S/778 dated 2.7.1984 the systematic hydro-
geological surveys in Mule district and was given a
target of 2,000 sq.km. I had also personally advised
him during the first week of September, 1984 to attend
to this work on priority, which he agreed to do on
his return from Casual Leave. Now, he seems to have
forgotten this and has applied for study leave.
He never mentioned about his plan of going on study
leave when he met me in September, 1984. It was also
K.P. Haldar's suggestion with which he has not complied.

4. There is a shortage of personnel in Central Region.
Under the circumstances, work has already been assigned to Shri Haleem
and no other officer who is readily available for
taking up the above work, in his place.


Received
as 15.10.84
MAH/JHG/84-85-SI-1
30/10/84
30/10/84

: 2 :

5. He has not observed either the spirit or the letter of rule in applying for study leave on 10.10.1984.
6. The Ministry of Irrigation in their letter No.35-184/78-GW dated 8th December, 1983 has specifically stated that the grant of leave will be subjected to exigencies of Government work.

Under these circumstances I do not recommend the study leave as requested for by Shri Haleem. You are, therefore, requested to take further action as deemed fit.

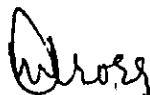
Yours faithfully,



cc: as above.

(R. Venkatraman)
Director.

Copy forwarded for information to Shri M.A. Haleem, Jr. Hydrogeologist, Central Ground Water Board, No.16-11-15/4/3, Saleemnagar Colony No.1, P.O. Malakpet Colony, Hyderabad-500 036.



OFFICE OF THE DIRECTOR
Under Secretary to Government

Ministry of Irrigation

(R. Venkatraman)
Director.

Dated the 8

6 MAY 1961

1516

[Handwritten notes:]

Received from [illegible]

Delivered to [illegible]

3287/4111

9/6/54

10/6/54

Please see [illegible]

18/6

In the [illegible] case.

97
SN 4400
No.35-329/80-GW
Government of India
Ministry of Water Resources
....

(64) (248)
New Delhi, the 12th June 1987.

To

The Chief Hydrogeologist,
Central Ground Water Board
Jamnagar House,
NEW DELHI.

Sub: Permission for higher studies.

Sir,

I am directed to refer to your letter
No.3-575/80-Engg.Estt.Dated the 26th May 1987
on the subject mentioned above and to say that
before the case of Shri S.S.Mahalingam, Executive
Engineer for grant of permission for admission
to the two courses in;

1. Irrigation Engineering and Water
Management.
2. Remote Sensing Application.

is considered, it is requested that Shri
Mahalingam may please be asked to furnish the
full details regarding requirements to be
fulfilled by the candidates for seeking admission
to these courses.

Yours faithfully,

A.K. Puri
(A.K.PURI) 17/6
DESK OFFICER
Tele: 389852

Under Secy
Ministry

Immediate

AAO(E)
22/6

8 R/R
23/6

22/6

CHM
17/6

1/6/1987

GRAM BHUMIJAL
TEL 4 2651
4 3039

SNMCH

98
NO: DIV III / EST 187

68
EXECUTIVE ENGINEER
Central Ground Water Board
DIVISION III, Govt. of India
S-18/22-53, Patel Nagar
VARANASI - 221 002
DI - 29.06.87

To

The Chief Engineer & Member
Central Ground Water Board
NH IV, Faridabad
(HARYANA)

Attn: Sh. Jitendar Kumar
Sr. Admn. Officer.

Sub: Forwarding of Application forms
of Shri S. Sundaramahalingam,
Executive Engineer for admission
to P.G. courses.

Sir,

Please find enclosed herewith the
two application forms of the undersigned,
for admission to P.G. courses, addressed
to the Registrar, Anna University, Madras,
for your kind favourable consideration,
recommendation and further onward
transmission.

The last date for receipt of
application forms at Anna University is
30.6.87.

Therefore it is requested to
consider this case favourably and
forward the applications at the earliest.

Signature

Under Secretary to Govt. of India
Ministry of Water Resources
to Government of India

Yours faithfully

(Sd/-)
29.06.87
(CC. MAHalingam, Sd/-)
Executive Engineer
Central Ground Water Board
Govt. of India
VARANASI

From: Secretary, P.E. and
Executive Engineer,
Central Ground Water Board,
Ministry of Water of India
Gurgaon-221 002

To: The Registrar
Chennai University
Chennai-600 025

Through Proper channel.

Sub: Application forms for courses
under Post Graduate Programme
in Engineering and Technology 1987
Submitted.

Ref: your Advt No 4001/D2/87
Dt 08 06 1987

Sir,

I submit herewith my application
forms duly filled, seeking admission for
the following two courses under Post Graduate
Programme in Engineering and Technology 1987.

- 1. M.E. in Water Engineering and
Water Management.
- 2. M.E. in Remote Sensing.

Regard. enclosures along with
the certificate copies of degree certificate
are also submitted for the same.

Very truly and favourably

[Signature]
Secretary
Under Secretary
Ministry of Water
Govt. of India

[Circular Stamp]
990687

CGWB, Gandhinagar.

Copy Submitted to C.E. & (M), for necessary
action.

100
575/Co-Engg. Sotts
Government of India,
Central Ground Water Board,
H.R. IV, (Kharabada-181001,
(Bihar)

Dated the 28.6.82

24

To

The Deputy Secretary (C.W.)
to the Govt. of India,
Ministry of Water Resources,
Krishi Bhawan,
New Delhi - 110 001.

Subject: Recommendation for higher studies.

Sir,

I am to invite a reference to Ministry's letter No. 95-329/CO-GW dated 12.6.1987 on the above subject and to enclose herewith an application of Shri S.S. Mahalingam, Executive Engineer addressed to the Registrar, Anna University, Madras, seeking permission for the following two courses under post graduate programme in Engineering and Technology.

1. Irrigation Engineering and Water Management.
2. Remote Sensing Application.

A photostate copy giving requirements to be fulfilled by the candidate for seeking admission to the above courses issued by the Anna University is enclosed.

Shri S.S. Mahalingam has put in 10 years of services in the Central Ground Water Board and is holding substantive post in the grade of Executive Engineer.

The above courses are capable of widening his mind and improving his ability as a civil servant. The above courses are 18 months duration.

The requisite bond in the prescribed proforma will be executed by Shri S.S. Mahalingam, in the event of his selection at the time of sanctioning of study leave. In this connection a copy of letter dated 12.6.1987 from Shri S.S. Mahalingam, Executive Engineer is enclosed.

It is requested that the application of Shri S.S. Mahalingam may be forwarded to the Registrar, Anna University, Madras for further necessary action.

Yours faithfully,

RECEIVED: 21/7/82

(Sd/- G. CHINHA)
CHIEF HYDROGEOLOGIST & MINERAL

EV/5/5/87/

Under Secretary
Ministry of Water Resources
New Delhi

EV/23/4/87/

101

18 (252)

No. 35-329/80-GW
Government of India
Ministry of Water Resources

REGISTERED

New Delhi the dated 1st July 1987

To

The Registrar,
Anna University,
Madras 600025

Sub: Application forms for courses under Post Graduates
Programme in Engineering and Technology 1987

Sir,

I am directed to forward herewith two applications in the prescribed form, of Shri S. Sundara Mahalingam Executive Engineer, Central Ground Water Board, a subordinate office of this Ministry, duly recommended, for admission to the following courses.

1. M.E. Course on Irrigation and Water Management.
2. M. Technical Course on Remote Sensing.

It is requested that his case may please be considered under Departmental deputed candidate category.

Yours faithfully,

SD/-
(A.K. PURI)
Desk Officer
Tel. 389852

Copy to:

1. The Chief Hydrogeologist, Central Ground Water Board, New Delhi with reference to his letter No. 3-575/80-Engg. Estt dt. 29.6.87.

2. Shri S. Sundara Mahalingam Ex. Engineer, Central Ground Water Board, Div. III Varanasi.

(A.K. PURI)
Desk Officer
Tel. 389852

Under Secretary
Ministry of Water Resources
New Delhi

No. 63 (N)

29
c

To

The Chief Engineer & Member,
Central Ground Water Board,
N.H.IV, Faridabad/New Delhi.

Sub:- Sanction of Study/leave requested.

Ref:-1. Your letter No.3-575/80 Engg.Estt: dt.29.6.87.

ii. Registrar of Anna University lr.No.2350/D-2/87
dt.31-7-87.

Soliciting your kind attention on the above subject and references, I wish to inform that my candidature for admission to the M.Tech.Degree course in Remote sensing for the year 1987-88 has been accepted by the Anna University, Madras. The copy of the letter from the Registrar Anna University is enclosed.

Further the above course will commence on 5th August 1987. Therefore I request that I may please be sanctioned with the study leave, so that, I can join the course in time on 17.8.87.

The requisite bond, to be executed by a Government servant when proceeding on study leave is also enclosed.

Your early, favourable action is solicited please.

Yours faithfully,

(S.S. MAHALINGAM)
EXECUTIVE ENGINEER
CGWB, Div.III, Varanasi.

Under

419
4.8.87
S.R.R.
4.8.87



103

ANNA UNIVERSITY

MADRAS 600 025

Gram: ANNATICH
Telephone No. 417528
415292
414312

REGISTRAR

Ref. No. 2350/D2/87

Dated 31.7.87

To
The Desk Officer
Ministry of Water Resources
Government of India
NEW DELHI

Sir,

Sub: Admissions 1987-88 - Deputation of
Officers - Reservation of seat -
Agreed.

Ref: Your letter No.35.329/80-GW dated 1.7.87.
---:---

With reference to your letter cited, I am to inform that this University is agreeable to admit Thiru S. Sundaramahalingam as a deputed candidate in the M.Tech. Degree Course in Remote Sensing during the year 1987-88, provided he is eligible for admission.

The classes will commence on 5th August 1987 and the candidate may be relieved so as to enable him to join the course in time.

In this connection, I am to inform that the fees to be paid by a candidate who gets admission on deputation are as follows:

1. Application and Registration fees	..	30.00
2. Admission fees	..	10.00
3. Special fees (per annum)	..	105.00
4. Tuition fees(per annum)	..	360.00
5. Special fees towards the cost of project work as per UGC norms.	..	4500.00
6. Students aid fund	..	2.00
7. Caution deposit (Refundable)	..	200.00

		5207.00

Dilroy
Yours faithfully
for Registrar

and more necessary to communicate by the responsible
officer in charge

shall be guaranteed by a Government Certificate in
Permanent Employment, when proceeding on study leave.

