

FORM NO.21
(See Rule 114)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH : HYDERABAD

DA / TA / RA / CP / MA / PT 126 OF 1994

..... M. Pentachal Applicants(s)

Versus

The Director General C.I.F.B. Respondent(s)

INDEX SHEET Calcutta & Avl

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Certified that the file is complete
in all respects.

Saf
21/7/02
Signature of
Dealing Hand
(In Record Section)

Signature of S.O.

SF 126/94

DATE

OFFICE NOTE

ORDERS

29-4-94

stn

Before by Regs (2)

For Counter

Notice has been duly served
on the respondent and the
case shall be deemed to be
ready for hearing ex/r

31/5 CAT, major & Practice

93-499 up to the ready

Lst.

By Regs (2), CC

Counter Affidavit filed by
Mr. M Raghava Reddy, Addl. C.P.
on 26/6/94.

8-6-94.

16-7-95

18/1/95

L.M. is before
the 2nd court
on 18-1-95

~~2nd court~~ ~~2nd court~~
~~2nd court~~ ~~2nd court~~

At the request of
the applicants' counsel
list it for final
hearing on 23/1/95.
On which date the
respondent shall
produce the file relating
to the disciplinary
proceedings.

M

HAB (2)
9/4/94HAB (2)
21/5

CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH

• A. N. / T. A. No. 125 1994.

M. Venkatesan

Applicant(s)

VERSUS

Int D.G. of Insurance Respondent(s)

Factories' Calcutta and anr.

| Date | Office Note | Orders |
|--------|--------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------|
| 8.2.94 | | <u>8-2-94</u> |
| 8.2.94 | <p>Notice sent to RR, M.A by R.P.A.D.</p> <p>R1-Sd. J Memo of App. filed R2-Sd. J by Mr. N.P. Reddy SE Addl. C.A.C. Or 22/3/94</p> | <p>ADMIT. Expedite.</p> <p>HRRN M(A) ✓ HVNRL J VC</p> |

28.4.94 Before the D.L.(T)

For Comptai

Placing on 27-4-94
for further proceedings
Comptai of any mean
- White

D.L.(T), C.C.

Re/8/8

OA. 126/94. (3)

6-4-95

FB and FB
amended.

10
18

Heard learned
Council for the applicant.
MA. no. 349/95 is for
amendment of the Prayer
in the original Application
is allowed in the interest
of justice. The applicant
is directed to file
amended application
within one week. The
respondent may ~~not~~
file additional statement
if any within 3 weeks
thereafter list the
case on 27/4/95.

1
HABG HAN HO
m(A) m(C)

12-3-95

OA is dismissed *vide*

order on separate sheets.

No cost.

1
HRSIP HRP
71(O) 71(A)

CENTRAL ADMINISTRATIVE TRIBUNAL

HYDERABAD BENCH HYDERABAD.

ORIGINAL APPLICATION No. 125 OF 1994

Shri M. Pental

Applicant(s)

Versus

Del. Govt. Board, Calcutta
& another

Respondent(s)

This Application has been submitted to the Tribunal by Mr. Meher Chand Nohi Advocate under section 19 of the Administrative Tribunals 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 is in order and may be listed for admission on -294


Scrutiny Officer.

Deputy Registrar(J)

11. Have legible copies of the annexures duly attested been filed? *y*
12. Has the Index of documents been filed and pagination done properly? *y*
13. Has the applicant exhausted all available remedies? *y*
14. Has the declaration as required by item 7 of Form I been made? *y*
15. Have required number of envelopes (file size) bearing full address of the respondent's been filed? *y*
16. (a) Whether the reliefs sought for, arise out of single cause of action? *y*
(b) Whether any interim relief is prayed for?
17. In case an M.A. for condonation of delay is filed, is it supported by an affidavit of the applicant?
18. Whether this case can be heard by single Bench?
19. Any other point?
20. Result of the Scrutiny with initial of the Scrutiny Clerk.

Section Officer

Deputy Registrar

REGISTRAR

CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH

Case No.

Report on the Scrutiny of Application

Presented by..... Date of Presentation.....

Applicant(s).....

Respondent(s).....

Nature of grievance.....

No. of applicants.....

No. of respondents.....

CLASSIFICATION

Subject..... (No.)) Department (No....)

1. Is the application in the proper form?

(Three complete sets in paper books form
in two compilations)

2. Whether name, description and address of
all the parties been furnished in the
cause title?

3. (a) Has the application been duly signed
and verified?

(b) Have the copies been duly signed?

(c) Have sufficient number of copies of
the application been filed?

4. Whether all the necessary parties are
impleaded?

5. Whether English translation of documents
in a language other than English or Hindi
been filed?

6. Is the application in time?
(See Section 21)

7. Has the Vakalathnama/Memo of appearance/
authorisation been filed?

8. Is the application maintainable?
(U/s 2, 14, 18 or U.R. 8 etc.)

9. Is the application accompanied by IPO/DD
for Rs.50/-?

10. Has the impugned orders original/duly at-
tested legible copy been filed?

Contd.

CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH

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O.A. No. 126 of 1991

CAUSE TITLE M. Venkatesh

VERSUS

The O.G. of ordnance Factories
Calicut and other

| Sl. No. | Description of documents. | page No. |
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| 2. | MATERIAL PAPERS. | 1023 |
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| 5. | Spare Copies | 2 |
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D. Counter Affidavit of Respondent

4
Placed on the Order of Removal of the Applicant from Service as Lab
Removal
Defence
BENCH CASE
IN THE CENTRAL ADMINISTRATIVE TRIBUNAL :: HYDERABAD BENCH
AT HYDERABAD.

O.A.NO. 120 of 1994

Between:-

M.Pentaiah. ... Applicant

And

The Ordnance Factory Board,
10-A, Auckland Road,
Calcutta rep. by the Director General
of Ordnance Factories, and another. ... Respondent

CHRONOLOGICAL EVENTS & INDEX

| Sl.No. | Description of documents | P.Nos. | Ann. |
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| 2. | Memo.No.02/00058/Est., dt.29.5.1991 of 2nd Respondent. | 10 to 12 | A |
| 3. | Representation of the applicant to the 2nd Respondent dt. 08.1991. | 13 | B |
| 4. | Memo.No.02/00058/Est. dt. 9.11.1991. of the 2nd Respondent. | 14 | C |
| | Proc.Order No.02/00058/Est.dt.15.7.91 by Enquiry Officer dt. 23.10.91. | 15 & 16 | " |
| 5. | Representation of the applicant dated 22.11.1991 | 18 | D |
| 6. | Order No.02/00058/Est. dt.19.5.92 of R-2. 18 & 19 | | E |
| 7. | Representation of the Applicant dt. 7.1992 to the 1st Respondent. | 20 to 23 | F |

27/01/94
(COUNSEL FOR THE APPLICANT)

RECEIVED COPY
N.R. Devaraj 10-1-94
Sr. CGSC
Allotted to:
f

5

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL AT HYDERABAD BENCH
AT HYDERABAD.

(Application filed Under Sec.19 of the A.T.Act, 1985)

O.A.No. 125 of 1994.

Between:-

M. Pentaiah, S/o. Narsimlu,
aged about 28 years, EX-Labour (un-skilled),
T.No.OFPM/396-6/Susp. Shop, Ordinance Factory Project,
Eddumailaram, R/o. Eddumailaram village, Dist.Medak.

The Address for service on the above named applicant
is that of his counsel ^{Mehar Chand now as} Mr. P. Naveen Rao, Advocate,
1-1-561/2, Gandhinagar, Hyderabad.

... Applicant.

And

1. The Ordinance Factory Board,
10-A, Auckland Road,
Calcutta rep. by the Director General
of Ordinance Factories.
2. The General Manager,
Ordinance Factory Project,
Eddumailaram, Dist. Medak..

... Respondents.

DETAILS OF THE APPLICATION

1. Particulars of the order against which application is filed:

The application is filed questioning the legality
and validity of the orders of the 2nd Respondent removing
the applicant from service that is contained in Proc.No.
02/00058/Estt.dt. 19.5.1992.

