

FORM NO. 21.

(Sec. Rule 114 .)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL HYDERABAD BENCH. HYDERABAD .

~~M A R A C P.~~

IN

O A T A 12/5 1998

..... M. Balakrishna Reddy Applicant(s)

Versus

..... The Secretary M/o E & F

..... Devarakonda ... etc. Respondent(s)

INDEX SHEET

Serial No .	Description of documents and dates.	Pages.
Docket orders.		165
Interim orders		
Orders in M A(S)		
Reply statement		12584
Rejoinder		
Orders in (Final orders)	8.5.98	966708

Certified that the file is complete
in all respects.

Signature of

946/98

Dealing Hand.

(In record section)

Signature of S.O.

C. A. V. SLIP.

~~CBW~~
~~27/1/98~~

1. Circulated to Hon'ble Sri
2. Case No: OA 1215/97
3. Date of Hearing. 27/1/98
4. Date when reserved for Judgement : 27/1/98

5. Cases cited by the Counsel for Applicants:

- a. ① Q95(8) SLI 2 484
- b. .
- c. ② Xerox copy of THE INDIAN FORCES SERVICE (PROBATION) Rules - 1968
- d. ③ AIR 1993 SC 392
- e. .
- f. ④ AIR 1984 SC 636
- g. .

6. Cases cited by the counsel for Respondents:

- a. .
- b. .
- c. .
- d. .
- e. .
- f. .
- g. .

7. Books Circulated: as noted above.

8. Departmental files if any: _____

D. S. Sardar
COURT OFFICER.

Date: 27/1/98

3

2 --

O.A. 1215/97

Date	Office Note	Orders
<u>30/9/97</u>		

Mr. D. Vijaya Shankar, for the applicant and Mr. V. Vinod Kumar, for the respondent:

In our earlier order dt. 15.9.97 we asked the respondent Counsel whether the impugned order is appealable one or not. Today he quoted some new position but we are not satisfied with that.

Admit. list for final hearing
on 20.11.97. Reply in the meantime.

Adm'r Notice
20/11/97

Ac
3/10/97
Issued
6/10/97

JUL
HBSTP
RE J,

J
RRN
H(A)

Central Administrative Tribunal Hyderabad Bench, Hyderabad.

2

C.A. No. 1215 of 1997.

M. Bala Krishna Reddy Applicant(s).

V.E.R.S.U.S.

the Secretary, Min. of Environment & Forests

New Delhi & anot (Respondents).

Date

Office Note:

ORDER

15/9/97

Mr. D. Vijaya Shankar, for the applicant and Mr. V. Vinod Kumar, for the respondent.

The applicant has been discharged from service by the impugned order dt. 27. 9. 96 (A-2). It is not known whether this order is appealable one or not. The learned counsel for the respondent submits that he will check up the position whether it is appealable or not & so to whom it may be appeal and rules under which the appeal can be made. He wants 2 weeks time. Hence list it on 29. 9. 97.

Jai
HBSR
PP,

ARRN
H(A)

S
CHV
27/1/98

01/21562

av1/

27/1/98

Heard Mr. Rama Mohan Rao, Counsel
for Mr. D. Vijaya Shankar, Counsel for the
applicants and Mr. V. Vindhyachal ^{Stndy}, Counsel
for the Respondents. O.A. is referred
for J. judgement.

8/5/98

J
H B8JP
n(J)

J
~~H B8JP~~
n(A)

Order pronounced in open Court.

O.A. is dismissed not carry.

(With Separate orders) J

~~H B8JP~~
M(A)

J
~~H B8JP~~
n(J)

AIR.1993+392
AIR 1984-636
AIR 1995-484
S.L.R.1995-484

DATE

NOTE

ORDER

4
O.A. 1215/97

DATE OFFICE N.T.E. RECORD D.R.D.E.R. ETW B.H. 100 STAO

03-12-97.

Heard Mr. D. Vijaya Shankar, learned counsel for the applicant and Mr. V. Vinod Kumar, learned counsel for the respondents.

Mr. V. Vinod Kumar raised a preliminary objection to the effect that in as much as order of discharge was issued by the Government of India at Delhi, this case should be filed before the Principal Bench of the Tribunal. This plea is not agreed to. The applicant is a permanent resident of A.P. and he is quite within his rights to file the OA before this Bench.

Mr. V. Vinod Kumar wanted six weeks time to file a reply. We noticed that the respondents had ~~the~~ sufficient time to instruct the counsel comprehensively ~~and~~ as also to file a reply, if they so chose, from 13-10-97 onwards, the date of which the notice was received. However, in view of the expressed desire contained in the letter of Ministry ^{the shown to us, are} 4 weeks granted for filing a reply.

List this case for further orders and final disposal on 02-01-1998.

Jai
HBSJP
M(J)

8
HHRP
M(A)

2/11/98
Partheard. List this case as first on the Board ~~and~~ ^{the} hearing for final hearing on 20/11/98.

Certain papers produced by the learned Counsel for the Applicant are taken on Record.

JY
HBSJP
M(J)

JY
HHRP
M(A)

PN

av1/

CENTRAL ADMINISTRATIVE TRIBUNAL HYDERABAD BENCH : HYDERABAD

ORIGINAL APPLICATION NO. 1215 OF 1997.

M. Balakrishna Reddy
(Applicant(s))

VERSUS.

Union of India, Repd. by.

The Secretary, Min. of Environment & Forests
Prayavaran Bhavan, New Delhi or another
Respondent(s).

The application has been submitted to the Tribunal by
Shri D. Vijaya Shanker Advocate/party-in-
person Under Section 19 of the Administrative Tribunal
Act, 1985 and the same has been scrutinised with reference
to the points mentioned in the check list in the light of
the provisions in the administrative Tribunal (procedure)
Rules 1987.

The application is in order and may be listed for
Admission on 9-92

12/1997
Scrutiny Asst.