FROM ALL THIS I HEREBY REQUESTS THAT I, S. SUNDARAMANILINGAM,
resident of H23/3, Manthope colony, Ashok Nagar, Madras-83
in the District of Madras as present employed as Executive
Engineer, C.G.W.B. in the Ministry/Office of Water Resources

do hereby bind myself and my heirs, executors and administrators to
pay to the President of India (hereinafter called the Government)
on demand the sum of Rs. (Rupees

) together with interest thereon
from the date of demand at Government rates for the time being
in force in Government loans or, if payment is made in a country
other than India, the equivalent of the said amount in the
currency of that country converted at the official rates of
exchange between that country and India and together with all
costs between attorney and client and all charges and expenses
that shall or may have been incurred by the Government.

WHEREAS I, S. SUNDARAMANILINGAM am granted study leave
by Government.

AND WHEREAS for the better protection of the Government I
have agreed to execute this bond with such conditions as hereunder
in relation.

NOW THE CONDITION OF THE ABOVE WRITTEN OBLIGATION IS THAT
in the event of my failing to return duty or resigning or retiring
from service or otherwise quitting service without returning to
duty after the expiry or termination of the period of study leave
or at any time within a period of three years after return to
duty, I shall forthwith pay to the Government or as may be
directed by the Government on demand the said sum of Rs.

(Rupees)
together with interest thereon from the date of demand at
Government rates for the time being in force in Government loans.

AND upon my making such payment the above written obligation
shall be void and of no effect, otherwise it shall be and remain
in full force and virtue.

This bond shall in respect be governed by the laws of India
for the time being in force and the rights and liabilities hereunder
shall where necessary be accordingly determined by the appropriate
courts in India.

BANK

0 0 0

BANK

The Government of India have agreed to bear the stamp duty payable on this bond.

Signed and dated this SIXTH day of AUGUST one thousand nine hundred and EIGHTY SEVEN /signed and delivered by S. SUNDARAMAHALINGAM in the presence of

Witnesses

1.

(Signature) 14

S. SUNDARAMAHALINGAM,

2.

Accepted
for and on behalf of the
President of India

(Signature)

Under Secretary

Lno 64(I)

No.3-575/80-Ecct/Engg.
Government of India
Central Ground Water Board
Jammagar House, Mansingh Road
NEW DELHI-110 011.

To

Dated, the 6th August, 1987.

The Deputy Secretary (GW)
to the Government of India,
Ministry of Water Resources,
Krishi Bhavan,
NEW DELHI.

Sub: APPLICATION FORM FOR COURSES UNDER POST GRADUATES
PROGRAMME IN ENGINEERING AND TECHNOLOGY, 1987.

Sir,

I am to inview a reference to Ministry's letter No.35-329/80-GW dated 1.7.1987 on the above subject and to inform you that the Anna University, Madras vide their letter No.2350/D-2/87 dated 31.7.1987 addressed to the Ministry of Water Resources, Government of India, New Delhi have informed that the University is agreeable to admit Shri S.S. Mahalingam, Executive Engineer as a deputed candidate in the M.Tech. Degree Course in Remote Sensing during the year 1987-88 (copy enclosed). The course has already commenced with effect from 5th August, 1987.

Shri S.S. Mahalingam, Executive Engineer, Central Ground Water Board, Div.III, Varanasi has requested to allow him to join the Course w.e.f. 17.8.1987. Ministry is, therefore, requested that Shri S.S. Mahalingam may please be sanctioned Study Leave w.e.f. 17.8.1987 to 16.2.1989. A copy of Bond executed by Sh. Mahalingam is enclosed, for favour of further necessary action.

Yours faithfully,

Encl: As above.

(JATINDER KUMAR)
SR. ADMINISTRATIVE OFFICER

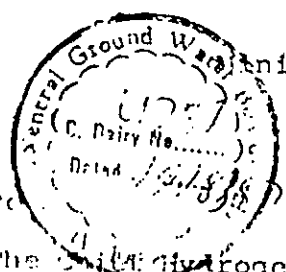
Under Secretary
Ministry

2.00

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11/11/88 (il)

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258



No. 35-329/80-GW
Government of India
Ministry of Water Resources

2578 New Delhi, August 14, 1987.
20/8

To
The Deputy Hydrogeologist
Central Ground Water Board
Jamnagar House
NEW DELHI

Sub: Grant of study leave to Shri S.S. Mahalingam,
Executive Engineer, C.G.W.B.

Sir,

I am directed to refer to your letter No. 3525/80-
Estt (Engg.) dated the 6th August 1987 on the subject cited
above and to convey the approval of the Competent Authority
to the grant of study leave to Shri S.S. Mahalingam, Executive
Engineer, C.G.W.B. w.e.f. 17.8.1987 to 16.2.1989, subject to
the following conditions:-

- (a) If the Course of study falls short of the study leave, the official shall have to resume duty on the completion of the course or the period of shortfall may be treated as ordinary leave as admissible with prior sanction from the Government.
- (b) Leave salary shall be equal to the pay last drawn, plus D.A. and H.R.A. as admissible from time to time.
- (c) After availing study leave, if he resigns from service within a period of 3 years after returned to duty or if he otherwise quits without resuming duty or if he fails to complete the course of study, he shall have to refund the actual amount of leave salary, T.A. and other expenses that might have been incurred by the Govt. plus interest thereon on the prescribed rates.
- (d) The Govt. servant shall have to meet the cost of fee, etc for study.
- (e) During the course of study leave of Shri Mahalingam, the post vacated by him shall remain unfilled.
- (f) On completion of the course of study, Shri Mahalingam shall submit to the authority which granted the study leave, the certificates of examinations passed, indicating the date of commencement and termination of the course with remarks; if any, of the authority in-charge of the course of the

(F) It is requested that Shri S.S. Mahalingam, Executive Engineer may be relieved of his duties immediately to enable him to pursue his studies after suitable arrangement to look after his work of Division III, Varanasi is made.

Yours faithfully,

(A.K. AHIR)

Deputy Secretary to the Govt. of India
TEL 382481.

Under Secretary
Ministry of Water Resources

8 R.R.
16/8

5356/4111
17/8

C.M.
17/8

2.
3.

1/8

17/8

No. 122031/MWB/CCMB/WR/PFL/81

Dated: 21/1/82

From,

M. Q. A. Beg,
Assistant Hydrogeologist,
Central Ground Water Board,
Northern Region,
LUCKNOW.

To,

The Chief Hydrogeologist & Member,
Central Ground Water Board,
Jannagar House, Mansingh Road,
NEW DELHI - 110011

(Through Proper Channel)

Sir,

I have registered my aloe for "Research and Doctorate Degree" under the Aligarh Muslim University in 1970-71. During the last decade pressing work in the Department as well as my ineligibility for obtaining study leave prevented me from taking up the Research work as planned.

It is needless to over emphasize the fact that my Research enterprise would make me better qualified and experienced for the work of the department. My research work will be useful for furtherance of the work of the Central Ground Water Board.

I, therefore, request you to sanction me study leave for a period of two years in consideration of the facts mentioned above and in terms of the study leave Rules of the Central Civil Services Regulation (leave Rule 50-54). If approved by you I would like to avail the study leave from 1st Feb., 1982. The title of the proposed research problem is "Water Status and Hydrochemistry of the Ground Water bodies around Fatspur-Sikri & Kiraoli, parts of Agra District in Western Uttar Pradesh."

M. Q. A. Beg
Under Secretary

Yours faithfully,

(M. Q. A. BEG)

710/01/1-44 M. Q. A. BEG/CCMB/WR/PFL/81

12 JAN 1982

forwarded to the Chief Hydrogeologist & Member, CGWB

for consideration of the study leave

A. Q. A. BEG

M. Q. A. Beg
Under Secretary

No.3-371/75-CH(Estt)
Government of India
Central Ground Water Board,
N.H.V. Faridabad, (Haryana).

Dated this:-

To

The Director,
Central Ground Water Board,
Northern Region,
Lucknow.

Subj:- Grant of study leave to Shri M.A. Beg, Assistant Hydrogeologist, Central Ground Water Board.

Ref:- Your office memorandum No.109/1-CH/PGAB/OG B/NR/Estt/79 dated 12-1-82 and Telex dated 5-2-82.

Sir,

I am to invite a reference to your letters cited above and to seek the approval of Chief Hydrogeologist and Member for the grant of study leave for a period of two years to Shri M.A. Beg, Assistant Hydrogeologist to do Ph.D. on the subject "Water Status and Hydrochemistry of the Ground Water Bodies around Fatehpur Sikri and Kirsoli, Parts and Agra District in Western, U.P." in the Aligarh Muslim University, Aligarh (UP), under Rule 50 of C.G.S. (Leave) Rules, 1972. No extension of study leave, in any case, will be given to Shri Beg. The grant of study leave will be governed by the following conditions:--

1. It should be certified that but for his proceeding on leave Shri Beg would have continued as Assistant Hydrogeologist in the Central Ground Water Board.
2. It should also be certified that on return from study leave, Shri Beg is likely to be posted to the same office and post from which he proceeded on leave.
3. No I.A. will be admissible during the course of the study leave.

The Government of India will not meet the cost of fees, if any, paid for the proposed study by Shri Beg.

If Shri M.A. Beg, after availing of the study leave, resigns from service or otherwise quits service without return to duty or resigns/otherwise quits the service within 3 years after return to duty from study leave, he will be required to refund the actual amount of the leave salary.

6. Shri Beg, Assistant Hydrogeologist should execute the necessary bond in the prescribed form 9 (Rule 50(4)) and the same be sent to this office before he proceeds on study leave.

Contd.2..

:: 2 ::

- 73 Shri Beg should submit a full report, on his return, on the work done by him while on study leave.
- 85 Necessary orders for the sanction of leave may kindly be issued by the Director, Central Ground Water Board, Northern Region, Lucknow, indicating the date from which the study leave is sanctioned.