2. Jurisdiction:-

The subject matter of the application is within the
Jurisdiction of this Hon'ble Tribunal under Section 14(1)
of the Administrative Tribunals Act, 1985.

3. Limitation:- Against the impugned orders the applicant
had preferred an appeal to the 1st Respondent in July 1992.
So, for the applicant had not received any reply. In these
circumstances the application is within the limitation
prescribed in S.21 of the A.T.Act, 1985.

4. FACTS OF THE CASE:-

a) The applicant is an un-educated land displaced person of Eddumailaram village. The Patta land of the family of the applicant was acquired by the Government of A.P. for the establishment of Ordinance Factory Project at Eddumailaram. Under the scheme framed for providing employment to the land Displaced persons the applicant was appointed on a regular basis as an unskilled labourer to perform manual work.

b) During the period from middle of October in 1990 to May 1991 applicant was not attending to his duties. Since 1988 the entire family of the applicant had been affected by illness. His mother was seriously ill, his son was not keeping well and applicant being the elder member had to constantly apply for leave to attend to them. During the said period his mother and his son aged 12 years and his elder aunty who was living with them had expired and in fact the last two persons died on the same day. This caused severe mental shock and the applicant had to undergo prolonged treatment. He had also contacted jaundice.

c) The applicant was served with a Memo by the second respondent in his Proc.No. 2/00058/Estt., dt. 29.5.1991 proposing to hold an inquiry under Rule 14 of CCS(CCA) Rules on the basis of imputations of misconduct in the form of Articles of Charge enumerated in Annexure-I to the above Memo. The Articles of charge read as follows:-

- 1) Wilful neglect of duty i.e., a) habitual irregular attendance from duty denying the period from 30.3.1988 to 14.10.1990,
b) continued unauthorised absence from duty from 15.10.1990;
- 2) failure to maintain devotion to duty; and
- 3) conduct unbecoming of a Government Servant.

The above charges were framed on the basis of a complaint lodged by the Foreceman/LB in his Lt.No.07/011/LB dt. 26.2.1991 (Annexure-A).

d) The applicant further submits that consequent to the above Memorandum of charges, the second respondent was pleased to appoint an Enquiry Officer (E.O.) and a presenting Officer to conduct enquiry into the charges framed against the applicant vide Proc.No.02/00058/Estt., dt. 15.7.1991 (Annexure-B). The E.O. issued summons to the applicant and directed him to appear before him on 13.8.1991. The applicant appeared in-person before the E.O. on 13.8.1991 the first day of the Enquiry. The applicant was asked to sign on a prepared statement giving him on assurance that they would do no harm and made him to sign so. It is to be noted that the applicant is an illiterate, belongs to lower strata of society and was under severe mental agony due to the death of kith and kin. In these circumstances asking him to sign on documents was itself an irregular procedure. The applicant was not allowed to be represented

by any officer to defend him and assist him in the disciplinary case.

e) The applicant submits that basing on the recorded statement of the applicant, the E.O. holds that the applicant had accepted the charges and holds that the charges stand established beyond reasonable doubt.

The E.O. had submitted his enquiry report on 23.10.1991. ■ However, it is relevant to note that even in the written statement dt. 13.8.1991 alleged to have been submitted by the individual, the applicant had not stated that he accepts the charges and the applicant has never accepted the charges before the E.O. The entire proceedings were over in a single day i.e., first day of the sitting. The applicant was not supplied with any documents, he was not afforded an opportunity to nominate defence counsel.

The procedure laid down in CCS(CCA) Rules, were not complied with. The findings of the E.O. are not based on any evidence on record and the E.O. also takes into consideration the absence from duty on earlier occasions which was sanctioned by the authorities to hold that the absence is habitual. The applicant had given detailed reasons for his absence. The absence was neither habitual nor to avoid duties but for un-avoidable domestic reasons. The second Respondent had communicated the E.O. report to the applicant vide Proc. No. 02/00058/Est. dt. 9.11.1991 directing the applicant to submit representation within 15 days from the date of receipt of against the findings (Annexure - c) of the E.O. The applicant had submitted his reply to

(Annexure -D)

the show cause notice on 22.11.1991. In his reply the applicant has clearly stated that his absence from duty was on account of sudden death of his mother and his only son aged 12 years and consequent shock and agony and sickness. The applicant had pleaded for sympathy and compassion as loss of his employment would seriously effect his family as he was the only breadwinner. The claim of the applicant in his reply was rejected by the second respondent on the ground that the applicant had not produced any documentary evidence to show that his mother and son had expired. Therefore, the second respondent holds the charge as proved and imposes penalty of removal from service w.e.f. 19.5.1992 vide Proc. No.02/00058/Estt.,
(Annexure -E)
dt. 19.5.1992. The applicant submits that he had no opportunity to say anything further and he was never asked to produce any evidence documentary or otherwise. The entire proceedings were conducted in a summary trial manner.

f) The applicant further submits that having aggrieved by the orders of removal from service, the applicant had preferred an appeal to the 1st respondent ~~on 22.05.1992~~ in July 1992 (Ann- F) raising several grounds on the illegality of the Disciplinary proceedings and on merits including the gravity of the charge. The applicant has not received any reply till date. In the circumstances, the applicant has no other alternative except to invoke the jurisdiction of this Hon'ble Tribunal.

5. GROUND FOR RELIEF WITH LEGAL PROVISIONS:-

a) Reading of Memorandum of charge dt. 29.5.1991, Annexure-II to the said Memorandum and copy of the letter of the Foremen enclosed to the said Annexure-II would clear establish Inconsistent statement of the respondents. The charge is vague, the statements stated above are inconsistent to each other and the respondents were not able to pin point from which date the applicant was absent from duty continuously. This fact was also not verified by the Enquiry Officer. The Enquiry Officer did not verify the records and did not verify the correctness of the statements and gives a finding on the basis of statements enumerated in Annexure-I. It is therefore respectfully submitted that (i) the charge is vague and unsupported by documentary evidence and (ii) the finding of the E.O. is only mere extraction of statements at Annexure-I of Memorandum of charge and not on the basis of any finding. It is a clear case of non-application of mind. Moreover, the applicant had never admitted any of the charges. He had only gave a statement of fact. It is further submitted that the conclusion of the 2nd respondent on the basis of above inconsistent stand and irregular finding of E.O. is also devoid of merits and the impugned order is a clear case of non-application of mind. In fact non application of mind runs from the begining to end.

- b) The entire disciplinary proceedings are vitiated on the sole ground of non-compliance of mandatory provisions of CCS(CCA) Rules.
- c) The disciplinary proceedings are clearly in violation of principles of natural justice and the applicant is denied of reasonable opportunity to defend himself effectively.
- d) The findings of the E.O. are based on no evidence and the Enquiry report can not be called as a quasi-Judicial finding on merits.
- e) The punishment imposed on the basis of the findings of the E.O. are unsustainable as there is no basis for the findings and the punishment is too severe and disproportionate to the delinquency alleged. Moreover, there is lot of inconsistency in the alleged delinquency by the Respondents.
- f) For the above stated reasons and grounds the impugned order is unsustainable.

Details of Remedies Exhausted:-

- 6) The applicant had preferred an appeal to the 1st Respondent in the first week of July 1992 against the orders of the second respondent dt. 19.5.1992. So far the applicant has not received any reply. In the circumstances the applicant has no other alternative except to invoke the jurisdiction of this Hon'ble Tribunal.

2021.4.3.30 תאריך עדיף למסמך תאריך סיום תקופה

- 8 A -

The Hon'ble Tribunal by an order dt.6.4.1995 allowed M.A.No.349 of 1995 in O.A. 126 of 1994 permitting the applicant to amend the original Main Relief prayed in O.A. 126 of 1994 and to substitute the relief as prayed in M.A.No.349 of 1995. The following relief may be substituted and pasted in the O.A. in the place of existing relief at Page 8 of O.A.No.126 of 1994.