Prashant
DEPUTY REGISTRAR (JUDL)

11. Has legible copies of the annexure duly attested been filed. *4s*
12. Has the applicant exhausted all available remedies. *4s*
13. Has the Index of documents been filed and pagination done, properly. *4s*
14. Has the declaration as is required by item No. 7 of form. I been made. *4s*
15. Have required number of envelops (file size) bearing full addresses of the respondents been filed. *4s*
16. (a) Whether the relief sought for, arise out of single cause of action. *-*
- (b) Whether any interim relief is prayed for. *4s*
17. (c) In case an MA for coronation of delay is filed, is it supported by an affidavit of the applicant. *-*
18. Whether this cause be heard by single Bench. *-*
19. Any other points. *-*
20. Result of the Scrutiny with initial of the scrutiny clerk. *May be filed*

Ex-12/9/97
Scrutiny Assistant.

Section Officer.

Deputy Registrar.

Registrar.

CENTRAL ADMINISTRATIVE TRIBUNAL HYDERABAD BENCH: HYDERABAD.

Case No. 2878/07

Report in the Scrutiny of Application.

Presented by Mr. Divya Shanker Date of Presentation 9/9/97

Applicant(s) M. Balakrishna Reddy

Respondent(s) The Secretary, Min of Environment & Forest,

N. Delhi Nada

Nature of grievance Discharging from Service

No. of Applicants 1 No. of Respondents 2

CLASSIFICATION.

Subject..... No Department... General (I.F.S) (No)

1. Is the application in the proper form, (three complete sets in paper books form in two compilations). Yes
2. Whether name description and address of all the parties been furnished in the cause title. Yes
3. (a) Has the application been fully signed and verified. Yes
(b) Has the copies been duly signed.
(c) Have sufficient number of copies of the application been filed. Yes
4. Whether all the necessary parties are impleaded. Yes
5. Whether English translation of documents in a language other than English or Hindi been filed. —
6. Is the application on time, (See Section 21). Yes
7. Has the Vakalatnama/Memo of Appearance/Authorisation been filed. Yes
8. Is the application maintainability. (U/S 2, 14, 18, or U/R. 8 Etc.,) Yes
9. Is the application accompanied IPO/DD, for Rs.50/- Yes
10. Has the impugned order's original, duly attested legible copy been filed. Yes

P.T.O.,

CENTRAL ADMINISTRATIVE TRIBUNAL, HYDERABAD BENCH, HYDERABAD

INDEX

O.A. NO. 1215 of 1997.

CROSS TITLE M. B. K. Reddy

VERSUS

The Secretary, M/o E&F, New Delhi & anoth

SL. NO.	Description of documents	Page No.
1.	Original Application	1 to 14
2.	Material Papers	15 to 22
3.	Vakalat	1
4.	Objection Sheet	1
5.	Spore copies 2 (Two)	1
6.	Covers 2	1

7. Reply statement filed by Mr. V. Vinod Kumar on 21/11/97

Regd. To set aside the impugned order dated 27.9.1996, 6
discharging the applicant from the probation of IFS

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : AT HYDERABAD.

HYDERABAD BENCH.

Bench Case

O.A. No.

1215

of 1997.

Discharging from Service

General (IFS)
(A)

Between :-

M. Bala Krishna Reddy,
S/o M. Ayyanna Reddy,
aged about 29 years, Worked
as I.F.S. Probationer, r/o
Kalyan Mandap, Puttaparthi,
Anantapur Dist. 515 134.

and

Union of India, rep. by Secretary, 09 SEP 1997
Ministry of Environment & Forests 2878
Paryavaran Bhavan, C.G.O. Complex, ★
Lodi Road, New Delhi and another, Hyderabad Bench Respondents.



GENERAL

CHRONOLOGICAL EVENTS

Sl. No.	Date	Description of event	Page No.
1.	1992	The applicant was awarded a Gold Medal and 2 other medals.	5.
2.	Sept. 1993	The applicant passes IFS Exam. conducted by UPSC.	5.
3.	May. 1994	The applicant joins IFS Probation at IGNFA, Dehradun.	5
4.	Aug. 1994	The applicant passes Civil Services, Prelims. Exam.	5
5.	Sept. 1994	LBSNAA, Mussorie, refuses to accept applicant for Foundation course and IGNFA, Dehradun advises him to go on leave for 4 months.	5
6.	August. 1995	Course Professor issues memo to the applicant for an enquiry	2.
7.	Oct. 1995	Respondent No.2 recommends action against the applicant with R.1.	8.
8.	Jan. 2, 1996.	The applicant joins duty with R.2.	8,
9.	Jan. 3, 1996.	The applicant is required by R.2. to abstain from duty.	8.
10.	Jan. 6, 1996.	The applicant handed over order dated 6.1.1996 requiring him to discontinue duty and join Probation in Sept. 1996 and Jan. 1997 successively.	9.
11.	April, 1997.	The applicant learns of his discharge from his father-in-law.	10.
12.	May, 29th, 1997.	Order of discharge dtd. 27.8.96 sought to be served on the applicant, by R-1.	10.
13.	June, 1997	The applicant receives order of discharge.	10

Hyderabad;
Btd/-

Counsel for the applicant,

APPENDIX A FORM

FORM - I

(See Rule - 4)

Application under section 19 of the Admnv. Tribunals Act, 1985.

O.A.No. 1215 of 1997.

Between :-

M. Bala Krishna Reddy,
 S/o M. Ayyanna Reddy,
 aged 29 years, worked
 as I.F.S. Probationer,
 r/o Kalyan Mandap,
 Puttaparthi, Anantapur Dist.
 515 134.

.. Applicant.

and

Union of India, rep. by Secretary,
 Ministry of Environment and Forests,
 Paryavaran Bhavan, C.G.O. Complex,
 Lodi Road, New Delhi and another. .. Respondents.