Yours faithfully,

(P.N. SINGH)
SENIOR ADMINISTRATIVE OFFICER
for CHIEF HYDROGEOLOGIST & MEMBER

COPY TO:-

- 16 Shri M.Q.A. Beg, Assistant Hydrogeologist, Central Ground Water Board, Northern Region, Lucknow, for information with reference to his application dated 2-1-82.
- 27 The Deputy Secretary (GA), to the Government of India, Ministry of Irrigation, Krishna Bhawan, New Delhi, for information in continuation to this office P.O. No. 3-371/75-GA (Ext) dated 6-3-82.
- 37 Pay and Accounts Officer, Central Ground Water Board, N.H.I., Faridabad.

(P.N. SINGH)
SENIOR ADMINISTRATIVE OFFICER
for CHIEF HYDROGEOLOGIST & MEMBER

RECEIVED
2-2-1982

GOVT
of India

S. No. 46(R)

Government of India

Central Board of Secondary Education
Northern Region
B-49, Kirti Nagar Extension
New Delhi

1574
A (CO) H.O.A. / COM / 12 / 1074 / 73 Dated : 7 JUN 1982

STUDY LEAVE DR. B. C. JAIN

Sanction is hereby awarded to the grant of Study Leave for a period of 2 years w.e.f. 03.04 to 7.3.84 to Shri H.O.A. Dr. B. C. Jain, Assistant Director of Education under the provision of rule 50 of C.C.S. (Leave) Rules, 1972 as amended from time to time.

Certified that he would have continued to officiate in his present post but for his proceeding on study leave during the above period.

It is further certified that on the expiry of above leave, he is likely to be posted to the same post and at the same station from which he proceeded on leave.

Further sanction of study leave is governed by the relevant terms and conditions on the subject as indicated below

- 1) No T.A. will be admissible during the course of study leave.
- 2) The Govt. of India will not meet the cost of food, if any, paid for the proposed study.
- 3) He will refund the actual amount of leave salary drawn if after availing of the study leave he resigns from service or otherwise quits service without return to duty or resigns/otherwise quits the service within three years after return to duty from study leave.
- 4) He should submit a full report, on his return, on the work attended by him while on study leave.

Signature
Under Secretary
Ministry of Education
New Delhi

Signature
16

Notes:

Shri H.O.A. Dr. B. C. Jain, Assistant Director of Education, COM, B-49, Kirti Nagar Extension, New Delhi, is directed to obtain necessary certificates from the Government of India, Ministry of Education, New Delhi, for the grant of study leave.

The Pay & Accounts Officer, COM, B-49, Kirti Nagar Extension, New Delhi, is directed to process the study leave.

16/6
AHO (C)

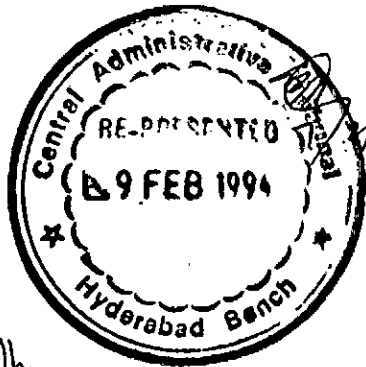
15/6

19/6

Returned SR 130/94

264

1) Counter Affidavit should be attested.



Complied with
V. Raja Sekh
14/2/94

for V. Bhimanna
Addl CGSC

In the CAT/Hyd

O.A. 479 of 93

Applicant - M.A. Halim

Counter affidavit filed
on behalf of the respondents

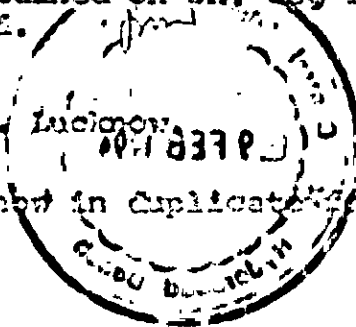


Filed by
V. Bhimanna
Addl CGSC

12:

3. The Chief Hydrogeologist & Member, CGWB Parichhed with reference to his letter No. 3-371/75-CH(Estt) dt. 12.3.02. Sh. Day is holding a permanent status in cadre of S.T.A. (Hydrogeology) and as such necessary bond on form 7 obtained on Ch. Day is enclosed for reference and records at his end.

4. T.S. to the Director, C.G.W.B., N.R. Lucknow
5. Account Branch, C.G.W.B., N.R. Lucknow in duplicate for necessary action.
6. Office Order file.



Handwritten signature

and

At

10/10/75

10/10/75



OA 479/93

Pre-delivery judgement per Hon'ble Member (A.I) is placed before
for kind perusal please.

V. Sathyanarayana
Sr. A.A. 19/3/93

~~HMA. I~~
19-3-93

~~HMT~~
19/3/93
for perusal
19/3/93

2

CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH : HYDERABAD.

C.A.No. 479/93
T.A.No.

DATE OF DECISION: 11-3-97

M.A.HALEEM (Died)
rep. by legal representatives 3 persons PETITIONER(S)

Mr.K.SUDHAKAR REDDY ADVOCATE FOR THE PETITIONER(S)

VERSUS

UNION OF INDIA & ORS. RESPONDENT (S)

Mr.V.BHIMANNA ADVOCATE FOR THE
RESPONDENT (S)

THE HON'BLE SHRI R.RANGARAJAN, MEMBER (A)

THE HON'BLE SHRI B.S.JAI PARAMESHWARM, MEMBER (J)

1. Whether Reporters of local papers may be allowed to see the judgement?
2. To be referred to the Reporter ~~or not~~? *yes*
3. Whether their Lordships wish to see the fair copy of the judgement?
4. Whether the Judgement is to be circulated to the other Benches?

Judgement delivered by Hon'ble Sri R.RANGARAJAN, MEMBER(A)

[Signature]
HBSJP
M(J)

[Signature]
HRRN
M(A)

[Signature]

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH
AT HYDERABAD

O.A.No.479/93

Dated: 21-2-97

Between:

Since deceased
M.A.Haleem (Died)
represented by legal representatives 1 to 3
1. Mrs.Noorunnisa
2. Ms.Farozan,
3. Mr.M.A.Faheem, (being minor represented
by the Applicant No.1)

.. Applicant(s)

AND

1. Union of India, rep. by Secretary to
Govt. Ministry of Water Resources,
Shram Shakti Bhavan, New Delhi,
2. The Deputy Secretary to Govt. of India,
Ministry of Water Resources (Vigilance
Cell), Shram Shakti Bhavan, New Delhi,
3. Chairman,
Central Ground Water Board,
Jamnagar House, Mansingh Road,
New Delhi.

.. Respondents

COUNSEL FOR THE APPLICANT(S) : Mr.K.Sudhakar Reddy

COUNSEL FOR THE RESPONDENTS: Mr.V.Bhimanna, Addl.CGSC

CORAM:

HON'BLE SHRI R.RANGARAJAN, MEMBER (ADMN.)

HON'BLE SHRI B.S.JAI PARAMESHWAR, MEMBER (JUDL.)

J U D G M E N T

ORDER(PER HON'BLE SHRI R.RANGARAJAN, MEMBER (ADMN.))

This OA was filed on 7.5.93 when the applicant was alive. However, it is stated that the applicant had expired on 15.10.1996. In view of the death of the applicant, his legal representatives, Mrs.Noorunnisa, Ms.Farozan, Mr.M.A. Faheem were brought on record as legal representatives of the deceased employee in terms of the order of this Tribunal dt. 29.11.1996 in M.A.No.1074/94. The cause title of the O.A. was amended as per the directions in the M.A.

2. The applicant, M.A.Haleem, was holding the post of Junior Hydrogeologist (Scientist B) under the Ministry of Water Resources, Government of India. At the material time he was working under the Director, Central Ground Water Board (Central Region), Nagpur (Respondent No.3).

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3. A disciplinary enquiry was initiated against him vide Memorandum dated 1.1.1986 under Rule 14 of the Central Services (CC&A) Rules, 1965, on the following charge:

"...Shri M.A.Haleem, while functioning as Jr. Hydrogeologist C.G.W.B., C.R.Nagpur, absented himself from duty with effect from 10.9.1984 to date unauthorisedly without proper approval or sanction of the competent authority.

By his aforesaid act Shri M.A.Haleem has shown lack of devotion to duty and has behaved in a manner unbecoming of a Govt. servant and thereby violated the provisions of Rule 3(1), (ii) and (iii) of the Central Services (Conduct) Rules, 1964".

The unauthorised absence alleged was thus for the period from 10.9.1984 to 1.1.1986 (i.e. about 1 year 3 months 20 days).

4. Rule 3 provides in clauses (i), (ii) & (iii) as follows:

"3. General:--

(1) Every member of the service shall at all times maintain absolute integrity and devotion to duty and shall do nothing which is unbecoming of a member of the service.

(2)

(3) (1) No member of the service shall, in the performance of his official duties, or in the exercise of powers conferred on him, act otherwise than in his own best judgment to be true and correct except when he is acting under the direction of his official superior. ✓

(ii) The direction of the official superior shall ordinarily be in writing. Where the issue of oral direction becomes unavoidable, the official superior shall confirm it in writing immediately thereafter.

(iii) A member of the service who has received oral direction from his official superior shall seek confirmation of the same in writing as early as possible and in such case, it shall be the duty of the official superior to confirm the direction in writing.

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Explanation I.

A member of the service who habitually fails to perform a task assigned to him without the time set for the purpose and with the quality of performance expected of him shall be deemed to be lacking in devotion to duty within the meaning of sub-rule (1).

Explanation II

Nothing in clause (1) of sub rule (3) shall be construed as empowering a Govt. servant to evade his responsibilities by seeking instructions from or approval of, a superior officer or authority when such instructions are not necessary under the scheme of distribution of powers and responsibilities."

5. The statement of imputations of misconduct in support of the Article of charge inter alia alleged as follows:

- (1) Applicant proceeded on two days' casual leave from 10.9.84 to 11.9.84 with permission to prefix and suffix the public holidays falling on 7th, 8th and 12th September 1984. He left HQ at Nagpur on 6th Sept. 1984.
- (2) He did not join duty after availing the casual leave and sought extension of leave first upto 30.9.84 and then upto 7.10.84 vide telegrams dated 18.9.84 and 25.9.84 respectively.
- (3) The extension was not allowed and he was asked to join duty immediately vide telegram dated 9.10.84 from Director, C.R.