"(8) MAIN RELIEF: It is therefore prayed that this Hon'ble Tribunal in the interest of justice may be pleased to call for the records relating to and connected with Proceedings No.9771/A/V.G. dt.14.11.1993 of the 1st respondent and the Proceedings No.02/00058/Estt. dt.19.5.1992 of the 2nd respondent and quash and set aside the same as illegal, arbitrary, violative of principles of natural justice and unconstitutional and consequently direct the respondents to admit the applicant to duty with all consequential benefits and pass such other order or orders as may be deemed fit and proper in the circumstances of the case."

70
Counsel for Applican

7. Matter not pending with any other Court:-

The applicant declares that he has not filed any application, Writ Petition or suit regarding the same subject matter and no application, Writ Petition or suit is pending before any other court or Tribunal regarding the same subject matter.

8. MAIN RELIEF:-

~~in Relief~~ It is therefore prayed that this Hon'ble Tribunal in the interest of justice be pleased to call for the records relating to and connected with Proc. No. 02/00058/Estdt. dt. 19.5.1992 of the second respondent and quash or set aside the same as illegal, arbitrary, violative of principles of natural justice and unconstitutional and consequently direct the respondents to admit the applicant to duty with all consequential benefits and pass such other order or orders as may be deemed fit and proper in the circumstances of the case.

*Main Relief of a prayer by the
Council for the Applicant at page
8A*

9. INTERIM RELIEF:-

It is ~~also~~ further stated that the applicant belongs to a poor uneducated family and is the only breadearner of the family. The applicant is out of employment since May 1992. In the circumstances it is just and necessary to have an early hearing of the O.A. It is therefore prayed that this Hon'ble Tribunal in the interest of justice be pleased to expedite and fix an early date of hearing and pass such other order or orders as may be deemed fit and proper in the circumstances of the case.

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10. Particulars of the Postal Order in respect of Application fee:-

- i) Number of Indian Postal Order : 8 900434
- ii) Name of the Issuing Post Office: L.I.C. office
- iii) Date of Postal Order : 7.1.94
- iv) Post Office at which payable : 50-wlg

11. Details of Index:-

L.P.O./B.C./D.D./Removed

An Index in duplicate containing the details of documents to be quoted upon is enclosed.

VERIFICATION

I, M. Pentaiah, S/o. Narsimhulu, Aged about 28 years, R/o. Eddumailaram village, Dist. Medak, do hereby verify that the contents from 1 to 11 are true to my personal knowledge and belief and I am not suppressed any material facts.

Hyderabad.

(Signature of the Applicant)

Date: 2-01-1994.

(Counsel for the Applicant)

To

The Registrar,
Central Administrative Tribunal,
Hyderabad Bench, Hyderabad.

CONFIDENTIAL

15

No.02/00058/Est.,
 Government of India,
 Ministry of Defence
 Ordnance Factory Project,
 Yeddumailaram, Medak.
 Dated: 29.05.1991.

MEMORANDUM

The undersigned proposes to hold an inquiry against Shri M.Pentaiah, Lab (US), T.No.OFPM/396-6/SUS-Shop. under Rule 14 of the Central Civil Services (Classification, Control and Appeal) Rules 1965. The substance of the imputations of misconduct or mis-behaviour 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 or mis-behaviour 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 enclosed (Annexure-III & IV).

2. Shri M.Pentaiah, Lab(US), T.No.OFPM/396-6/SUS-Shop is directed to submit within 10 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.Pentaiah, Lab 'IS', T.No.OFPM/396-6/SUS-Shop is further informed that if he does not submit that 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 CCS (CC&A) Rules 1965 or the orders/directions issued in pursuance of the said Rule, the inquiring authority may hold the inquiry against him ex parte.
5. Attention of Shri M.Pentaiah, Lab(US), T.No.OFPM/396-6/SUS-Shop is invited to Rule 20 of the Central Civil Service (Conduct) Rules 1964 under which no Government servants 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 service under the Government. If any representation is received on his behalf from another person in respect of any matter dealt within these proceedings, it will be presumed that Shri M.Pentaiah, Lab (US), T.No.OFPM/396-6/SUS-Shop 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 CCS(Conduct)Rules 1964.
6. Receipt of this memorandum may be acknowledged.

Sd/- (K.Sampath)
 General Manager.

To

Shri M.Pentaiah, Lab (US),
 T.No. OFPM/396-6/SUS-Shop,
 S/o. Shri M.Narsaiah,
 Vill. & P.O. Yeddumailaram,
 Medak District - 502 205.

// true copy //

2700

(16)

:: 11 ::

ANNEXURE-I

Statement of Articles of charge framed against
Shri M.Pentaiah, Lab(US), T.No.OFPM/396-6/SUS-Shop.

That the said Shri M-Pentaiah while functioning as
Lab (US) during the period from 30.3.1988 is alleged to
have committed gross mis-conduct viz.

1. Wilful neglect of duty, a) habitual irregular attendance
from duty during the period 30.3.1988 to 14.10.1990,
b) continued unauthorised absence from duty from 15.10.1990
2. Failure to maintain devotion to duty.
3. Conduct unbecoming of a Govt. Servant.

ANNEXURE-II

Statement of imputations of mis-conduct or mis-
behaviour in support of the articles of charge framed
against Shri M.Pentaiah, Lab(US), T.No.OFPM/396-6/SUS-Shop.

The following allegations will cover all the imputations
of charges listed in Annexure-I.

~~XXX~~ Separate Sheet attached. ..

ANNEXURE-III

List of documents by which the articles of charge
framed against Shri M. Pentaiah, Lab (US) are proposed to be
sustained.

1. Extract of F/LB note No.7.11./LB, dt. 26.2.1991.

ANNEXURE-IV

List of witnesses by whom the articles of charge
framed against Shri M.Pentaiah are proposed to be sustained.

1. F/LB or his rep.
2. F/SUS-Shop or his rep.

Sd/-
(K. SAMPATH)
GENERAL MANAGER.

// true copy //

Yao

(17)
:: 12 ::

Enclosure to GM/OPFM Memorandum No.02/00058/Est. dt. 29.5.1991.

STATEMENT OF IMPUTATIONS OF MISCONDUCT(ANNEXURE-II)

It is alleged that Sri M.Pentaiah, Lab (US), T.No. OFPM/396-6/SUS-Shop has been extremely irregular in attending duty during the period 30.3.1988 to 14.3.1990, in as much as during the above period the said Sri M.Pentaiah, Lab (US), T. No. OFPM/396-6/SUS-Shop has remained absent from duty for 321 days on one pretext or the other.

It is further alleged that the said Shri M.Pentaiah, Lab(US)/T.No.OFPM/396-6/SUS-Shop is remaining absent from duty without intimation or sanction or leave continuously from 1.1.1989, and the unauthorised absence from duty continues beyond the date of issue of this memorandum. It is alleged that the said Shri M.Pentaiah, Lab (US)/T.No.OFPM/396-6/SUS-Shop has thereby neglected his duty and failed to maintain devotion to duty which amounts to conduct unbecoming of a Government Servant.

The charges are based on Foreman/LB Memo.No.07/011/LB, dt. 26.2.1991 (extract enclosed).

Sd/-
(K. SAMPATH)
GENERAL MANAGER.

EXTRACT TO THE ENCLOSURE TO THE MEMO NO.02/00058/Est, dt.29.5.91

No. 07/011/LB,
Labour Bureau.

Dated : 26 Feb '91.

Sub:- Discipline: Habitual irregular
absence : Industrial Employee.

Shri M.Pentaiah, Labourer (MS), Per.No.OFPM/396-6 of SUS Shop is not attending to his duties since 15 Oct '90.

Sd/- xx xx xx
Foreman / LB.

// true copy //

700

To

The General Manager,
Ordnance Factory Project, // Through proper channel //
Yeddu-mailaram.

Sub:- Discipline - IEs.

Ref:- Memorandum of Charges vide No.02/00058/Est.
dated 29.05.1991.
--:00:--

Respected Sir,

With due respect, I submit the following few lines for your sympathetic consideration please.