I N D E X

Sl.No.	Description of documents relied upon.	Page No.	Annexure.
1.	Application.	1 to 14	-
2.	G.O.Rt.No.2087, dated 7.8.97 by Govt. of A.P.	15	A1.
3.	Order of discharge issued in F.No.17016/02/95-IFS.II dtd.27th Sept.1996 by R.1.	16 - 17	A2.
4.	Letter of service dtd.27.6.97 by R-1.	18	A3.
5.	No.2242/96-NPA/70-21 dtd. 3806, dtd.19th Aug.1996. by R-2.	19	A4.
6.	No. 36/96-NPA/70-21 dt 5-1-96 by R-2	20	A5
7.	No. 17012/01/93-IFS-II M. Bala Krishna Reddy dt 30-11-94	21-22	A6

Counsel for the applicant. Signature of the applicant.

For use in Tribunal's office :-

Date of filing :-

Signature
for Registrar.

Q8

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL AT HYDERABAD.

HYDERABAD BENCH.

O.A.No.

1215

of 1997.

Between :-

M. Bala Krishna Reddy,
S/o M. X Ayyanna Reddy,
aged about 29 years,
Worked as I.F.S. Probationer,
R/o Kalyan Mandap, Puttapantti,
Anantapur District. 515 134

.. Applicant.

and

1. Union of India, represented by
Secretary, Ministry of Environment
and Forests, Paryavaran Bhawan,
C.G.C. Complex, Lodi Road,
New Delhi.

2. Director, Indira Gandhi National
Forest Academy, New Forest,
Dehradun, Uttar Pradesh.

.. Respondents.

DETAILS OF THE APPLICATION

1. Particulars of the applicant :-

Same as mentioned in the cause title above. The address
of the applicant for the purpose of service of all notices,
process etc, is that of his counsel

2. Particulars of the Respondents :-

Same as mentioned in the cause title above.

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

The application is made against the order passed by the
1st Respondent herein in F.No.17016/02/95-IFS.II dt. 27th
Sept. 1996.

(ii) Subject in brief :-

The applicant was selected into I.F.S. by the Union
Public Service commission in 1993 and ranked 3rd in order
of merit. In 1994, May, he joined Probation as I.F.S.
Probationer in Indira Gandhi National Forest Academy,
Dehradun, U.P. He was admitted to the course of 1994-1997 ..

course of probationer. He continued probation normally till Sept. 1994. He had passed civil Services prelims and had to appear for Mains Exam. along with 4 others. It was instructed by the Director, Lal Bahadur Shastray National Academy for Administration, Mussoorie, that those probationers who have passed civil services Prelims could not report for Foundation course at LBSNAA that commenced from Sept, 5th, 1994. The doors at Mussoorie being closed, the applicant along with 4 others were advised to go on leave despite their intention to continue on duty in IGNFA and they complied reluctantly the leave was duly sanctioned later on.

The applicant during the leave period got married to one M. Vani, who was discovered premaritally pregnant within few days of marriage. His Psyche was terribly disturbed and he could not appear in the Main Exams.

The applicant along with others joined duty formally in the last week of December.

Incidents which clearly showed an attitude of prejudice in the mind of course Director took place.

Wife of applicant filed a false case under Dowry Prohibition Act, against the applicant. The Course Director, Mr. Siddhant Das, IFS at IGNFA, furnishes a false statement to the Investigating Officer(Inspector) in the case against the applicant.

The applicant goes on leave to cooperate with the Investigation and explain his case with the Police Officers concerned, at Hyderabad.

The Course Professor, Mr. A.K. Wahal, IFS, issued a Memo in August, 1995, to the applicant asking him to show cause why action should not be initiated against him for wilful

✓ absence from duty and casual attitude towards Probation under All India Services (Discipline and Appeal Rules) 1969. An Enquiry was thus intended against him as per rule 12 of IFS Probation Rules, 1968, which was never carriedout. The Director, IGNFA, issued him a Memo. in Sept. 1995, calling for explanation from him in relation to allegations against the applicant by his wife M. Vani, under Dowry Prohibition Act. The Director made known the intention of the Department for a proposed Enquiry which too never went underway.

• The Director towards end of Oct. 1995, recommends action against the applicant for negligence of duties and other reasons.

A Telegram was issued to the applicant towards last week of November, by IGNFA asking him to join duty immediately.

Because of unavoidable exigencies, the applicant joins duty on 2nd Jan. 1996. All along the applicant has ~~been~~ been formally applying for leave which have been duly sanctioned all along. His joining report was accepted and/ the next day ie. 3.1.1996, he was orally asked to abstain from duty. On 6th Jan. 1996, he was handed an order from Joint Director, IGNFA, which read that the Ministry of Environment and Forest, Government of India, when being referred to the matter of his joining duty after a prolonged absence, has instructed that the applicant should discontinue his Probation and resume duty in Sept. 1996 by joining Foundation Course at Mussorie and continue IFS Probation with a fresh batch of Probationers from Jan. 1997. The said communication is also illegal and liable to be set aside.

The applicant receives orders in August, 1996 from the Course Director, IGNFA, asking him to join duty at LBSNAA, Mussorie, by Sept. 5th 1996.

The First Respondent presses to use the report of the 2nd Respondent made way back in Oct.1995 to him ignoring all subsequent developments and that punishment was already issued to him on the same cause of action once earlier and discharges him from Probation by issuing orders dated 27th Sept.1996 on political pressure exerted at the behest of the applicant's father-in-law for personal reasons. He was not given an opportunity to show cause against his removal. It was not even cared to serve him a copy of Discharge Order until he repeatedly requested for it. The said order is void and contravenes Article 311 (2) of the Constitution of India/contemplates regular enquiry before awarding any punishment. The said order is therefore, liable to be set aside, and hence the present application for relief.

4. Jurisdiction of the Tribunal :-

The applicant declares that the subject matter of the order against which this application is made, within the jurisdiction of this Hon'ble Tribunal, because the applicant is a native of Andhra Pradesh and the impugned order was served on him at Andhra Pradesh.

5. Limitation :-

The applicant further declares that, the impugned order was served upon him through letter dated 29.5.1997 and hence this application is filed within the limitation as prescribed under Section 21 of the Administrative Tribunals Act, 1985.