- (4) By two applications both dated 10.10.84 he requested for grant of earned leave for the period of absence from 10.9.84 to 7.10.84 and grant of Study Leave from 8.10.84 to 7.10.85. It was considered highly irregular. The application for study leave was received on 15.10.84.
- (5) By telegram he was informed on the same day, i.e. 15.10.84 that the request for study leave was not recommended and he was asked to report for duty at once. The applicant did not comply with the instructions and continued to remain on unauthorised absence.
- (6) As he did not report ^{for} duty ~~any~~ inspite of the Director's repeated advise, a Memo dated 30.11.84 was issued informing that study leave could not be allowed in view of the exigency of work and he was directed to report for duty by 15.12.84 failing which necessary disciplinary action would be initiated for wilful and unauthorised absence from duty. Instead of complying with those directions, the applicant continued to remain on unauthorised absence and expressed his inability to join duty stating that he was pursuing his study in Ph.D. course in mutual interest and for benefit ^{of} ~~to~~ the department. That was considered a lame excuse as department would not any way be benefitted by his studies and the Board was suffering badly due to his continuous wilful and unauthorised absence from duty.
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- (7) Applicant disregarded repeated instructions of the Government and failed to report for duty at Nagpur and continued on unauthorised absence from duty without proper sanction of leave w.e.f. 10.9.84.

- (8) The above acts of commission and omission on the part of the applicant showed lack of devotion to duty and he has behaved in a manner unbecoming of a Government servant and therefore he has violated the provisions of Rule 3(1), (11) & (111) of the CCS (Conduct) Rules, 1964.

The imputation clearly was made that extension of leave after 12.9.84 and thereafter including request for study leave was not allowed and therefore he was treated as ^{having} ~~unauthorisedly~~ ~~having~~ remained absent since 10.9.84 (as the casual leave for 10th and 11th Sept. 84 was also not sanctioned) till the issuance of charge Memo on 1.1.86.

6. The applicant submitted a statement of defence in answer to the charge and denied the same. The Director, Central Ground Water Board, N.W. Region, Chandigarh, was appointed as the Inquiry Officer. The applicant nominated Shri Quasim-ul-Haw as his Defence Assistance ^t who defended the case on his behalf. Evidence of Shri R. Venkatraman, Director, CGWB was adduced on behalf of the ^{disciplinary authority} ~~prosecution~~. No defence evidence was adduced. On the basis of the evidence and after duly considering the contentions urged on behalf of the applicant, the Inquiry Officer held that applicant's act of absenting continuously ^{from duty} tentamounts to behaviour.

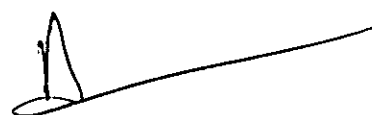
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in a manner unbecoming of a Government servant and ^{the} applicant did that with impunity and remained on unauthorised leave w.e.f. 8.10.84 knowing fully well that exigencies of work required his presence at his headquarters. It needs to be noted here that although the charge related to unauthorised absence from 10.9.84 the finding related only to the period from 8.10.84 onwards. The findings were recorded by the Inquiry Officer by a speaking and reasoned order dated 28.8.1986 ✓

7. The Inquiry Officer submitted his report to the President of India who is the Disciplinary Authority. The President after obtaining advice of the Union Public Service Commission agreed with the finding recorded by the I.O. holding the charge proved and holding that the applicant was not a fit person to be retained in service and a major penalty was warranted. The President passed an order on 2.2.1989 imposing the penalty of compulsory retirement. That was challenged by the applicant in this Tribunal in earlier OA (No. 403 of 1989). By order dated 1.1.91 that OA was allowed on the ground that the report of the I.O. had not been supplied to the applicant and the order of penalty was quashed. However, it was left open to the D.A. to consider the matter afresh after giving an opportunity to the applicant to make his representation against the report of the I.O. and after obtaining opinion of the UPSC consequential order was issued by the D.A. on 24.4.91 for continuing the proceedings after supply of ^{the} copy of I.O's report to the applicant giving him opportunity to submit a representation. That order also continued the suspension of the applicant pending further orders. That part of the order relating to suspension was stayed by interim orders dated 30.1.92/13.2.92. Consequently--

- the applicant was reinstated w.e.f. 30.1.92 by order dated 30.3.92.
- A copy of the I.O's report was supplied and the applicant filed a representation.
- The Disciplinary Authority, thereafter, proceeded to take a fresh decision.



8. The President of India as the Disciplinary Authority after considering the report of the Inquiry Officer and after analysing the evidence on record and other relevant facts connected with the case again held that the charge was proved and that the applicant was not a fit person to be retained in Govt. service. He further held that the order of compulsory retirement passed earlier on 2.2.89 did not merit any modification. He however passed a fresh order imposing the same penalty effective from the date of the order, viz., 18.12.92. That order was modified by corrigendum issued on 5.3.93 substituting the date of compulsory retirement as afternoon of 11th January 1993 (instead of 18.12.92). These orders are impugned in this O.A.

9. Mr. K. Sudhakar Reddy, the learned counsel for the applicant urged following points:-

- (1) The charge framed is illegal and therefore ^{- are -} entire proceedings ~~have been~~ vitiated and are rendered illegal.
- (2) The respondents' action in refusing to grant study leave itself was arbitrary and unfair and therefore the consequent absence of ^{the} applicant from ^{did} duty ~~does~~ not amount to misconduct.
- (3) Many other officers who were alleged to have committed similar misconduct were differentially treated and thus the respondents have given discriminatory treatment to the applicant by making him suffer the penalty.
- (4) The punishment of compulsory retirement is illegal as it is not shown to be in ^{the} public interest.
- (5) The penalty imposed is disproportionate to the single lapse alleged on the part of the applicant and is bad in law.
- (6) The respondents are not even paying the pension which shows the animous of the respondents towards him.

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10. The respondents resist the application and justify the impugned orders.

11. We shall now proceed to deal with the aforesaid points urged on behalf of the applicant ad seriatum.

Point No.1

It is argued by the learned counsel Shri Sudhakar Reddy that the charge levelled could attract Rule 25(2) of the CCS (Leave) Rules 1972 and therefore applicant could not be charged under the Conduct Rules hence the punishment awarded is illegal and void. We have already quoted the charge and the relevant provisions of the Conduct Rules which have been applied.

Rule 25 of the Central Civil Services (Leave) Rules, 1972 relates to absence after expiry of leave. Sub Rule (2) on which reliance is placed may be set out here:

"Wilful absence from duty after the expiry of leave renders a Government servant liable to disciplinary action."

Reliance is placed by the learned counsel on the decision of the Delhi High Court in Rajeshwar Singh Vs. UOI & Ors II(1989) ATC (HC) 621. The delinquent government servant in that case had challenged the order of his removal from service contending that whereas he was governed by the Central Industrial Security Force Rules 1969 the charge sheet was served upon him under Central Civil Service (CC&A) Rules, 1965 and the enquiry held and orders resulting therefrom were illegal and void. That contention was upheld. It was held that:

"Where the employee is governed by one set of rules in the matter of disciplinary proceedings but inquiry is held under another set of rules, such an enquiry would be violative of principles of natural justice and findings based on such an enquiry cannot be upheld much less the punishment imposed in consequence of such findings. It would be no gainsaying that there was not any material difference in two sets of rules."

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That precisely is the submission of the learned counsel before us. With respect, we entirely agree with the aforesaid ratio flowing from the said decision. However, we find that on facts of the instant case that ^{ratio} is not applicable. Sub Rule (2) of Rule 25 of Leave Rules applies where a Govt. servant wilfully absents from duty after the expiry of leave. In that event he would be liable to face a disciplinary enquiry only under the CCS Rules on the charge of violation of Rule 25. Doubtless such an enquiry cannot be held for breach of Conduct Rules which is entirely a different set of Rules. In such a case prejudice suffered by the delinquent Govt. servant would be inherent in serving the charge sheet and holding the inquiry for breach of conduct rules and such person need not show what prejudice has been occasioned to him by that mistake as held in the above mentioned case by the Delhi High Court. // The facts in the instant case reveal that after joining the duty at C.R. Nagpur on 27.8.84 the applicant had proceeded on two days casual leave for 10.9.84 and 11.9.84 with permission to prefix and suffix the public holidays falling on 7th, 8th and 12th September 1984. During that period he went to Hyderabad and thus had left the Headquarters. Although it appears that the leave was not formally sanctioned we may even proceed on the assumption that it was sanctioned. The applicant however had to join duty on expiry of that leave on the next working day. He however did not join. Instead he sought extension of leave firstly by telegram dated 18.9.84 upto 30.9.84 and again by telegram dated 25.9.84 upto 7.10.84. We will even assume for the sake of arguments that the applicant could ordinarily expect it to be sanctioned and would not treat his absence as unauthorised ipso facto for not having joined duty on expiry of leave applied, upto 12.9.84. However, the extended leave was not allowed and he was asked to join duty immediately vide telegram dated 9.10.84 by the Director, C.R. He did not comply with that direction and instead sent 2 applications on 10.10.84 applying for earned leave for the earlier

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period of absence from 10.9.84 to 7.10.84. That itself goes to show that even the leave initially applied for 10th and 11th was in fact not sanctioned till 10.10.84. This conduct of applicant was treated irregular by the respondents. The absence of applicant after 12.9.84 and till the telegram of the Director dated 9.10.84 even if ^{it} could attract Rule 25(2) of Leave Rules. The absence after the date of telegram introduced further element of disobedience to the direction of the official superior which amounted to misconduct under Rule 3 of the Conduct Rules. That misconduct does not fall under sub rule (2) of Rule 25 of Leave rules. Thus although the element of unauthorised absence common to both set of Rules, namely, Conduct Rules and Leave Rules, was present yet by reason of it being coupled with further and separate act of misconduct the enquiry held on the charge for misconduct under Conduct Rules was perfectly legal and valid. Eventhough the charge framed did not specifically recite that he had disregarded the instructions of superiors yet that was clearly stated in the statement of imputations and Rule 3(i), (ii) & (iii) was mentioned in the charge itself. The applicant could not therefore have been misled in believing that his alleged misconduct was only for overstay after expiry of leave unauthorisedly and he cannot therefore be said to have been prejudiced in his defence. In the circumstances it was necessary for the applicant to show prejudice, if any, according to him, had been caused to him but that has not been his case and in our view the ratio of the decision of Delhi High Court (supra) on the point of prejudice does not help him. Similarly it cannot be suggested that he should have been separately proceeded in one enquiry held under Rule 14 of CCS (CCA) Rules with reference to Rule 25(2) of Leave Rules. The applicant had opportunity to meet the charge as framed including elements of misconduct partly overlapping Rule 3 of Conduct Rules and Leave Rules and independently falling under Rule 3 of Conduct Rules.