That, I was not attending to my duties from 15.10.90 to May '91. During the above period my mother expired due to illness. Due to her prolonged illness, as there is no other elderly member to look after her, I was compelled to look at her. Before getting out of the shock of the untimely death of my mother, I lost my son aged 12 years with the above untimely incidents or death of my mother and son, I was mentally upset, and could not divert my attention towards any thing. With the mental shock, I became sick and was under treatment. Doctor have told that I am suffering from Jaundice.

Due to the above I could not attend to my duties for a long period. Sir, I earnestly assure you that, in future I will be attend my duties regularly. I may kindly be given one more chance to serve to the Organisation. In future, I will be very regular and punctual in attending to my duties.

Thanking you,

Yours faithfully,

(M.PENTAIAH)
Labour
T.No.396/OFPM

Yeddu-mailaram,
Dated -08-1991.

// True copy //

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No.02/00058/Est.
 Govt. of India
 Ministry of Defence
 Ordnance Factory Project Medak,
 Yeddumailaram - 502 205.

Date : 09.11.1991.

MEMORANDUM

Sub:- IE - Discipline.

Ref:- 1. Memorandum of charges of even No.
 dt. 29.5.1991.
 2. Enquiry Order No.02/00058/Est.dt.15.7.1991.

--:00o:--

One copy of the proceedings of the court of Enquiry held in pursuant to the Enquiry order at Ref(2) above is forwarded herewith.

2. The Disciplinary authority will take a suitable decision after considering the report. If you wish to make any representation or submission, you may do so in writing to the Disciplinary Authority within 15 days of the receipt of this memorandum. If no reply is received within stipulated period mentioned above, it will be assumed that you have no submission to make in this regard and further necessary action will be taken accordingly.

Sd/-
 (K. SAMPATH)
 GENERAL MANAGER

Encl: As above.

To
 Shri M.Pentaiah, Lab (US),
 T.No.396-6/Sus.Shop.

// true copy //

700

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:: 15 ::

PROCEEDINGS OF THE COURT OF ENQUIRY ORDERED VIDE GM/OPFM YEDDUMAILARAM, ORDER NO.02/00058/Est., dt. 15.7.1991 to ENQUIRE INTO THE CHARGES FRAMED AGAINST SRI M.PENTAIAH LABOUR(US), T.NO.396-6/SUSPENSION SHOP.

INQUIRY OFFICER - Sri N.T.Janardhan, AWM/HTM.

Presenting Officer- Sri T.K.Sarkar, Ch'man Gr.I(Tech.)

The Board having assembled pursuant to GM/OPFM order cited above, proceeded to enquire into the charges alleged against Sri M.Pentaiah, Labour (US), T.No.396-6/Sup.Shop vide GM/OPFM Memorandum No.02/00058/Est. dt. 29.5.1991.

ARTICLES OF CHARGES

1. Wilful neglect of duty (a) Habitual irregular attendance during the period from 30.3.1988 to 14.10.1990.
(b) Continued unauthorised absence from duty from 15.10.1990.
2. Failure to maintain devotion to duty.
3. Conduct unbecoming of a Govt. Servant.

STATEMENT OF IMPUTATIONS

It is alleged that Shri M.Pentaiah, Labour (US), T.No. OFPM/396-6/Susp.Shop has been extremely irregular in attending his duty during the period 30.3.1988 to 14.3.1990, is as much as during the above period the said Shri M.Pentaiah, Labour (US), T.No.OFPM/396-6/ Susp.Shop has remained absent from duty for 321 days on one pretext or the other.

It is further alleged that the said Shri M.Pentaiah, Labour (US) T.No.OFPM/396-6/Susp.Shop is remaining absent from duty from 15.10.1990 and the unauthorised absence from duty continues beyond the date of issue of this memorandum. It is alleged that the said Shri m.Pentaiah, Labour (US) T.No.OFPM/396-6/Susp.Shop has thereby neglected his duty and failed to maintain devotion to duty, which amounts to conduct unbecoming of Govt. Servant.

2. The first sitting of the enquiry was held on 13.8.1991 in the office of the Inquiry Officer. Sri M.Pentaiah, T.No.Susp.Shop/396-6 was present.

3. The delinquent employer was asked by the Inquiry Officer whether he has read and understand the charges alleged against him. On this, the Inquiry Officer asked him whether, having read and understood the charges, he accepts or denies the charges.

4. Sri M.Pentaiah, T.No.Susp/396-6 informed the court that he accepts the charges. A written statement dt. 13.8.1991 submitted by the Individual is enclosed herewith, in which he has stated that his absence from duty from 15.10.1990 to 29.5.1991 was caused due to the sudden death of his mother and 12 year old son. He has requested to be excused on this occasion and has assured that he will be careful in future.

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CONCLUSION:-

The delinquent employee, Sri M.Pentaiah, T.No.Susp.Shop/396-6 having pleaded guilty of the charges the court has come to the conclusion that the following charges alleged against him vide GM/OFFM Memorandum No.02/00058/Est.dt.25.5.1991 stand established beyond reasonable doubt:

1. Wilful neglect of duty - (a) Habitual irregular attendance during the period from 30.3.1988 to 14.10.1990
(b) Continued unauthorised absence from duty from 15.10.1990.
2. Failure to maintain devotion to duty.
3. Conduct unbecoming of a Government Servant.

Sd/-

Dt. 23.10.1991.

(N.T.JANARDHAN)
AWM/HTM

// true copy //

cto

To
 The General Manager,
 Ordnance Factory Project,
 Yedumailaram - 502 205.

Respected Sir,

Sub:- IE - Discipline.

Ref:- 1. Memorandum of charges No.02/00058/Est.
 dt. 29.5.1991.
 2. Letter No.02/00058/Est.
 dt. 9.11.1991 received on 14.11.1991.

--:00o:--

This is to acknowledge receipt of letter under ref (2). In this connection, I would once again request you kindly to consider my case sympathetically and oblige. As already clarified to the enquiry officer that my absence from duty was due to the sudden death of my mother and 12 year old son who was my only son. I was completely upset mentally and could not concentrate on any matter on the sudden shock. Sir, I have my family left with old father, younger brother and one wife. As there is no other earning member in my family, all of us will be swissed in case of an worst action against me. I sincerely promise to attend my duties in future regularly.

In line with the above, I would request you to be kind enough to consider my case and save a family from another disaster.

Awaiting for your kind consideration please.

Thanking you,

Yours faithfully,

Sd/-
 (M. PENTAIH).

Dt. 22.11.1991.

// true copy //

2700

No.02/00058/Estt.,
 Government of India,
 Ministry of Defence,
 Ordnance Factory Project,
 Yeddu-mailaram - 502 205.
 Medak District (A.P.).

Date: 19.05.1992.

O R D E R

Sub:- IE - Discipline.

Ref:- 1. Memorandum of charges of even no.
 dt. 21.5.1991.

2. Court of enquiry order of even no.
 dt. 15.7.1991.

3. Memorandum of even No. dt.9.11.1991.

4. Representation dt. 22.11.1991 submitted
 by Shri M.Pentaiah, Lab(US), T.No.396-6/
 sus.Shop.

---:00o:--

Whereas Shri M.Pentaiah, Lab (US), T.No.396-6/
 Sus.Shop has been charge sheeted under Rule 14 of the CCS
 (CCA) Rules 1965 vide Memorandum at ref(1) above, for gross
 misconduct viz., (1) wilful neglect of duty - (a) habitual
 irregular attendance from duty during the period 30.3.1988
 to 14.10.1990 (b) continued & unauthorised absence from duty
 from 15.10.1990 (2) Failure to maintain devotion to duty and
 (3) conduct unbecoming of a Govt. Servant.