6. Facts of the case :-

- a) The applicant submits that he is native of Puttaparthi, Anantapur District. He did his schooling at Prasanthi Nilayam and Graduation at Sri Sathya Sai Institute of Higher Learning, Prasanthi Nilayam, with distinction having ..

secured 98.1% and was ranked first among students of Botany, Zoology, Chemistry combination group in the entire University.

b) The applicant submits that he did his Post graduation in Andhra ~~Exxa~~ University, Department of Botany and was ranked first in the University and awarded a Gold Medal and two other medals for academic excellence in 1992. The applicant won a UGC Scholarship having passed National Education Test and joined Ph.D in Andhra University Researching on a complex Molecular Bio-physics problem and obtained spectacular results.

c) Even while pursuing a course in Ph.D he appeared in the IFS Examination, 1992 conducted by UPSC and passed the same in 1993 Sept. having been ranked 3rd in the order of merit in his very maiden attempt. The applicant gave his joining report and commenced official duties as IFS Probationer on May 15th 1994 at Indira Gandhi National Forest Academy, New Forest, Dehradun. The applicant thus formally joined the 1994-97 course of IFS Probation.

d) The applicant submits that, he passed the Civil Services Prelims Examination, 1994, for which he had duly appeared having informed the authorities about it. The entire batch was required to report by 5th Sept. 1994 at Lal Bahadur Shastri National Academy of Administration (LBSNAA), Mussorie for Foundation Course for nearly four months. An impasse was created because himself along with four others who had passed Civil Services Prelims 1994 were required not to be permitted to attend the Foundation Course at Mussorie with the Director, LBSNAA having communicated IGNFA that those Probationers who had passed Civil Services Prelims 1994 and intended to write the Mains Exam. could not attend the ..

Foundation Course in 1994. Many a time, it has happened with regularity in the past for decades that IFS Probationers failed to present themselves for Foundation Course at Mussorie as it clashed with Mains Exam. schedule and took it up after formal completion of their schedule at IGNFA by joining a successive batch undergoing the said course at Mussorie. The IGNFA was not ~~conducting~~ conducting any classes for the period between Sept. 1994 to Dec. 1994. We were advised to go on leave as the doors of LBSNAA, Mussorie were closed on us though ~~maxim~~ the applicant and others insisted on continuing duty at IGNFA, Dehradun. The applicant discussed the issue with his Course Professor Mr. A.K. Wahal, IFS who pointedly and single mindedly advised ~~the~~ him for a whole-hearted preparation for the Mains Exam. Mr. A.K. Wahal, IFS, further confided that he too was an IAS aspirant and understood the urge in the applicant and advised him to go on leave and prepare for the Mains Exam. as he would not be allowed to write the same from next year in view of the amended Probation Rules. However, Mr. Sanjay Sood, who was earlier in Govt. Service and now IFS Officer who too was writing the Mains Exam. persisted and continued duties in IGNFAA. Little did the applicant know that the same circumstances would be employed as a weapon against him not long before. The leave was duly sanctioned.

e) An unfortunate incident happened in the life of the applicant. He was forced to alliance by his parents through a marriage Bureau at Hyderabad with a girl whose antecedents they failed to check. The girl just a day after the marriage was solemnised on 23rd Oct. 1994 showed signs of premarital pregnancy and was confirmed ~~premaritally pregnant~~ Premaritally Pregnant a fortnight later. A saga of insecurity, blackmail and agony followed with threats to life and booking of all false cases against the applicant. The applicant found it ..

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impossible to write the Mains exam. 1994 in such a situation.

f) The applicant along with three others who had gone on leave for all this period joined duty in Dec. 1994. The IGNFA as the applicant learnt referred his period of leave to the Ministry of Environment and Forests which condoned it. The leave was thus sanctioned without any hitch. At this juncture, it would be relevant to state a few facts before continuing with the narration. The applicant's relation with his Course Professor, was already strained when differences cropped up between them in the matter of Organising a Cultural show in July, 1994. He was the Joint Secretary, IGNFA Club while Shri Wahal, IFS, Course Professor was the Vice-President. In early 1995, the applicant's in-laws spread the rumour in the Academy that he was ill-treating his estranged wife. In truth she had deserted him long earlier. The Course Director, Mr. Siddhanta Das, IFS, actively echoed their allegations with other batch-mates of his. He felt let down and conveyed his displeasure to him and requested him to verify facts before he spoke out. The Course Director thus nursed a grievance against him thereafter.

g) The applicant's estranged wife M. Vani, filed a false complaint in Women Protection Cell, CID, Hyderabad in July, 1995. A sham Investigation followed. The Inspector CID, investigating Officer in the case, visited Dehradun. Mr. Siddhant Das, IFS, handed him a statement under section 161 CrPC in favour of the applicant's estranged wife saying that the allegations were true and that he had seized a car from the possession of the applicant which belonged to the applicant's brother-in-law. The ~~latter~~ latter is false because the Course Director does not enjoy any power to seize property under any law in the Country. This statement added great credibility to an already false investigation entered into by the Inspector. The applicant was forced to remain on leave for some time with due intimation ...

to the Academy to set the facts straight with the CID and further to cooperate with the investigation. The Inspector, CID, became a subject of Departmental enquiry on the applicant's complaint. The Inspector however did the damage on the strength of the false statement issued by the Course Director, IGNFA, by filing a charge sheet against the applicant. Pending enquiry the Inspector was transferred.