12. The learned counsel drew our attention to the finding arrived at by the Inquiry Officer in his report to the effect that in view of telegram of Director dated 9.10.84 and payment of salary for the month of September the applicant cannot be held to have absented unauthorisedly till 7.10.84 and the unauthorised absence should be reckoned from 8.10.84 when study leave was applied. Our foregoing discussion however has proceeded on that assumption and the above noted finding of the I.O. does not make any difference^{ce} to it. That is also fortified from the further finding recorded by the I.O. himself as follows:

"That provisions exist under the rules to grant study leave along with the earned leave does not imply that leave would be granted since leave is very clearly said not to be a matter of right. Absenting continuously against the orders of the superior authority certainly tantamounts to be behaving in a manner unbecoming of a Government servant, and I am convinced Shri Haleem (SPS) did that with impunity and remained on unauthorised leave w.e.f. 8.10.1984 knowing fully well that exigencies of work required his presence at his headquarters."

Even if the period from 10.9.84 to 7.10.84 covered by the charge is excluded ^{since} yet the charge also covered the further period from 8.10.84 to 1.1.86 that was sufficient to hold the charge proved. That does not vitiate the charge as framed.

13. The ld. counsel heavily relied on the decision of Kerala High Court in Radha Vs. Director, AIR, Trivandrum, 1985 (1) SLR 357 in support of his submission. That was a case where a contract of service of a staff Artist Announcer was terminated. That was challenged. It was held that since Leave Rules have been made applicable to Staff Artists, disciplinary action in accordance with CCS (CCA) Rules had to be taken and as no such enquiry was held and the staff artist concerned had not been given a reasonable opportunity of being heard there was violation of the Constitutional protection under Article 311(2)

of the Constitution and therefore the termination could not stand. The instant case is clearly distinguishable on facts. No question of denial of opportunity to reply the charge could survive after the order in the earlier OA was passed and adequate opportunity was afforded to the applicant to offer his defence to the charge. It is true that in the context of narration of facts it was observed in the judgment that--

"Rule 25 clearly contemplates disciplinary action being taken under the CCS (CCA) Rules for overstaya^l after the expiry of leave where it is wilful ..." and "the termination of petitioner's services in the instant case was clearly referable to her alleged misconduct and violation of the directions issued to her by the respondent to rejoin duty."

However, the question of applicability of Conduct Rules as in the instant case had not arisen for consideration in the case. It is for consideration in the case. It is pertinent to note that it was the contention of the respondents that the Conduct Rules or the CCS Rules did not apply to staff Artists. The Court although held that as Leave Rules have been made applicable and Rule 25 contemplates disciplinary action being taken under the CCS (CCA) Rules for overstaya^l after the expiry of leave where it is wilful and the contention of the respondents in that behalf was rejected, it did not consider the question of applicability of Conduct Rules. Our view that disciplinary enquiry could be validly held in the circumstances of the case under ^{the} CCS (CCA) Rules for violation of Conduct Rules with respect would not be inconsistent with the ratio of the decision to the extent applicable. This decision therefore, in our view, does not help the applicant.

14. Before concluding the discussion on the point we may mention that it appears doubtful to us as to whether it is open to the applicant to raise the question about the legality of the

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charge framed in this application in as much as that question had to be raised in the previous OA and as the applicant had participated in the further proceedings of the enquiry that were taken, he must be deemed to have given up ^{or waived} that contention. Yet, it being a neat question of law raised by the learned counsel Mr. K. Sudhakar Reddy going to the root of the validity of the charge itself, we have entertained and examined the same.

15. In conclusion we hold that the contention of the applicant that the charge was defective and the Enquiry conducted in respect thereof is illegal and void cannot be accepted and we reject the same. We hold that there was no illegality in the Enquiry proceedings. Point No.1 is answered accordingly.

Point No.2

16. While the applicant did not join duty after expiry of the leave initially applied for two days but after the Director instructed him to join duty immediately, he sent an application on 10.10.84 requesting for grant of Study Leave. Admittedly, that was not sanctioned. It is therefore his contention that his absence from duty after 7.10.84 was not wilful but it was for a bonafide purpose and therefore the punishment awarded is illegal and the refusal to grant the study leave was also arbitrary.

17. The refusal to grant study leave however is a distinct question involving applicant's entitlement for it and that question cannot be raised at this stage nor it is material to ~~find~~ determine the legality of the disciplinary proceedings. Even otherwise, Rule 7 of ^{the} leave rules provides that leave cannot be claimed as a matter of right and when the exigencies of public service so require leave of any kind may be refused by the authority competent to grant it. Rule 50 of Leave Rules prescribes the conditions for grant of study leave. Thus such leave when applied may be granted or may be refused by the competent authority and merely

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sending a request to grant the leave does not amount to its grant automatically. In the circumstances of the case, the applicant cannot ^{derive} ~~derive~~ any advantage by raising this grievance. Same test applies to the application for earned leave and combination of earned leave with study leave.

18. The applicant submits that he had intended to do Ph.D course from Osmania University, Hyderabad, and that was for mutual advantage of himself and the department and therefore it was well intended pursuit. He had been granted permission to join that course by the Department vide letter dated 7.12.1983 and that fact was within the knowledge of the respondents. Hence he could expect that the leave would be granted. It was however refused arbitrarily.

19. What is pertinent to note in this connection is that study leave had not been applied till 10.10.84 even after joining the course at the Osmania University on 24.8.84 while he was working at Hyderabad. ^{the} Applicant was however transferred to Nagpur on 27.8.84. Obviously he could not attend the course at Hyderabad and discharge his duty at Nagpur simultaneously. When his application dated 10.10.84 was not granted it was incumbent upon him to report ^{for} ~~to~~ duty and thereafter pursue his claim for study leave. We therefore find that the reasons given by the Inquiry Officer in his report on the point of study leave cannot be interfered with or a different view taken. The submission relating to refusal to grant study leave on the ground of it being arbitrary is therefore rejected. It neither ³ ~~vitiates~~ the formation of the charge nor the order of penalty. Point No.2 is answered accordingly.

Point No.3

20. It is submitted that some other officers who had overstayed after expiry of leave period were not subjected to any disciplinary action/punishment and therefore holding the enquiry and punishing the applicant is discriminatory. Instances of K.M.Vedapuri and K.Srinivasan are cited. Reliance is placed on

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the table (chart) relating to some 23 officers of the Ministry of Water Resources annexed to the decision of Madras Bench of C.A.T. in OA 153/89 and 280/89 decided on 31.7.90 pertaining to above two officers and observations from that decision. The punishment of compulsory retirement awarded to them was quashed on the ground that the alleged act of misconduct was not found mentioned in the charge memo. After referring to the contention advanced on the basis of the chart and the contention of the respondents that the cases were considered on merits and appropriate decision was arrived at in respect of each case, it was however observed at the end of the order thus:

"While doing so we make it clear that when the disciplinary authority decide again the matter of punishment it will certainly consider the fact of discrimination brought out before us by the applicant which we have abstracted above."

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In our opinion the ground of discrimination as is urged is totally misconceived and is wholly untenable. In the first place when a disciplinary enquiry is validly held under the statutory rules for individual misconduct of a Govt. servant the result of similar enquiry in respect of another officer is wholly irrelevant. That cannot be regarded as a piece of evidence for the enquiry on hand. Secondly, the set of facts and the circumstances that may have prompted the act resulting in misconduct would differ from case to case. Eventhough there may be similarity in the provision relating to misconduct which is applied that cannot be regarded as the same misconduct to conclude that two equally placed persons have been differentially treated. Thirdly even if some other officer may not have been hauled or punished for his misconduct that does not ipso facto mean that the misconduct proved by evidence against an officer stands wiped out. It is fallacious to argue that a misde~~mean~~our of one should be dealt with similarly irrespective of the facts, circumstances and

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evidence relating to each one differently. They cannot be described as equally placed persons. The argument of discrimination can render an absurdity if stretched on the lines argued as it would mean that where one officer is not either subjected to disciplinary action or is eventually not punished, no disciplinary action against any other officer can ever be taken. We read the observations based on the chart produced occurring in the decision of Madras Bench (supra) as merely directory made for the general guidance of the respondents in that case and cannot be made ^{the} basis to support a challenge to an order of punishment passed after holding ^{the} disciplinary enquiry in accordance with ^{the} law. Moreover, the observations are not based on scrutiny of particulars relating to each case mentioned in the table produced particularly as respondents had offered an explanation and have not been made after adjudication on the point. We have therefore no hesitation in negating the ground of alleged discrimination and answer point No.3 accordingly.

Point No. 4

22.

It is submitted that the impugned orders do not show that the punishment of compulsory retirement has been awarded in public interest and is therefore illegal. Mr. V. Bhimanna, Standing Counsel for the respondents, submitted in the requirement of public interest is not essential for punishment. In our view, Mr. Bhimanna is right in his submission. Every compulsory retirement of a Government servant as a penalty. A compulsory retirement may be ordered other than by way of punishment such as under FR 56(j) in that cases the question of public interest need not have been held by the Supreme Court in U.O.I Vs. State of Madras, SCR 791 that FR 56(j) is not intended to take away the rights of the Government servants and that the Rule 56(j) does not operate against the rights of the individual Govt. servant.

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public. It is also well established that such order of compulsory retirement does not amount to removal or dismissal. However, as held by the Supreme Court in Union of India Vs. Tulsiram Patel: AIR 1985 SC 1456 where an order of compulsory retirement is imposed by way of penalty, it amounts to removal from service and the provisions of Article 311 of the Constitution are attracted.

23.