2. AND WHEREAS although Shri M.Pentaiah, Lab (US),
 T.No.396-6/Sus.Shop had acknowledged receipt of the memo-
 randum of charges on 4.6.91, no written statement of defence
 was submitted by him within the prescribed time and,
 therefore in accordance with the provisions of Rule 14 of the CCS
 (CCA) Rules 1965 a court of enquiry was ordered vide order at
 ref(2) to enquire into the charges alleged against the said
 Shri M.Pentaiah, Lab (US) T.No.396-6/Sus.Shop. A copy of
 proceedings of the enquiry was forwarded to the said Shri
 M.Pentaiah, Lab (US), T.No.396-6/Sus.Shop vide memorandum at
 ref (3) above with a view to enable him to make representation
 or submissions thereon.

3. WHEREAS the representation dt. 22.11.1991 submitted
 by the said Shri M.Pentaiah, Lab (US), T.No.396-6/Sus.Shop
 has been given careful consideration by the undersigned.
 The plea advanced by him that his frequent absence from duty
 during the period 30.3.1988 to 14.10.1990 and continued
 un-authorised absence for duty from 15.10.1990 was caused
 on account of death of his mother etc. is not convincing
 as no documentary evidence has been adduced by him in support
 the same.

4. WHEREAS on a careful consideration of the proceedings
 of the court of enquiry and all the documents relevant to
 the charges the undersigned agrees with the findings of the
 Inquiry Officer and holds that the charges of (1) Wilful
 neglect of duty (a) habitual irregular attendance from duty
 during the period 30.3.88 to 14.10.1990 (b) Continued unautho-
 rised absence from duty from 15.10.1990 to 29.5.1991 (2) Failure
 to maintain devotion to duty and (3) Conduct unbecoming of a
 Government servant alleged against Shri M.Pentaiah, Lab(US),

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T.No.396-6/Sus.Shop vide memorandum at ref (1) above, stand prooved beyond reasonable doubt.

5. NOW, THEREFORE, the undersigned in exercise of the powers conferred under Rule 12 of the CCS(CCA) Rules 1965 hereby imposes the penalty of removal from service with effect from 19.5.1992 on the said Shri M.Pentaiah, Lab (US), T.No.396-6Sus-Shop.

6. The receipt of this order should be acknowledged.

Sd/-
(K. SAMPATH)
GENERAL MANAGER.

To
Shri M.Pentaiah, Lab, (US),
T.No.396-6/Sus-Shop.

// true copy //

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25

To
The Ordnance Factory Board,
10-A, Auckland Road,
Calcutta.

Sir,

Sub:- Appeal petition against order of removal dated 19.5.1992.

Ref:- 1. Memo.No.02/00058/Est. dated 29.5.1991.
2. Proc. of the Court of Enquiry dt. 23.10.1991.
3. Show Cause notice in Memo.No.02/00058/Estt. dated 9.11.1991.
4. Reply to show cause notice dated 22.11.1991.
5. Order of Removal from service in proceedings No.02/00058/Estt. dated 19.5.1992.

---:000:--

1. Vide Memo first cited, the general manager of the Ordnance Factory Project, Eddumailaram an enquiry was ordered under Rule 14 of C.C.S.(CCA) Rules, 1965. The General Manager has framed the following charges:-

- i) Wilful of duty a) habitual irregular attendance from duty during the period from 30.3.1988 to 14.10.1990 b) continued un-authorised absence from duty from 15.10.1990.
- ii) Failure to maintain devotion to duty.
- iii) Conduct unbecoming of a Government Servant.

2. Vide proceedings No.02/00058/Estt. dt. 15.7.1991 an enquiry Officer was appointed to enquire into the charges.

3. I submit that I was summoned by the Enquiry Officer to be present in his office on 13.8.1991 and in compliance with the orders I had attended the office of the Enquiry Officer on the said date. I submit that I am a poor and un-educated person. I was provided employment on compassionate grounds under the Land Displaced persons category. I do not know how to defend myself against such allegations. I was orally informed about the charges framed against me by

....

Enquiry Officer and asked my explanation. In reply to that I had stated the reasons for my absence from 15.10.1990 to May, 1991, I had stated that during the said period my mother and 12 year old son expired on one single day and therefore I was mentally upset and could not realised about anything. The above statement of mine was put in writing and I was asked to sign on the said paper. The I was asked to go. I did not know as to what was happening. But as if transpired relying on the above statement the enquiry officer held all the charges proved beyond doubt.

4. I state that the conclusion of Enquiry Officer and the reasoning given by him is wholly arbitrary illegal and unconstitutional. I state that I had never accepted the charges framed against me. On the other hand I had given the reasons for my absence from duty from 15.10.1990 to May ~~MDX~~ 1991. This does not await to acceptance of the guilt. What was needed to be decided is whether my absence from 15.10.1990 to May, 1991 amounts to wilful neglect of duty, failure to maintain devotion to duty and my conduct was unbecoming of a Government Servant. There is no finding by the Enquiry Officer on these aspects. Mere absence does not attract panel consequences. Therefore to prove the guilt a finding on all the three counts is a must. The Enquiry Officer first obtained a statement in writing without explaining the implication of such a statement and went ahead in holding me guilty on the basis of such a statement without examining all other aspects. I was not assisted by any officer and I was not afforded an opportunity to engage any one. What is contemplated in Rule 14(9) of CCS(CCA) Rules is that of the enquiry officer should ask the delinquent whether he is guilty and if the delinquent pleads guilty on to any the charges the enquiry authority should record the plea, sign the record and obtain the signature of the Government Servant. None of these conditions are followed in my case.

Therefore, the proceedings of the Enquiry are not in accordance with the provisions contained in the C.C.S. (CCA) Rules, violative of principles of natural justice, is illegal and arbitrary. In as much as I am denied of reasonable opportunity to defend myself and the conclusions arrived at by the Enquiry Officer are not based on any evidence or record. It is therefore my respectful submission that the whole enquiry is vitiated.

5. Basing on the said enquiry report, I was served with a show cause notice in reference 3rd cited to show cause against intended suitable action. In reply to the show cause notice in reference 4th cited I had stated that what I had stated to the Enquiry Officer and requested him to consider my case sympathetically in view of the special circumstances which had lead to my absence and the family conditions. I had also enclosed copies of Medical certificates and the Certificates of death from the Gram Panchayat, Eddumailaram village. Agreeing with the findings of the Enquiry Officer, an order of removal from services was passed against me in the reference fifth cited. The reasoning given by the General Manager, that my explanation for absence from 15.10.1990 to May, 91 is not supported by any documentary evidence. As submitted earlier the statement before the Enquiry Officer was only regarding the reason for my absence. I was not afforded any further chance to establish my bonafides. This aspect should have been appreciated by the General Manager while imposing such a serious penalty. The General Manager ought to have seen that the procedure contemplated in Rule 14 of CCS(CCA) Rules is not followed. The General Manager ought to have seen the economic and social background of the delinquent. Therefore, it is respectfully submitted that

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the order of removal from service basing on the vitiated enquiry is wholly illegal, arbitrary and unsustainable.

6. The order of removal from service is liable to set aside for the following among other grounds:-

- a) The Enquiry Officer has not followed the procedure contemplated in Rule 14 of the CCS(CCA) Rules, 1965.
- b) The statement before the Enquiry Officer dated: 13.8.1991 is not an admission of guilt. Moreover, even that statement pertains to only one of the charges. There is no finding on other two charges.
- c) The conclusion arrived at by the Enquiry Officer is based on no evidence.
- d) Principles of natural justice are not observed in the matter of conducting enquiry.
- e) The order of removal based on the improper and illegal and ~~xx~~ enquiry report is wholly illegal, unconstitutional and violative of principles of natural justice.
- f) The order of removal is not a speaking order.

7. It is, therefore, prayed to your goodself to set aside the order of removal in proceedings No.02/00058/Est. dated 19.5.1992 of the General Manager, Ordnance Factory Project, Eddumailaram, Dist. Medak (AP) and reinstate me into service. I pray accordingly.

Yours sincerely,

August, 1992

(M. PENTIAH)
T. No. 396-6/Sus-Shop
Ordnance Factory Project,
Eddumailaram
Dist. Medak (AP).

Hyderabad.