At latker date the Govt. of Andhra Pradesh, after a thorough and detailed examination of the facts by the Law Secretary and Principal Secretary, Home Department, withdrew Prosecution against the applicant and other accused in the false case in Crime No. 33/1995 in CID PS by issuing orders vide G.O.Rt.No. 2087 dated 7.8.1997 (Annexure-A). This proves that the averment of Course Director, IGNFA, Mr. Siddhanta Das, IFS was false and a prejudicial attitude of his against the applicant led to his issuing such a statement against him. It is thus clear that communications emerging from IGNFA in respect of the applicant to the Ministry of Environment and Forests, Government of India, are dangerously tainted.

h) The applicant learnt from the words of the 2nd Respondent herein that he had recommended action against him for various lapses with the Government of India, towards end of October, 1995.

i) A telegram reached his residence at Prasanthi Nilayam from the IGNFA in last Week of Nov, 1995 urging him to join duties immediately. Thus, the report of the 2nd Respondent loses legal validity with his act of inviting him to join duties. On 2nd Jan. 1996 the applicant gave his joining report to the acting Course Director, Shri Bala Prasad, IFS who accepted it and allowed him to resume his duties. Strangely the next day, he was advised to abstain from duty verbally and requested to wait until clarification arrived from the Ministry. He said that on 2nd Jan. 1996 they had referred the matter of allowing the applicant to join duty to the Ministry..

he and that/~~xxxxxx~~ should abstain from duty till clarification arrived. After having allowed him to join duty he could ~~xxx~~ not have been thus instructed. Such a process is arbitrary, whimsical and contrary to any procedure under Service Law. As the applicant had no other go he abstained from duties till 6th Jan. 1996. On the said date, he was handed over a communication dated 5th Jan. 1996 under the signature of the Joint Director, IGNFA which read that the Ministry of Environment and Forests had decided to discontinue his Probation and required him to join duties from Sept. 1996 at Mussoorie for the Foundation Course and in Jan. 1997 he should joined duties at IGNFA for commencing Probation with fresh batch of IFS Probationers. It is impossible to imagine how correspondence between the IGNFA and the Ministry of Environment and Forests, seated at New Delhi transpired in two days and in the entire official file procedure completed at the Ministry and formal orders issued. Further, the applicant had met the Under Secretary, Sri Sanehwal, at New Delhi on 4th Jan. 1996 who denied having received any formal clarificatory communication in respect of the applicant. The entire affair is fishy. The entire exercise is a proven case of malafide exercise of power. A perusal of records in relation to issuance of orders from IGNFA dated 6th Jan. 1996 in respect of the applicant urging him to discontinue the duties without hearing him ~~is~~ will enlighten the true facts. The said order is patently illegal and liable to be set aside. The applicant had urged all these facts in a letter addressed by him to the 2nd Respondent herein towards Oct. 1996. He received no reply. The secret plan was brewing all along to secure his ~~expulsion~~ expulsion from the Academy which was being executed in phases.

j) The applicant received a letter No. 2242/96 NFA/70.21, dated 2.8.1996 and a further reminder dtd. 19.8.1996 requiring him to join duty in Sept. 1996, at Mussoorie for the Foundation

Course. The applicant had fallen very sick then and he sought two weeks time before he could join.

k) Towards April, 1997, the applicant learnt that he had been discharged from Probation from the rumours spread by his father-in-law. The latter further claimed that he had enlisted some political help and obtained his discharge. The applicant wrote a letter to the Under Secretary, Ministry of Environment and Forests for clarification and requested such order if any may kindly be serviced upon him. In response he was served the impugned order of discharge dated 27th Sept. 1996 through a forwarding letter dated 27th May, 1997 (Annexure.B). The order was communicated to him around 1st week of June. The Under Secretary had clarified in the said letter that the order was sent earlier for service ~~for~~ ^{but} the post was returned with the endorsement "refused". The applicant had never made any such endorsement. No such communication ever reached his notice.

L) No explanation was called for from the applicant. No opportunity of being heard was given to him. While one letter urges him to join duty in Sept. 1996 and further in Jan. 1997 another letter discharges him from duty in Sept. 1996. These contradictions are impossible to understand. There would never have been in the history of All India Services ~~in~~ such an ~~uncommon~~ occurrence, and is shocking. The above facts lead to a reasonable conclusion that the file relating his discharge had commenced examination and circulation for orders even prior to 5.9.96 ~~in~~ as the facts in the impugned order correspond to incidents prior to Oct. 20th, 1995 and further that the file is numbered as F.No.17016/02/95-IFS.II. It is very clear that the file corresponds to the year 1995. The same had actually been rendered void with the communication from the Joint Director, IGNFA, dated 6th Jan. 1996 urging him to join duty in Sept. 1996 at Mussorie and Jan. 1997 at Dehradun.

The impugned order of discharge is a clear malafide, unjust, arbitrary exercise of power in respect of the first Respondent herein. The applicant is liable for winning exemplary costs in the matter.

G R O U N D S

(i) The impugned order of discharge passed under Rule 13 (c) & (d) of Indian Forest Service Probation Rules, 1968 is passed with an intention to punish the applicant. It in reality is an order under Rule 12 (3) I.F.S. Probation Rules, 1968, but camouflaged under Rule 13 to bypass the provisions of enquiry and consultation with Union Public Service Commission as prescribed under Rule 8 of All India Service (Discipline and Appeal) Rules, 1969.

(ii) The impugned order is severely hit by the provisions envisaged under Article 311 (2) of the Constitution of India and hence liable to be struck down as illegal as the order is clearly by way of punishment. The order states that the applicant deserted LBSNAA. The applicant never even joined LBSNAA. Therefore, no desertion could be attributed to him. One could desert only after he joins not before that. The word desertion used in his context alongwith such other phrases as " deserted from tours "; "remained absent" "unauthorised absence from duties "; "desertion from Study Tours "; "lacked in qualities of mind and character" are serious strictures against the applicant of a stigmatic nature. The said order therefore could not be a simple order of discharge to claim immunity.

(iii) The Course Professor, Sri A.K. Wahal, IFS had served a Memo. on the applicant in early August, 1995, seeking an explanation from him as to why he could not be proceeded under relevant rules for wilful absence from duties. This clarifies..

that the impugned order was passed under Rule 12 IFS Probation Rules, 1968 and not under Rule 13 as it is made out to be.