Compulsory retirement has been prescribed as a Major Penalty under Rule 11(vii) of the CCS (CCA) Rules. It is not qualified by being required to be in public interest. Such penalty can be legally imposed on proof of misconduct at a disciplinary proceeding held under the said rules. The Supreme Court in State of Madras Vs. Srinivasan: AIR 1966 SC 1827 has held that where the employee was compulsorily retired after holding a proper enquiry the retirement was valid with the observations that the Govt. is not bound to give reasons of concurrence with the findings of the Enquiry Report. We therefore hold that the penalty of compulsory retirement having been imposed in the instant case after holding a proper enquiry that cannot be assailed on the ground that ^{the} public interest is not shown and negative the argument urged on behalf of the applicant in that behalf.

Point No.5

24.

It is well established that the Tribunal cannot interfere in the quantum of punishment on the ground of proportionality. Since the penalty has been imposed by the Disciplinary Authority in the instant case on the basis of proven misconduct that cannot be interfered with. Whether the misconduct resulted from a single lapse or otherwise is not the test to be applied. It is the nature, gravity and circumstances surrounding the misconduct upon which the quantum of penalty would be rested. That exercise has been carried out by the Disciplinary Authority who has arrived at the conclusion after analysing the evidence and other relevant facts connected with the case that the applicar




is not a fit person to be retained in Govt. service and the penalty of compulsory retirement is appropriate to be imposed. He had the jurisdiction to impose that penalty and it cannot be said that he ^{had} ~~was~~ acted unreasonably. The penalty also is not such as ^{to} shock our judicial conscience. The desire of the applicant to acquire Ph.D qualification is not germane to the question. Hence the contention that the quantum of penalty imposed is disproportionate to the misconduct proved does not hold water and is rejected. Point No.5 is answered accordingly.

Point No.6

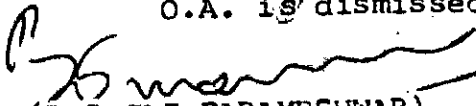
(25) The grievance regarding non-payment of pension is not the subject matter of the OA and we are not called upon to express any opinion on that subject. All that we can say is that consequences of the penalty would follow in accordance with the law and ^{rules;} we are not required to deal with the same. The point is answered accordingly.

(26) We have so far discussed the points urged by the learned counsel for the applicant. We are satisfied ~~it~~ after a careful consideration of the matter that the impugned orders do not suffer from any illegality and are perfectly legal and valid and warrant no interference.

(27) In the light of the foregoing discussion, we hold that the application is liable to be dismissed. Hence ^{the} following ~~order~~:

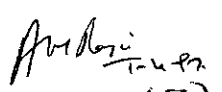
ORDER

O.A. is dismissed. No order as to costs.


(B.S. JAI PARAMESHWAR)
MEMBER (JUDL.)


(R. RANGARAJAN)
MEMBER (ADMN.)

DATED: 21st March, 1997


Dy. Registrar (S)

3.19.7.

Copy to:

1. The Secretary to Govt., Min. of Water Resources, Shram Shakthi Bhavan, New Delhi.
2. The Dy. Secretary to Govt. of India, Min. of Water Resources, (Vigilance Cell), Shram Shakthi Bhavan, New Delhi.
3. Chairman, Central Ground Water Board, Jamnagar House, Mansingh Road, New Delhi.
4. One copy to Mr. K. Sudhakar Reddy, Advocate, CAT, Hyderabad.
5. One copy to Mr. V. Bhimanna, Addl. CGSC, CAT, Hyderabad.
6. One copy to D.R(A), CAT, Hyderabad.
7. One duplicate copy.
8. Copy to Reporters

YLKR

10/7/92

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TYPED BY
COMPILED BY

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CHECKED BY
APPROVED BY

THE CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH HYDERABAD

THE HON'BLE SHRI R. RANGARAJAN: M(A)

AND

THE HON'BLE SHRI B.S. JAI PARAMESHWAR:
M(J)

DATED: 21/3/97

ORDER/JUDGEMENT

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

S.A. NO.

479/93

ADMITTED AND INTERIM DIRECTIONS ISSUED
ALLIED
DISPOSED OF WITH DIRECTIONS
DISMISSED
DISMISSED AS WITHDRAWN
ORDERED/REJECTED
NO ORDER AS TO COSTS.

YLKR

R-78/16/97

II COURT

केन्द्रीय प्रशासनिक अधिकरण
Central Administrative Tribunal
HYDERABAD BENCH
30 APR 1997
HYDERABAD BENCH



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2. The applicant, M.A. Haleem, was holding the post of Junior Hydrogeologist (Scientist D) under the Ministry of Water Resources, Government of India. At the material time he was working under the Director, Central Ground Water Board (Central Region), Nagpur (Respondent No.3).

3. A disciplinary enquiry was initiated against him vide Memorandum dated 1.1.1986 under Rule 14 of the Central Services (CCA) Rules, 1965, on the following charge:

"...Shri M.A. Haleem, while functioning as Jr. Hydrogeologist C.G.W.B., C.R. Nagpur, absented himself from duty with effect from 10.9.1984 to date unauthorisedly without proper approval or sanction of the competent authority.

By his aforesaid act Shri M.A. Haleem has shown lack of devotion to duty and has behaved in a manner unbecoming of a Govt. servant and thereby violated the provisions of Rule 3(1), (ii) and (iii) of the Central Services (Conduct) Rules 1964".

The unauthorised absence alleged was thus for the period from 10.9.1984 to 1.1.1986 (i.e. about 1 year 3 months 20 days).

4. Rule 3 provides in clauses (i), (ii) & (iii) as follows:

"3. General:--

(i) Every member of the service shall at all times maintain absolute integrity and devotion to duty and shall do nothing which is unbecoming of a member of the service.

(2)

(3) (i) No member of the service shall, in the performance of his official duties, or in the exercise of powers conferred on him, act otherwise than in his own best judgement to be true and correct except when he is acting under the direction of his official superior.

contd...

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL HYDERABAD BENCH HYDERABAD

O.A. NO 479/93



Date of Order: 21.3.97.

Between:

M.A. Haleem since deceased,
represented by legal representatives 1 to 3

1. Mrs. Noorunnisa
2. Ms. Farozan
3. Mr. M.A. Faheem (being minor represented by the applicant No.1)

...Applicants

And

1. The Secretary to Govt., Min. of Water Resources, Shram Shakthi Bhavan, New Delhi.
2. The Dy. Secretary to Govt. of India, Min. of Water Resources, (Vigilance Cell), Shram Shakthi Bhavan, New Delhi.
3. Chairman, Central Ground Water Board, Jamnagar House, Mansingh Road, New Delhi.

...Respondents.

Counsel for the Applicants : Mr. K. Sudhakar Reddy

Counsel for the Respondents : Mr. V. Bhimanna, Addl. CG C

CORAM:

THE HON'BLE SHRI R. RANGARAJAN : MEMBER (A)

THE HON'BLE SHRI D. S. JAI PARAMESHWAR : MEMBER (J)

J U D G E M E N T

ORDER (PER HON'BLE SHRI R. RANGARAJAN : MEMBER (ADMN.))

This O.A. was filed on 7.5.93 when the applicant was alive. However, it is stated that the applicant had expired on 18.10.1996. In view of the death of the applicant, his legal representatives, Mrs. Noorunnisa, Ms. Farozan, Mr. M.A. Faheem were brought on record as legal representatives of the deceased employee in terms of the order of this Tribunal dt. 29.11.1996 in M.A. No. 1074/94. The cause title of the O.A. was amended as per the directions in the M.A.

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- (ii) The direction of the official superior shall ordinarily be in writing. Where the issue of oral direction becomes unavoidable the official superior shall confirm it in writing immediately thereafter.
- (iii) A member of the service who has received oral direction from his official superior shall seek confirmation of the same in writing as early as possible and in such case, it shall be the duty of the official superior to confirm the direction in writing.

Explanation I.

A member of the service who habitually fails to perform a task assigned to him without the time set for the purpose and with the quality of performance expected of him shall be deemed to be lacking in devotion to duty within the meaning of sub rule(1).

Explanation II

Nothing in clause (i) of subrule (9) shall be construed as empowering a Govt. servant to evade his responsibilities by seeking instructions from or approval of, a superior officer or authority when such instructions are not necessary under the scheme of distribution of powers and responsibilities."

5. The statement of imputations of misconduct in support of the article of charge inter alia alleged as follows:

- (1) Applicant proceeded on two days casual leave from 10.9.84 to 11.9.84 with permission to prefix and suffix the public holidays falling on 7th, 8th and 12th September 1984. He left HD at Nagpur on 6th Sept. 1984.
- (2) He did not join duty after availing the casual leave and sought extension of leave first upto 30.9.84 and then upto 7.10.84 vide telegrams dated 18.9.84 and 25.9.84 respectively.

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- (3) The extension was not allowed and he was asked to join duty immediately vide telegram dated 9.10.84 from Director, C.R.
- (4) By two applications both dated 10.10.84 he requested for grant of earned leave for the period of absence from 10.9.84 to 7.10.85. It was considered highly irregular. The application for study leave was received on 15.10.84.
- (5) By telegram he was informed on the same day, i.e. 15.10.84 that the request for study leave was not recommended and he was asked to report for duty at once. The applicant did not comply with the instructions and continued to remain on unauthorised absence.
- (6) As he did not report duty in spite of the Director's repeated advice, a memo dated 30.11.84 was issued informing that study leave could not be allowed in view of the exigency of work and he was directed to report for duty by 15.12.84 failing which necessary disciplinary action would be initiated for wilful and unauthorised absence from duty. Instead of complying with those directions, the applicant continued to remain on unauthorised absence and expressed his inability to join duty stating that he was pursuing his study in Ph.D. course in mutual interest and for benefit of the department. That was considered a lame excuse as department would not any way be benefitted by his studies and the Board was suffering badly due to his continuous wilful and unauthorised absence from duty.