// true copy //

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29

CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH

Date: 10-1-94

To Mr. ~~Malik~~ ^{O.A. Regd. No. 38/94}
Mr. ~~Malik~~ ^{Melton Grand Court, 38/94}
Naveen Rao,
Advocate

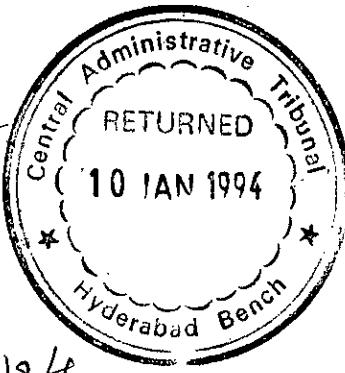
Sir,

I am to request you to rectify the defects mentioned below in your application within 14 days from the date of issue of this letter; failing which your application will not be registered and action Under Rule 5 (4) will follow.

1. Signature is to be made on the Standing counsel. ✓
- (2) 2. Copy of the impugned Order only to be enclosed to the Appellants and the other parties are to be filed separately.
3. Other undivided papers are to be filed separately.
- (X) 4. Para 7, 1st line, 6th word needs correction. ✓
- (X) 5. Direction to which Bassett, should be given in para 8. ✓
6. Answer to be made. ✓

7.
8.
9.
10.

Complaint filed
by
20/1/1994



11.

12.

13.

14.

15.

Not to be filed 38/94

Deputy Registrar (Judl)

Previous objections 2, 3 &c should be
complied with properly.

Ans
1/1/94
1/1/94

Ans
1/1/94
1/1/94

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH

HYDERABAD

OA No. 126 / 94.

Between

M. Pentaiah

... Applicant

A N D

1. The Ordnance Factory Board,
10-A Auckland Road,
Calcutta.
Represented by the Director General
of Ordnance Factories.

2. The General Manager,
Ordnance Factory Project,
Yeddu-mailaram, Distt. Medak. ... Respondents

COUNTER AFFIDAVIT

I, V.V.S. Rao, S/o. Shri V. Punnaiah Naidu, aged about 56 Years; Occupation; Addl. General Manager, Ordnance Factory Project, Yeddu-mailaram, do hereby solemnly and sincerely affirm and state as follows, on behalf of General Manager, Ordnance Factory Project, Yeddu-mailaram, Medak District.

1. I am the second respondent herein and as such am well acquainted with the facts of the case.

2. I have gone through the Original Application filed by the above named Applicant and I deny the several material allegations made therein except those that are specifically admitted herein.

3. Before traversing in detail the several material allegations, averments and contentions made therein, I beg to submit as follows:-

4. It is submitted that the applicant was appointed in the respondent factory from 30.3.88. From the date of his appointment he is irregular in attending to the duty and he is remaining absent from duty without intimation or sanction of leave. In fact the applicant was on probationary period, on his direct recruitment in the grade of

ATTESTOR
Mohanty
P. MOHANTY
WORKS MANAGER/ADMIN

30
DEPONENT .../...
(V.V.S. Rao)
Addl. GM./Admin

.. /2/ ..

Labourer (unskilled) w.e.f. 30.3.88. According to the terms and conditions of his appointment his services were liable to be terminated during probationary period without assigning any reason. Accordingly, he was issued with a show-cause-notice on 12.3.91. Despite issue of this Show-cause-Notice the applicant did not show any improvement in his attendance and he has not given any reply.

5. It is submitted that a Memorandum of Charges under Rule-14 of CCS(CCA) Rules was issued vide Memorandum No.02/00058/Estt., dt.29.5.91. Even after the receipt of Memorandum of charges the applicant did not submit any reply and therefore a court of enquiry was ordered to enquire into the allegations of mis-conduct.

6. It is submitted that after remaining absent from duty continuously and the applicant rejoined duty on 30.5.91. The applicant appeared before the Enquiry Officer on 13.8.91, and informed the Enquiry Officer that he has received the Memorandum of Charges. The applicant informed the Enquiry Officer that he accepts the charge and he submitted a written statement on 13.8.91 unconditionally accepting the charges alleged against him. The Enquiry Officer thereupon returned a finding of guilty in respect of the charges alleged against the applicant. In accordance with the procedure one copy of the enquiry proceedings was forwarded to the applicant on 9.11.91 directing him to make a submission or representation on the enquiry proceedings within 15 days. In reply to the Show-cause-Notice, the applicant submitted this representation on 22.11.91 wherein he stated that his absence from 15.10.91 was caused due to the sudden death of his mother and son. The disciplinary authority came to the conclusion that he was not a fit person for retention in service and accordingly the penalty of removal from service was imposed on him vide order no.02/00058/Estt., dt.19.5.92. Against this imposition the applicant preferred an appeal on 1.7.92 to the Appellate Authority i.e. Director General Ordnance Factories, Calcutta. The Appellate Authority after considering the appeal was dismissed vide order no. 9771/A/VIG, dt.14.11.92. Aggrieved by the above order the applicant has filed the above O.A.

ATTESTOR

P. MOHANTY
 WORKS MANAGER/ADMN

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

.../3/...

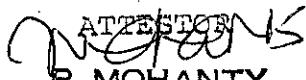
7. In reply to Paras-1, 2 & 3 needs no comments.

8. In reply to Para-4(a) needs no comments.

9. In reply to para-4(b), it is submitted that the applicant was extremely irregular in his attendance right from 1988 as will be evident from his attendance as shown in Annexure-A attached. It will be seen that he remained absent from duty for 312 days during the first 2 years of his service in the respondent factory. This itself shows that he lacked interest in his job. Further, he remained absent from duty continuously from 15.10.90 without intimation or sanction of leave. The averment made by him that his absence was caused due to death of his mother, son etc., is not accepted as no such intimation was given to the factory by him during the period of absence.

10. In reply to para-4(c&d), it is submitted that the applicant was on probationary period for 2 years from the date of his appointment dt.30.3.88, still in order to give him reasonable opportunity to defend himself against the charges, a memorandum of charges under Rule-14 of the CCS(CCA) Rules 1965 was issued to him by the respondent factory vide the Memorandum no.02/00058/Estt, dt.29.5.91. Although the memorandum was acknowledged by him, he did not care to give any reply to the same and continued to remain absent from duty without intimation or sanction of leave. In view of this, an Enquiry Authority was appointed by the respondent factory vide the Order No.02/00058/Estt., dt.15.07.91.

11. It is further submitted that as per the proceedings of the court of enquiry, ~~that~~ he attended the enquiry on 13.08.91. It is also seen that he has submitted a written statement stating that he accepts the charge of unauthorised absence from duty from 15.10.90 to May, 1991. In view of the acceptance of the charges, the Enquiry officer did not consider it necessary to record the statement of prosecution witness. The contention of the applicant that the applicant was asked to sign a prepared statement on assurance that no harm will be made to him is clearly an after-thought and

ATTESTED

 P. MOHANTY
 WORKS MANAGER/ADMN

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

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cannot be accepted. It will be seen that the applicant again accepted the charges in his reply dt. 22.11.91 to the court of enquiry proceedings. Therefore, his present statement that he had signed a prepared statement before the Enquiry Officer is not correct. When the applicant was not attending duty for a long time he should have been aware of the consequences of his irregular absence. The plea of the applicant that he is illiterate and he was under severe mental agony due to death of his relatives cannot absolve him of the charge of unauthorised absence from duty. The plea made by the applicant that he was not allowed to take assistance of any Defence Assistant in the disciplinary case also is not correct because he did not request for a Defence Assistant and accepted the charges in writing. As such, the question of availing Defence Assistant did not arise.

11. In reply to para-4(e), since the applicant accepted the charges before the Enquiry Officer, the enquiry was completed in one day. All the documents relevant to the charges were shown to him by the Enquiry Officer. In reply to the copy of the enquiry proceedings forwarded to him vide the Memo no. 02/00058/Estt., dt. 9.11.91 the applicant once again accepted that he was irregular in attendance and did not inform the factory for grant of leave during the above period. It is also pertinent to mention here that the applicant did not submit any evidence in support of statement that his long absence was caused due to the death of his mother and son. Since the charge of irregular attendance, right from the date of his appointment and unauthorised absence from duty from 15.10.90 to 29.05.91 was proved against him, the penalty of removal from service was imposed ~~upon~~ vide the order No. 02/00058/Estt., dt. 19.5.92, as he was not considered fit for continued retention in the respondent factory.