(iv) It is important to note that the period of absence of 237 days until Oct. 1995 is not entirely a period of absence as for most period of it leave was sanctioned for cogent reasons. A period of four months covered in the said period of absence, the applicant was prevented from joining the LBSNAA and asked to go on leave. The impugned order was passed on the recommendations to that effect from the Office of Director IGNFA who is the 2nd Respondent herein. It is amply clear from the narration of the facts that the Officials of the Academy were prejudiced against the applicant;

(v) The applicant's case directly falls under the proposition of law laid down by the Hon'ble Supreme Court in Samsher Singh V State of Punjab (1974) 2 SCC 831;

' If the Probationer is discharged on the ground of misconduct or inefficiency or for similar reason without a proper enquiry and without his getting a reasonable opportunity of showing cause against his discharge it may in a given case amounts to removal from service within the meaning of Article 311 (2) of the Constitution. "

The same was reiterated in Anoop Jaiswal Vs. Govt. of India 1984 2 SCC 369 by the Hon'ble Supreme Court which involved an IPS Probationer:

' In the instant case the period of Probation has not yet been over...As a narration of the facts of the case leaves no doubt that the alleged act of misconduct on June.22, 1981 was the real foundation for the action taken against the appellant. The case is one which attracted Article 311 (2) of the Constitution as the impugned order amounts to a ..

termination of service by punishment and an enquiry should have been held in accordance with the said constitutional provision.

(vi) Any other ground that may be urged by the counsel at the time hearing the case;

(7) Details of the remedies exhausted :-

The applicant declares that, he successively applied to the Govt. of India for relief against the impugned order, ^{him} but no response has reached/ so far. The applicant has no alternative remedy but to approach this Hon'ble Tribunal.

(8) Matters not previously filed or pending with any other court :-

The applicant further declares that he had not earlier filed any OA/RP/WP/Suit regarding the matter in respect of which this O.A. has been made before any court of law or authority and not any such OA/RP/WP/Suit is pending before any of them.

(9) Relief sought :-

In view of the facts mentioned in para (6) above, the applicant prays that this Hon'ble Tribunal may be pleased to

(a) call for the entire record with the first Respondent pertaining to the applicant and the records pertaining to file No. 17016/02/95-IFS.II which dealt with his discharge from Service; (b) to set aside the orders of the 1st Respondent herein in F.No.17016/02/95-IFS.II dtd. 27.9.1996 served through communication dtd. 27.5.1997 and issue a consequential direction to the 1st Respondent to reinstate him in service with all consequential benefits in IFS batch 1993 to which he was originally appointed by the first Respondent herein, and to pass such other order or further orders as this Hon'ble Tribunal may deem fit and proper in the circumstances of the case.

10) Interim relief :-

Pending disposal of the main O.A., the applicant further prays that this Hon'ble Tribunal may be pleased to suspend the order in F.No. 17016/02/95-IFS.II dated 27th Sept.1996 of the 1st Respondent herein with a direction to the Respondents herein to allow the applicant to discharge his duties normally with the Respondents herein, and to pass such other order or further orders as this Hon'ble Tribunal may deem fit and proper in the circumstances of the case.

11) Particulars of I.P.O. in respect of application fee :-

a. ~~Mark~~ No. of I.P.O.

812217245

b. Date of issue of PO:

9/9/95

c. Name of the issuing PO:

c. P.O. at which payable :

28/50/-
18/50/- A
I.P.O. H.O.D.B.Ramana

12) List of enclosures :-

Vakalat (2) I.P.O. and Material papers.

Verification

I, M. Bala Krishna Reddy, Son of M. Ayyanna Reddy, aged about 29 years, Worked as I.F.S. Probationer, r/o Kalyan Mandap, Puttaparthi, Anantapur District, do hereby verify that the contents of paras 1 to 12 are true to my personal knowledge and also on legal advise and that I have not suppressed any material facts.

Hyderabad;
Dtd/-

M. Bala Krishna Reddy
Signature of the applicant.

To
The Registrar,
Central Admnv.Tribunal,
Hyderabad Bench,
Hyderabad ; A.P.

D. Jayar
Counsel for the applicant.

GOVERNMENT OF ANDHRA PRADESH

ABSTRACT

PROSECUTIONS - Withdrawal of prosecution case in Crime No: 33/95 Under Section 498 A, 406 of Indian Penal Code read with Sections 4 and 6 of Dowry Prohibition Act of CID Police Station pending trial vide OC.No: 126/96 on the file of IIInd Additional Judicial First Class Magistrate Court, Nellore against Dr.M.Venkat Lakshmi and others - Orders - Issued.

HOME (POLICE.F) DEPARTMENT

G.O.Rt.No: 2087

Date: 07-08-1997,

After the following:-

1. Representation from Dr.M.Venkat Lakshmi of Hyderabad dated: 11.3.1997.
2. From the Addl.Dir.Genl.of Police, (CID), A.F.Hyderabad Lr.Rc.No:4286/APC/C9/95, dated: 26.5.1997.
3. From the Sr.Assistant Public Prosecutor (Admn.) Nellore, dated: 15.11.1996.
4. Representation from Dr.M.Venkat Lakshmi of Hyderabad dated: 20.7.1997.

-00:00-

ORDER:

The Government after careful consideration of the proposal for withdrawal of case registered against Dr.M.Venkat Lakshmi and others have decided to withdraw the case in Crime No: 33/95 Under Section 498 A, 406 of Indian Penal Code, 1860 (Central Act 75 of 1860) of C.I.D. Police Station pending trial vide OC.No: 126/96 on the file of IIInd Additional Judicial First Class Magistrate Court, Nellore (now the case is transferred to XXI Metropolitan Magistrate Court, Hyderabad in view of the orders of Honourable High Court in Transfer Criminal Misc., Petition No: 1021 of 1997 dated: 8.7.1997).

2. The District Collector(s), Hyderabad District/Nellore District is requested to instruct the Public Prosecutor attached to the court concerned for filing a fresh petition Under Section 321 of Criminal Procedure Code, 1973 (Central Act No: 2 of 1974) for withdrawal of prosecution in the above case. A copy of the instructions so issued may be sent to Government for favour of information.

BY ORDER AND IN THE NAME OF THE GOVERNOR OF ANDHRA PRADESH)

V.S.RAVI,
PRINCIPAL SECRETARY TO GOVERNMENT.