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7. The Inquiry Officer submitted his report to the President of India who is the Disciplinary Authority. The President after obtaining advice of the Union Public Service Commission agreed with the finding recorded by the D.O. holding the charge proved and holding that the applicant was not a fit person to be retained in service and a major penalty was warranted. passed an order on 2.2.1989 imposing the penalty of compulsory retirement. That was challenged by the applicant in this Tribunal in earlier CA (No.403 of 1989). By order dated 1.1.91 that CA was allowed on the ground that the report of the D.O had not been supplied to the applicant and the order of penalty was quashed. However, it was left open to the D.A. to consider the matter afresh giving an opportunity to the applicant to make his representation against the report of the I.O. and after obtaining opinion of the UPSC consequential order was issued by the D.A. on 24.4.91 for continuing the proceedings after supply of the copy of I.O's report to the applicant giving him opportunity to submit a representation. That order also continued the suspension of the applicant pending further orders. That part of the order relating to suspension was stayed by interim orders dated 20.1.92/13.2.92. Consequently--

- the applicant was reinstated w.e.f.30.1.92 by order dated 30.3.92.
- A copy of the D.O's report was supplied and the applicant filed a representation,
- The Disciplinary Authority thereafter proceeded to take a fresh decision.

8. The President of India as the Disciplinary Authority after considering the report of the Inquiry Officer and after analysing the evidence on record and other relevant facts, connected with the case again held that the charge was proved and that the applicant was not a fit person to be retained in Govt. service. He further held that the order of compulsory

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- (7) Applicant disregarded repeated instructions of the Govt. and failed to report for duty at Nagpur and continued on unauthorised absence from duty without proper sanction of leave w.e.f. 10.9.84.
- (8) The above acts of commission and omission on the part of the applicant showed lack of devotion to duty and he has behaved in a manner unbecoming of a Government servant and therefore he has violated the provisions of Rules 3(i), (ii) & (iii) of the CCS (conduct) Rules, 1964.

The imputation clearly was made that extension of leave after 12.9.84 and thereafter including request for study leave was not allowed and therefore he was treated as having unauthorisedly remained absent since 10.9.84 (as the casual leave for 10th and 11th Sept. 84 was also not sanctioned) till the issuance of charge Memo on 1.1.86.

6. The applicant submitted a statement of defence in answer to the charge and denied the same. The Director, Central Ground Water Board, N.W. Region, Chandigarh was appointed as the Inquiry Officer. The applicant nominated Shri Quasim-ul-Haw as his Defence assistant who defended the case on his behalf. Evidence of Shri R. Venkatraman, Director, CGWB was adduced on behalf of the disciplinary authority. No defence evidence was adduced. On the basis of the evidence and after duly considering the contentions urged on behalf of the applicant, the Inquiry Officer held that applicant's act of absenting continuously from duty tantamounts to behaviour in a manner unbecoming of a Government servant and the applicant did that with impunity and remained on unauthorised leave w.e.f. 8.10.84 knowing fully well that exigencies of work required his presence at his headquarters. It needs to be noted here that although the charge related to unauthorised absence from 10.9.84 the finding related only to the period from 8.10.84 onwards. The findings were recorded by the Inquiry Officer by a speaking and reasoned order dated 28.8.1986.

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Point No.1

It is urged by the learned counsel Shri Sudhakar Reddy that the charge levelled could attract Rule 25(2) of the CCS (Leave) Rules 1972 and therefore applicant could not be charged under the Conduct Rules hence the punishment awarded is illegal and void. We have already quoted the charge and the relevant provisions of the Conduct Rules which been applied.

Rule 25 of the Central Civil Services (Leave) Rules, 1972 relates to absence after expiry of leave. Sub Rule (2) on which reliance is placed may be set out here:

"Wilful absence from duty after the expiry of leave renders a Government servant liable to disciplinary action."

Reliance is placed by the learned counsel on the decision of the Delhi High Court in Rajeshwar Singh vs. UOI & ors. II(1989) ATC (HC) 821. The delinquent government servant in that case had challenged the order of his removal from service contending that whereas he was governed by the Central Industrial Security Force Rules 1989 the charge sheet was served upon him under Central Civil Service (CC&A) Rules, 1955 and the enquiry held and orders resulting there from were illegal and void. That contention was upheld. It was held that:

"Where the employee is governed by one set of rules in the matter of disciplinary proceedings but inquiry is held under another set of rules, such an enquiry would be violative of principles of natural justice and findings based on such an enquiry cannot be upheld much less the punishment imposing in consequence of such findings. It would be no gainsaying that there was not any material difference in two sets of rules."

That precisely is the submission of the learned counsel before us. With respect, we entirely agree with the aforesaid ratio flowing from the said decision. However, we find that on facts of the instant case that ratio is not applicable. Sub Rule (2) of Rule 25 of Leave Rules applies where a Govt servant

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retirement passed earlier on 2.2.89 did not merit any modification. He however passed a fresh order imposing the same penalty effective from the date of the order, viz., 18.12.92.

That order was modified by corrigendum issued on 5.3.93 substituting the date of compulsory retirement as afternoon of 11th January 1993 (instead of 18.12.92). These orders are impugned in this O.A.

9. Mr. K. Sudhakar Reddy, the learned counsel for the applicant urged following points:-

- (1) The charge framed is illegal and therefore entire proceedings are vitiated and are rendered illegal.
- (2) The respondents' action in refusing to grant study leave itself was arbitrary and unfair and therefore the consequent absence of the applicant from duty did not amount to misconduct.
- (3) Many other officers who were alleged to have committed similar misconduct were differentially treated and thus the respondents have given discriminatory treatment to the applicant by making him suffer the penalty.
- (4) The punishment of compulsory retirement is illegal as it is not shown to be in the public interest
- (5) The penalty imposed is disproportionate to the single lapse alleged on the part of the applicant and is bad in law.
- (6) The respondents are not even paying the pension which shows the animus of the respondents towards him.

10. The respondents resist the application and justify the impugned orders.

11. We shall now proceed to deal with the aforesaid points urged on behalf of the applicant ad seriatum.

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Rules. The absence after the date of telegram introduced further element of disobedience to the direction of the official superior which amounted to misconduct under Rule 3 of the Conduct Rules. That misconduct does not fall under sub rule(2) of Rule 25 of Leave Rules. Thus although the element of unauthorised absence common to both set of Rules namely, Conduct Rules and Leave Rules, was present yet by reason of it being coupled with further and separate act of misconduct the enquiry held on the charge for misconduct under Conduct Rules was perfectly legal and valid. Even though the charge framed did not specifically recite that he had disregarded the instructions of superiors yet that was clearly stated in the statement of imputations and Rule 3(i) (ii) & (iii) was mentioned in the charge itself. The applicant could not therefore have been misled in believing that his alleged misconduct was only for overstay after expiry of leave unauthorisedly and he cannot therefore be said to have been prejudiced in his defence. In the circumstances it was necessary for the applicant to show prejudice if any according to him had been caused to him but that has not been his case and in our view the ratio of the decision of Delhi High Court (supra) on the point of prejudice does not help him. Similarly it cannot be suggested that he should have been separately proceeded in one enquiry held under Rule 14 of CCS(CCA) Rules with reference to Rule 25(2) of Leave Rules. The applicant had opportunity to meet the charge as framed including elements of misconduct partly overlapping Rule 3 of Conduct Rules and Leave Rules and independently falling under Rule 3 of Conduct Rules.

12. The learned counsel drew our attention to the finding arrived at by the Inquiry Officer in his report to the effect that in view of telegram of Director dated 9.10.84 and payment of salary for the month of September the applicant cannot be held to have absented unauthorisedly till 7.10.84 and the unauthorised absence should be reckoned from 8.10.84 when study leave was applied. Our foregoing discussion however has

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wilfully absents from duty after the expiry of leave. In that event he would be liable to face a disciplinary enquiry only under the CCS Rules on the charge of violation of Rule 25. Doubtless such an enquiry cannot be held for breach of Conduct Rules which is entirely a different set of Rules. In such a case prejudice suffered by the delinquent Govt. servant would be inherent in serving the charge sheet and holding the inquiry for breach of conduct rules and such person need not show what prejudice has been occasioned to him by that mistake as held in the above mentioned case by the Delhi High Court.

The facts in the instant case reveal that after joining the duty at C.R. Agpur on 27.8.84 the applicant had proceeded on two days casual leave for 10.9.84 with permission to prefix and suffix the public holidays falling on 7th 8th and 12th September 1984. During that period he went to Hyderabad and thus had left the Headquarters. Although it appears that the leave was not formally sanctioned we may even proceed on the assumption that it was sanctioned. The applicant however had to join duty on expiry of that leave on the next working day. He however did not join. Instead he sought extension of leave firstly by telegram dated 18.9.84 upto 30.9.84 and again by telegram dated 25.9.84 upto 7.10.84. We will even assume for the sake of argument that the applicant could ordinarily expect it to be sanctioned and would not treat his absence as unauthorised ipso facto for not having joined duty on expiry of leave applied, upto 12.9.84. However, the extended leave was not allowed and he was asked to join duty immediately vide telegram dated 9.10.84 by the Director, C.R. He did not comply with that direction and instead sent 2 applications on 10.10.84 applying for earned leave for the earlier period of absence from 10.9.84 to 7.10.84. That itself goes to show that even the leave initially applied for 10th and 11th was in fact not sanctioned till 10.10.84. This conduct of applicant was treated irregular by the respondents. The absence of applicant after 12.9.84 and till the telegram of the Director dated 9.10.84 even if it could attract Rule 25(2) of leave

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" Rule 25 clearly contemplates disciplinary action being taken under the CCS(CCA) Rules for overstaying after the expiry of leave where it is wilful... and the termination of petitioner's services in the instant case was clearly referable to her alleged misconduct and violation of the directions issued to her by the respondent to rejoin duty."

However, the question of applicability of Conduct Rules as in the instant case had not arisen for consideration in the case. It is for consideration the case. It is pertinent to note that it was the contention of the respondents that the Conduct Rules or the CCS Rules did not apply to staff Artists. The Court although held that as Leave Rules have been made applicable and Rule 25 contemplates disciplinary action being taken under the CCS(CCA) Rules for overstaying after the expiry of leave where it is wilful and the contention of the respondents in that behalf was rejected, it did not consider the question of applicability of Conduct Rules. Our view that disciplinary enquiry could be validly held in the circumstances of the case under the CCS(CCA) Rules for violation of Conduct Rules with respect would not be inconsistent with the ratio of the decision to the extent applicable. This decision therefore, in our view, does not help the applicant.

14. Before concluding the discussion on the point we may mention that it appears doubtful to us as to whether it is open to the applicant to raise the question about the legality of the charge framed in this application in as much as that question had to be raised in the previous OA and as the applicant had participated in the further proceedings of the enquiry that were taken he must be deemed to have given up or waived that contention. Yet, it being a neat question of law raised by the learned counsel Mr.K. udhakar Reddy going to the root of the validity of the charge itself, we have entertained and examined the same.