12. In reply to para-4(f), it is submitted that the appeal preferred by the applicant to the Appellate

ATTESTOR

P. Mohanty
P. MOHANTY

WORKS MANAGER/ADMN

V.V.S. Rao
V.V.S. Rao

DEPONENT
Addl. GM./Admin

... / ...

.../5/..

Authority viz., the Director General (Ordnance Factories), Calcutta, the decision of the Appellate Authority was communicated to the applicant vide the Order No. 9771/A/VIG, dt. 14.11.92 and this was acknowledged by him on 15.1.94.

13. In reply to para-5(a), it is denied that the memorandum of charges are vague or inconsistent. The charge alleged against the applicant in the Memorandum of Charges dt. 29.05.91 are of two types viz.,

(a) Habitual irregular attendance during the period from 30.3.88 to 14.10.90. In this period he was absent for a total of 323 days. (b) Unauthorised absence from duty continuously from 15.10.90. In view of this, the statement made herein that the charges are vague etc., cannot be accepted.

The contention of the applicant that the EO did not verify the records and verify the statements to arrive at the findings also is not accepted because in the first sitting the accused employee accepted the charge in ~~the case~~ writing. It was for the accused to ask for the records in case he had any doubt on the documents relied by the Enquiry Officer in support of the Articles of the charges.

14. In reply to para-5(b), it is submitted that the enquiry was conducted strictly in accordance with the CCS(CCA) Rules and hence the contention of the applicant that the proceedings are vitiated is not correct.

15. In reply to para-5(c), it is submitted that the applicant was given reasonable opportunity to defend himself against the charges alleged against him and thus the principle of natural justice was fully met.

16. In reply to para-5(d), the EO returned a finding of guilty in respect of the charges alleged against the applicant because he accepted the charges unconditionally in writing.

ATTESTOR
Mohanty
 P. MOHANTY
 WORKS MANAGER/ADMN

Leesha

DEPONENT

(V. V. S. Rao)

Addl. GM./Admin

.../..

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.../6/..

17. In reply to para-5(e), it is submitted that the applicant was appointed in the respondent factory with effect from 30.3.88 and was extremely irregular in attending duty from the beginning itself. As such, his retention in service was not considered advisable and accordingly the Disciplinary Authority had imposed the penalty of removal from service on him.

18. In reply to para-5(f), it is submitted that as stated above, the Appellate Authority viz., Director General (Ordnance Factories), Calcutta, considered the appeal dt.19.05.92 submitted by the applicant and issued its order vide the no. 9771/A/VIG Dt.14.11.93 which was acknowledged by the applicant on 15.01.94.

In view of the facts and circumstances explained above, the applicant has not made out any case for interference by the Hon'ble Tribunal. The appeal is devoid of merits and may be dismissed with costs.

Leesha
DEPONENT

(V V S. Raja,
Addl. GM, I.C.W.M.)

Sworn and signed before
me on this 29th day
of April 1994 at Hyderabad.

Before me

Mohanty
P. MOHANTY
WORKS MANAGER/ADMN

In the C.A.T
Hyd Bench

Ort 126/94

Counter Affidav



Rec'd 2/6/94
copy

2/6/94

P. Narayana

may be filed
2/6/94

Filed by:-
N.V. Raghava Reddy
Adv.

ANNEXURE + A

RECORD OF ATTENDENCE FROM 1988 (30-03-88) TO
29-05-91 IN RESPECT OF SHRI M.PENTAIAH, T.NO.396-6

| <u>Year</u> | <u>Month</u> | <u>No. of days absent</u> |
|-------------|-----------------|---------------------------|
| 1988 | APRIL | Nil |
| | MAY | Nil |
| | JUNE | 02 days |
| | JULY | 03 days |
| | AUGUST | 02 days |
| | SEPTEMBER | 04 days |
| | OCTOBER | 05 days |
| | NOVEMBER | 08 days |
| | JANUARY | 02 days |
| | FEBRUARY | 01 day |
| | MARCH | 11 days |
| | APRIL | 02 days |
| 1989 | MAY | 05 days |
| | JUNE | 06 days |
| | JULY | 06 days |
| | AUGUST | 31 days |
| | SEPTEMBER | 08 days |
| | OCTOBER | 04 days |
| | NOVEMBER | 30 days |
| | DECEMBER | 31 days |
| | JANUARY | 31 days |
| | FEBRUARY | 28 days |
| | MARCH | 31 days |
| | APRIL | 28 days |
| 1990 | MAY | 02 days |
| | JUNE | Nil |
| | JULY | 03 days |
| | AUGUST | 14 days |
| | SEPTEMBER | 06 days |
| | OCTOBER | 09 days |
| | (upto 14-10-90) | |
| | TOTAL | 312 days |

CONTINUED UNAUTHORISED ABSENCE FROM 15-10-90
TO 29-05-91.

ATTESTOR

Mohanty
P. MOHANTY
WORKS MANAGER/ADMN

DEPONENT

U. V. S. Rao
(V. V. S. Rao)
Addl. GM/ADMN

II Court

CENTRAL ADMINISTRATIVE TRIBUNAL HYDERABAD BENCH HYDERABAD

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

Original Application No 126 of 199

Transfer Application No. OLD PETITION NO:

Certified

CERTIFICATE

Certified that no further action is required to be taken and the case is fit for consignment to the Record Room(Decided).

Dated:

Counter Signed.

Court Officer/Section Officer

Signature of the Dealing Asst.

YLR

CENTRAL ADMINISTRATIVE TRIBUNAL: HYDERABAD BENCH:
AT HYDERABAD

ORIGINAL APPLICATION NO. 126 of 1994

DATE OF DECISION: 12.3.97

Mr. Penthah

APPLICANTS

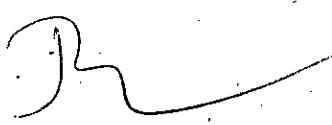
Versus

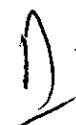
DG, Ordnance Factory & Am. RESPONDENTS

FOR INSTRUCTIONS

1. Whether it be referred to the reporters or not?

2. Whether it be circulated to all the Benches of C.A.T. or not?


HSSP
MEMBER (Judl.)


HEPN
Vice Chairman/Member (Adm.)

(38)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL: HYDERABAD BENCH:
AT HYDERABAD

ORIGINAL APPLICATION NO. 126 OF 1994

DATE OF ORDER: - 12th March, 1997

BETWEEN:

M. PENTAIAH

.. APPLICANT

AND

1. The Ordnance Factory Board,
10-A, Auckland Road,
Calcutta rep. by the Director General,
Ordnance Factories,
2. The General Manager,
Ordnance Factory Project,
Eddumailaram, Medak District.

.. RESPONDENTS

COUNSEL FOR THE APPLICANT: P. NAVEEN RAO

COUNSEL FOR THE RESPONDENTS: Mr. N. V. RAGHAVA REDDY, ADDL. CGSC

CORAM:

HON'BLE SHRI R. RANGARAJAN, MEMBER (ADMN.)

HON'BLE SHRI B. S. JAI PARAMESHWAR, MEMBER (JUDL.)

ORDER

ORAL ORDER (PER HON'BLE SHRI B. S. JAI PARAMESHWAR,
MEMBER (JUDL.))

None appears for the applicant. The applicant is also absent when the case was taken up for hearing. Mr. W. Satyanarayana for Mr. N. V. Raghava Reddy for the respondents submitted that the respondents have nothing to submit in this OA. Hence the OA is decided on the basis of the material placed on record by the parties.