To
The District Collector,
Hyderabad District.
The District Collector,
Nellore District.

The Addl.Director General of Police (CID),
Andhra Pradesh, Hyderabad.

The Director General & Inspector General of Police,
A.P., Hyderabad.

The Sr.Assistant Public Prosecutor, (Admn.) Nellore District.

Copy to:
J.S. to Chief Minister.

P.S. to M(Home).

P.S. to Prl.Secretary, (Home).
Sf/Sc.

//Forwarded by Order//

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F.NO.17016/02/95-IFS-II
Government of India
Ministry of Environment and Forests

Paryavaran Bhavan,
CGO Complex, Lodhi Rd.,
New Delhi - 110003

Dated the 27th September, 1996

ORDER

Shri M. Balakrishna Reddy was appointed to the Indian Forest Service (IFS) on the results of the IFS Examination, 1992 and was allocated to the joint cadre of Assam-Meghalaya of the Service. In terms of rule 6 and 8 of the IFS (Probation) Rules, 1968, Shri Reddy was required to undergo the initial in-service training at the Indira Gandhi National Forest Academy (IGNFA), Dehra Dun and at the Lal Bahadur Shastri National Academy of Administration (LBSNAA), Mussoorie and to appear at such examinations to be conducted by the Directors of the respective Academies as prescribed by the Central Government.

2. According to the report forwarded by the Director of the Indira Gandhi National Forest Academy, Shri Reddy neglected his probationary studies/duties by prolonged and frequent unauthorised absence from the duties. In fact, out of the total period of one year and five months of training upto 20.10.95, he remained absent for 237 days. He did not participate in the study tours. He also deserted from the LBSNAA, Mussoorie. Further, on account of his conduct regarding unauthorised absence from duties at the IGNFA, Dehra Dun and the LBSNAA, Mussoorie, non-seriousness towards probation period, desertion from Study Tours, and absence from the examinations conducted by the IGNFA, it was proved beyond doubt that he lacked in qualities of mind and character needed

(1) Prolonged absence
Study Tours
Deserted Academy
Non-seriousness
Absence from the exams
Lack of qualities of character

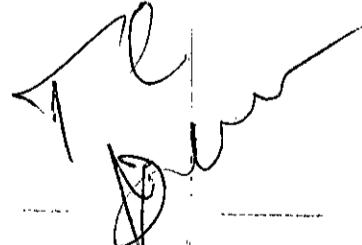
for the Indian Forest Service. Keeping in view the facts and circumstances of the case, Shri M. Balakrishna Reddy is hereby discharged from the Service with immediate effect under Rule 13(c) and (d) of the Indian Forest Service (Probation) Rules, 1968.

Chawwal

(R. Sanehwal)
Under Secretary to the Govt. of India

Distribution:

1. The Director, Indira Gandhi National Forest Academy, Dehradun.
2. The Director, Lal Bahadur Shastri National Academy of Administration, Mussoorie.
3. Shri M. Balakrishna Reddy, IPS(Probationer), Kalyana Mandap, PRASHANTHINILAYAM, Distt. Ananthapur, Andhra Pradesh-515134.
4. The Chief Secretary, Government of Assam, Dispur.
5. The Chief Secretary, Government of Meghalaya, Shillong.
6. The Principal Chief Conservator of Forests, Assam, Guwahati
7. The Principal Chief Conservator of Forests, Meghalaya, Shillong.
8. The Secretary, Union Public Service Commission, Dholpur House, Shahjahan Road, New Delhi.
9. The Accountant General, Assam, Dispur.
10. The Accountant General, Meghalaya, Shillong.
11. Guard File.



18-18- BY REGISTERED POST

A 3 25

तार
Telegram : PARYAVARAN,
NEW DELHI

No. 17016/02/95 IFS II

Dt. 27th May. 1997

दूरभाष :
Telephone :
टेलेक्स (द्विभाषीय) :
Telex : (bi-lingual) : W-66185 DOE IN
FAX : 4360678

भारत सरकार
पर्यावरण एवं वन मंत्रालय
GOVERNMENT OF INDIA
MINISTRY OF ENVIRONMENT & FORESTS
पर्यावरण भवन, सी० जी० ओ० कॉम्प्लेक्स
PARYAVARAN BHAWAN, CGO COMPLEX
लोटी रोड, नई दिल्ली - 110003
LODHI ROAD, NEW DELHI-110003

To

M. Bala Krishna Reddy,
Sai Shelters,
Puttapparthy,
District Anantapur-515 134.
Andhra Pradesh.

Sub: Order discharging Shri M. Bala Krishna Reddy from the Indian
Forest Service.

Sir,

I am directed to refer to your letter dated 11th April, 1997
on the subject noted above and to say that the order dated 27.9.96
discharging you from the Service was communicated to you by a
registered post at the address 'Kalyana Mandap, Prashanthinilayam,
Distt. Ananthapur' but the same was returned with the remarks
"REFUSED". However, as per your request, a copy of the said order
is enclosed herewith.

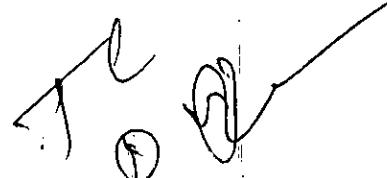
Yours faithfully,

Chandru

(R. Sanehwal)

Under Secretary to the Govt. of India

Encl: as above





AA (20)

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REMINDER

No. 2242/96-NFA/70.21
3846

Date: 7 August, 1996

To

Shri M. Bala Krishna Reddy
IPS Probationer
Kalyanamandap,
Prasanthinilayam- 515 134
District Anantapur,
Andhra Pradesh.

Sub.: Joining on 5/9/96 at LBSNAA, Mussoorie for Foundational Course

In continuation of this office letter of even no. dated 2/8/96 (copy enclosed) on the subject cited above, you are hereby requested to report for duty on 5/9/96 at LBSNAA, Mussoorie under intimation to this Academy. Please send also two copies of Personal Information Sheet to LBSNAA, Mussoorie immediately.