15. In conclusion we hold that the contention of the applicant that the charge was defective and the Enquiry conducted in respect thereof is illegal and void cannot be accepted and we reject the same. We hold that there was no illegality in the Enquiry proceedings. Point No.1 is answered accordingly.

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proceeded on that assumption and the above noted findings of the I.O does not make any difference to it. That is also fortified from the further finding recorded by the I.O. himself as follows:

"That provisions exist under the rules to grant study leave along with the earned leave does not imply that leave would be granted since leave is very clearly said not to be a matter of right. Absenting continuously against the orders of the superior authority certainly tantamounts to be behaving in a manner unbecoming of a Government Servant, and I am convinced Shri Haleem (SPS) did that with impunity and remained on unauthorised leave w.e.f. 8.10.1964 knowing fully well that exigencies of work required his presence at his headquarters."

Even if the period from 10.9.84 to 7.10.84 covered by the charge is excluded yet since the charge also covered the further period from 8.10.84 to 1.1.86 that was sufficient to hold the charge proved. That does not vitiate the charge as framed.

13. The Id. counsel heavily relied on the decision of Kerala High Court in Radha vs. Director, AIR, Trivendrum, 1985(1) SLR 357 in support of his submission. That was a case where a contract of service of a staff Artist Announcer was terminated. That was challenged. It was held that since leave Rules have been made applicable to Staff Artists, Disciplinary action in accordance with CCS (CCA) Rules had to be taken and as no such enquiry was held and the staff artist concerned had not been given a reasonable opportunity of being heard there was violation of the Constitutional protection under Article 311(2) of the Constitution and therefore the termination could not stand. The instant case is clearly distinguishable on facts. No question of denial of opportunity to reply the charge could survive after the order in the earliest DA was passed and adequate opportunity was afforded to the applicant to offer his defence to the charge. It is true that in the context of narration of facts it was observed in the judgement that--

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19. What is pertinent to note in this connection is that study leave had not been applied till 10.10.84 even after joining the course at the Osmania University on 24.8.84 while he was working at Hyderabad. The applicant was however transferred to Nagpur on 27.3.84. Obviously he could not attend the course at Hyderabad and discharge his duty at Nagpur simultaneously. When his application dated 10.10.84 was not granted it was incumbent upon him to report for duty and thereafter pursue his claim for study leave. We therefore find that the reasons given by the Inquiry Officer in his report on the point of study leave cannot be interfered with or a different view taken. The submission relating to refusal to grant study leave on the ground of it being arbitrary is therefore rejected. It neither initiates the formation of the charge nor the order of penalty. Point No.2 is answered accordingly.

POINT NO.III

20. It is submitted that some other officers who had overstayed after expiry of leave period were not subjected to any disciplinary action/punishment and therefore holding the enquiry and punishing the applicant is discriminatory. Instances of K.M.Vedapuri and K.Srinivasan are cited. Reliance is placed on the table (chart) relating to some 23 officers of the Ministry of Water Resources annexed to the decision of Madras Bench of C.A.T. in D.A.153/89 and 280/89 decided on 31.7.90 pertaining to above two officers and observations from that decision. The punishment of compulsory retirement awarded to them was quashed on the ground that the alleged act of misconduct was not found mentioned in the charge memo. After referring to the contention advanced on the basis of the chart and the contention of the respondents that the cases were considered on merits and appropriate decision was arrived at in respect of each case, it was however observed at the end of the order thus:

"While doing so we make it clear that when the disciplinary authority decide again the matter of punishment it will certainly consider the fact of discrimination brought out before us by the applicant which we have abstracted above."

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POINT NO. II

16. While the applicant did not join duty after expiry of the leave initially applied for two days but after the Director instructed him to join duty immediately, he sent an application on 10.10.84 requesting for grant of Study Leave. Admittedly, that was not sanctioned. It is therefore his contention that his absence from duty after 7.10.84 was not wilful but it was for a bonafide purpose and therefore the punishment awarded is illegal and the refusal to grant the study leave was also arbitrary.

17. The refusal to grant study leave however is a distinct question involving applicant's entitlement for it and that question cannot be raised at this stage nor it is material to determine the legality of the disciplinary proceedings. Even otherwise Rule 7 of the leave rules provides that leave cannot be claimed as a matter of right and when the exigencies of public service so require leave of any kind may be refused by the authority competent to grant it. Rule 50 of Leave Rules prescribed the conditions for grant of study leave. Thus such leave when applied may be granted or may be refused by the competent authority and merely sending a request to grant the leave does not amount to its grant automatically. In the circumstances of the case, the applicant cannot derive any advantage by raising this grievance. Same test applies to the application for earned leave and combination of earned leave with study leave.

18. The applicant submits that he had intended to do Ph.D course from Osmania University, Hyderabad, and that was for mutual advantage of himself and the department and therefore it was well intended pursuit. He had been granted permission to join that course by the Department vide letter dated 7.12.1983 and that fact was within the knowledge of the respondents. Hence he could expect that the leave would be granted. It was however refused arbitrarily

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22. It is submitted that the impugned orders do not show that the punishment of compulsory retirement has been awarded in public interest and is therefore illegal. Mr. V. Bhimanna, the 1d. Standing Counsel for the respondents, submitted in reply that the requirement of public interest is not essential in a case of punishment. In our view Mr. Bhimanna is right in his submission. Every compulsory retirement of a Government servant does not operate as a penalty. A compulsory retirement may be ordered even otherwise than by way of punishment such as under RR 16(3) or FR 56. Only in that cases the question of public interest may arise. It has been held by the Supreme Court in U.O.I vs. Col. JN Sinha: 1971(1) SCR 791 that FR 56(1) is not intended to take penal action against the Government servants and that the Rule holds the balance between the rights of the individual Govt. servant and interests of the public. It is also well established that such order of compulsory retirement does not amount to removal or dismissal. However, as held by the Supreme Court in Union of India vs. Tulsiram Patel: AIR 1985 SC 1456 where an order of compulsory retirement is imposed by way of penalty, it amounts to removal from service and the provisions of Article 311 of the Constitution are attracted.

23. Compulsory retirement has been prescribed as a Major Penalty under Rule 11(vii) of the CCS (CCA) Rules. It is not qualified by being required to be in public interest. Such penalty can be legally imposed on proof of misconduct at a disciplinary proceedings held under the said rules. The Supreme Court in State of Madras vs. Srinivasan: AIR 1966 SC 1827 has held that where the employee was compulsorily retired after holding a proper enquiry the retirement was valid with the observations that the Govt. is not bound to give reasons of concurrence with the findings of the Enquiry Report. We therefore hold that the penalty of compulsory retirement having been imposed in the instant case after holding a proper enquiry that cannot be assailed on the ground that the public interest is not shown and negate the argument urged on behalf of the applicant in that behalf.

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21. In our opinion the ground of discrimination as is urged is totally misconceived and is wholly untenable. In the first place when a disciplinary enquiry is validly held under the statutory rules for individual misconduct of a Govt. servant the result of similar enquiry in respect of another officer is wholly irrelevant. That cannot be regarded as a piece of evidence for the enquiry on hand. Secondly, the set of facts and the circumstances that may have prompted the act resulting in misconduct would differ from case to case. Even though there may be similarity in the provision relating to misconduct which is applied that cannot be regarded as the same misconduct to conclude that two equally placed persons have been differentially treated. Thirdly even if some other officer may not have been hauled or punished for his misconduct that does not ipso facto mean that the misconduct proved by evidence against an officer stands wiped out. It is fallacious to argue that a misdemeanour of one should be dealt with similarly irrespective of the facts, circumstances and evidence relating to each one differently. They cannot be described as equally placed persons. The argument of discrimination can render an absurdity if stretched on the lines argued as it would mean that where one officer is not either subjected to disciplinary action or is eventually not punished, no disciplinary action against any other can ever be taken. We read the observations based on the chart produced occurring in the decision of Madras Bench (supra) as merely directory made for the general guidance of the respondents in that case and cannot be made the basis to support a challenge to an order of punishment passed after holding the disciplinary enquiry in accordance with law. Moreover, the observations are not based on scrutiny of particulars relating to each case mentioned in the table produced particularly as respondents had offered an explanation and have not been made after adjudication on the point. We have therefore no hesitation in negating the ground of alleged discrimination and answer point No.3 accordingly.

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POINT NO.V

24. It is well established that the Tribunal cannot interfere in the quantum of punishment on the ground of proportionality. Since the penalty has been imposed by the Disciplinary Authority in the instant case on the basis of proven misconduct that cannot be interfered with. Whether the misconduct resulted from a single lapse or otherwise is not the test to be applied. It is the nature, gravity and circumstances surrounding the misconduct upon which the quantum of penalty would be rested. That exercise has been carried out by the Disciplinary Authority who has arrived at the conclusion after analysing the evidence and other relevant facts connected with the case that the applicant is not a fit person to be retained in Govt. service and the penalty of compulsory retirement is appropriate to be imposed. He has the jurisdiction to impose that penalty and it cannot be said that he had acted unreasonably. The penalty also is not such as to shock our judicial conscience. The desire of the applicant to acquire Ph.D qualification is not germane to the question. Hence the contention that the quantum of penalty imposed is disproportionate to the misconduct proved does not hold water and is rejected. Point No.5 is answered accordingly.

POINT VI.

25. The grievance regarding non-payment of pension is not the subject matter of the OA and we are not called upon to express any opinion on that subject. All that we can say is that consequences of the penalty would follow in accordance with the law and rules we are not required to deal with the same. The point is answered accordingly.

26. We have so far discussed the points urged by the learned counsel for the applicant. We are satisfied after a careful consideration of the matter that the impugned orders do not suffer from any illegality and are perfectly legal and valid and warrant no interference.

27. In the light of the foregoing discussion, we hold that the application is liable to be punished. Hence the following:

O.A. is dismissed. No order as to costs.

प्रमाणित प्रति
CERTIFIED TO BE TRUE COPY

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DEPUTY REGISTRAR(J)

न्यायालय अधिकारी
COURT OFFICER

केन्द्रीय न्यायालय, दिल्ली
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