RE

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2. The applicant claims to be ~~land~~^α displaced person of Eddumailaram village. It is his case that the patta land belonging to his family was acquired by the Govt. of Andhra Pradesh for establishment of Ordnance Factory Project at Eddumailaram. It is his case that according to the scheme framed for providing employment ~~for~~^{to} the land displaced persons, he was appointed on regular basis as unskilled labourer to perform manual work. It is submitted that between October 1990 and May 1991 he did not attend to his duties since his entire family was affected by illness, that during the said period his mother and his son aged 12 years and his elder aunty who was living with him expired ~~that~~ and the said deaths in the family caused severe mental shock ~~that~~ and the applicant had to undergo medical treatment. It is stated that he also suffered from jaundice during the said period. The applicant was served with ^a memo bearing No.2/00058/Estt. dated 29.5.91 proposing to hold inquiry under Rule 14 of the CCS (CCA) Rules for his unauthorised absence, wilfully neglected for duties and habitual irregular attendance from duty. An Inquiry Officer was appointed to inquire into the said charges against the applicant. It is submitted that the applicant appeared before the Inquiry Officer on 13.8.91. It is further submitted that the Inquiry Officer obtained his signature on the prepared statements and submitted his report to the effect that he admitted the charges, that he was furnished with a copy of the report of the Inquiry Officer with direction to offer his explanation to the same within 15 days, that he submitted his reply as per Annexure-D, that in his reply he had clearly explained the cause for absence



from duty, that the applicant pleaded for sympathy and compassion to consider his explanation on humanitarian grounds, that after considering his explanation to the report of the Inquiry Officer, the 2nd respondent by his order No.02/00058/Estt., dated 19.5.92 (Annexure-E) imposed the penalty of removal of the applicant from service, that against the said punishment of removal he preferred an appeal before R-1 and that his appeal has not been decided till to date.

3. The applicant has filed this OA praying to call for the records connected with the proceedings No.9771/A/V.G. dated 14.11.93 of R-1 and the proceedings No.02/00058/Estt. dated 19.5.92 of R-2, to quash the same and as a consequential relief, to reinstate him into service.

4. The respondents have filed their counter stating that the applicant was appointed in their factory from 30.3.88, that since the date of his initial appointment, he was irregular in attending to his duties, that as per the terms and conditions, his services ~~were~~ liable to be terminated during the probation period itself, that he was issued with ^a show cause notice dated 12.3.91, that inspite of the said show cause notice, the applicant did not improve his attendance and failed to give any reply to the show cause notice, that the applicant remained absent upto 29.5.91, that he reported for duty on 30.5.91, that he appeared before the Inquiry Officer on 13.8.91 and unconditionally accepted and admitted the charges levelled against him, that, therefore, the impugned orders are

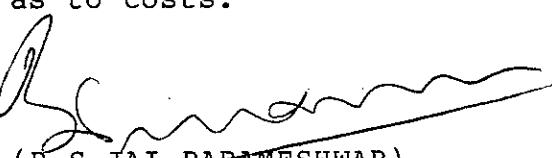
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according to law and are not liable to be interferred with.

It is further stated that the appellate authority had decided the appeal in his proceedings dated 14.11.92 and the same was acknowledged by him on 15.1.94.

5. The penalty of removal from service was imposed on the applicant due to his unauthorised absence. Though the ^{tried} applicant ~~admitted~~ to make out his case that the Inquiry Officer obtained his signature on the prepared statement, there is nothing on record to substantiate the said version. The applicant has not produced any material to justify his long absence before the Inquiry Officer. Even though he tried to explain certain calamities that occurred in his family, he did not place any convincing material on record to accept his version. He has also not produced any ^{submitted by him} letter requesting for leave for the period when the calamity took place so as to enable the respondents to consider his case. In the circumstances, we do not feel justified to interfere with the impugned orders. There are no merits in the OA. Hence the OA is dismissed. No order as to costs.

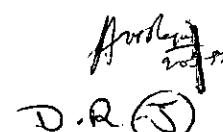

(B.S.JAI PARAMESHWAR)
MEMBER (JUDL.)


(R.RANGARAJAN)
MEMBER (ADMN.)

12/3/97

DATED:- 12th March, 1997
Dictated in the open court.


vsn


D.R. (S)

322
28/4/97

177 7677 153 111

HYDERABAD

TYPED BY

CHECKED BY

COMPARED 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 PARAMESHWARI: M(J)

DATED: 12/3/97

ORDER/JUDGEMENT

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

in
O.A. No. 126/97

ADMITTED AND INTERIM DIRECTIONS ISSUED
ALL PAID

DISPOSED OF WITH DIRECTIONS

DISMISSED

DISMISSED AS WITHDRAWN

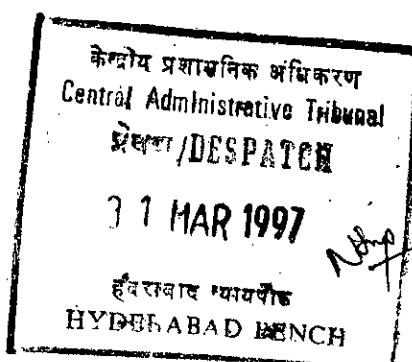
ORDERED/REJECTED

NO ORDER AS TO COSTS.

II COURT

YLR

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2. The applicant claims to be land ^{displaced} person of Eddumailaram village. It is his case that the patta of land belonging to his family was acquired by the Govt. of Andhra Pradesh for establishment of Ordnance Factory Project at Eddumailaram. It is his case that according to the scheme framed for providing employment ^{to} for the land displaced persons, he was appointed on regular basis as unskilled labourer to perform manual work. It is submitted that between October 1990 and May 1991 he did not attend to his duties since his entire family was affected by illness, that during the said period his mother and his son aged 12 years and his elder aunty who was living with him expired and the said deaths in the family caused severe mental shock and the applicant had to undergo medical treatment. It is stated that he also suffered from jaundice during the said period. The applicant was served with ^a memo bearing No.2/00058/Estt. dated 29.5.91 proposing to hold inquiry under Rule 14 of the CCS (CCA) Rules for his unauthorised absence, wilfully neglected for duties and habitual irregular attendance from duty. An Inquiry Officer was appointed to inquire into the said charges against the applicant. It is submitted that the applicant appeared before the Inquiry Officer on 13.8.91. It is further submitted that the Inquiry Officer obtained his signature on the prepared statements and submitted his report to the effect that he admitted the charges, that he was furnished with a copy of the report of the Inquiry Officer with direction to offer his explanation to the same within 15 days, that he submitted his reply as per Annexure-D, that in his reply he had clearly explained the cause for absence



IN THE CENTRAL ADMINISTRATIVE TRIBUNAL: HYDERABAD BENCH:
AT HYDERABAD

ORIGINAL APPLICATION-NO.126-OF-1994

DATE OF ORDER:-12th-March,-1997

BETWEEN:

M.PENTAIAH

.. APPLICANT

AND

1. The Ordnance Factory Board,
10-A, Auckland Road,
Calcutta rep. by the Director General,
Ordnance Factories,
2. The General Manager,
Ordnance Factory Project,
Eddumailaram, Medak District.



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COUNSEL FOR THE APPLICANT: P.NAVEEN RAO

COUNSEL FOR THE RESPONDENTS: Mr.N.V.RAGHAVA REDDY, ADDL.CGSC

CORAM:

HON'BLE SHRI R.RANGARAJAN, MEMBER (ADMN.)

HON'BLE SHRI B.S.JAI PARAMESHWAR, MEMBER (JUDL.)

ORDER

ORAL ORDER (PER HON'BLE SHRI B.S.JAI PARAMESHWAR,
MEMBER (JUDL.))

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JE

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प्रमाणित प्रति
CERTIFIED TO BE TRUE COPY

स्वामित्र अधिकारी
COURT OFFICER
केन्द्रीय प्रशासनिक अधिकारम
Central Administrative Tribunal
हैदराबाद न्यायालय
HYDERABAD BENCH

केम नंबर
CASE NUMBER ०९- १२६/९४
नियम का तारीख
Date of Judgement १२/३/९७
प्रति तथ्यार किया गया दिन
Copy Made Ready on २३/३/९७

अधिकारी के द्वारा दिया गया
Section Officer

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