Yours faithfully

Joint Director (Admin.)
Indira Gandhi National Forest Academy

Encl.: As above.

संस्कृत भवन, देहरादून-248 006
P.O. Box No. 100, Dehra Dun-248 006

फोन : कांस्यकाली
C.I.M.: FORACADEMY

FAX: 627314
Telex: 343-312 NFA IN

फैक्स: 627316
Phone

10/10/96

INDIRA GANDHI NATIONAL FOREST ACADEMY

NO. 36 /96-NFA/70.21

GOVT. OF INDIA
MINISTRY OF ENVIRONMENT AND
FORESTS

Dt. 5-1-96

To

Sri M. Balakrishna Reddy
IFS (P)
1994-97 Course

Sub : Your joining report dt. 2-1-96.

The matter ~~is~~ regarding allowing you to report for duty to resume your training at IGNRA after a prolonged absence from duty was referred to the Ministry of Environment and Forests, Govt of India. The Ministry, after due consideration of your case, have decided not to allow you to resume your duty immediately for the remaining period of training. (1)

They have further directed this office to communicate you to report for duty for undergoing training in the next Foundation course at LESNAA, Mussoorie which is likely to commence during Sept. 96 to December 96 along with the next batch of IFS probationers. On completion of your foundational course at LBSNAA, you are advised to join ^{the} professional phase of training at IGNRA along with the 1996-99 course. (2) (3)

Yours faithfully,

Sd/-

Joint Director, (Admn.)
Indira Gandhi National Forest Academy

May ~~27~~ at Indira Gandhi Forest Academy

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Dinesh

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(TO BE PUBLISHED IN PART I SECTION II OF THE GAZETTE OF INDIA)

F.No.17012/01/93-IFS-II
Government of India
Ministry of Environment and Forests
Parivartan Bhawan,
CGO Complex, Lodhi Road,
New Delhi - 110003

dated the 30th November, 1994

NOTIFICATION

Under Rule 6 of the Indian Forest Service (Recruitment) Rules, 1966, the President is pleased to appoint the following candidates who competed successfully at the Indian Forest Service Examination-1992, to the Indian Forest Service on probation with effect from the dates shown against their names :

S.No.	Name	Date of Joining
01	S/Shri	
02	NAVDEEP SINGH	16.05.1994(FN)
03	M BALA KRISHNA REDDY	16.05.1994(FN)
04	SANJEEV KUMAR GUPTA	16.05.1994(FN)
05	SANJAY KUMAR SINHA	16.05.1994(FN)
06	SANJAY SOOD	16.05.1994(FN)
07	VISHWA NATH SHAH	04.06.1994(FN)
08	PRABHASH CHANDRA RAY	16.05.1994(FN)
09	KAMAL KUMAR MUKHERJEE	16.05.1994(FN)
10	M SRINIVASA REDDY	16.05.1994(FN)
11	SWARAN SINGH CHHABRA	16.05.1994(FN)
12	VED PAL SINGH	02.06.1994(FN)
13	UMA NANDURI	16.08.1994(FN)
14	SHIKHA MEHRA	16.05.1994(FN)
15	ANURAG MISHRA	16.05.1994(FN)
16	B PRABHAKAR	16.05.1994(FN)
17	AMITABH VIBHAKAR MISHRA	16.05.1994(FN)
18	NEERAJ PRASAD	16.05.1994(FN)
19	GHAN SHYAM SHUKLA	16.05.1994(FN)
20	ALOK KATIYAR	16.05.1994(FN)
21	RAJEEV KUMAR TIWARI	16.05.1994(FN)
22	NEENA GREWAL	16.05.1994(FN)
23	MANOJ KUMAR AGARWAL	16.05.1994(FN)
24	RABINDRA KUMAR SAMAL	16.08.1994(FN)
25	ANURAG BHARDWAJ	16.05.1994(FN)
26	SANTOSH KUMAR	16.05.1994(FN)
27	RANJAN KUMAR MISHRA	16.05.1994(FN)
28	ROHIT TIWARI	16.05.1994(FN)
29	P J VIJAYAKAR	16.05.1994(FN)
30	RAMESH KUMAR SUMAN	03.06.1994(FN)
31	SANTOSH TEWARI	16.05.1994(FN)
32	PREM KUMAR JHA	16.05.1994(FN)
33	VINAY GUPTA	16.05.1994(FN)
34	MAHESH B SHIRUR	16.05.1994(FN)
35	SHASHI MALIK	16.05.1994(FN)
	KAPIL LALL	16.05.1994(FN)

Chancery

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36	MOHAN LAL	16.05.1994(FN)
37	MUKESHKUMAR V PARMAR,	16.05.1994(FN)
38	R LALNUNSANGA	16.05.1994(FN)
39	T GNANA PRAKASH	16.05.1994(FN)
40	CH SUBHASKAR RAO	16.05.1994(FN)
41	T V MANJUNATHA	16.05.1994(FN)
42	MUNDRIKA SINGH	16.05.1994(FN)
13	SMITA WESLEY	16.05.1994(FN)

(R.Sanehwal)
Under Secretary to the Govt. of India

The Manager,
Government of India Press,
FARIDABAD(HARYANA) - with a copy of Hindi version.

Copy to:

1. The Director, Indira Gandhi National Forest Academy, Dehradun - (with 50 spare copies).
2. The Treasury Officer, Dehradun.
3. The Accountant General, Uttar Pradesh, Dehradun.
4. The Secretary, Union Public Service Commission, Dholpur House, Shahjahan Road, New Delhi-110011.
5. The Chief Secretaries of all State Governments/UTs.
6. Guard file/Spare copies.

(R.Sanehwal)
Under Secretary to the Govt. of India.

SCC
C Council for the
Applicant

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**IN THE JUDICATURE OF THE
HON'BLE CENTRAL ADMINISTRATIVE TRIBUNAL
AT HYDERABAD**

CHRONOLOGY OF EVENTS

May 15 1994 Applicant joins IGNFA as IFS Probationer and is ranked 2nd in the order of merit.

Sept 3 1994 Applicant required to go on leave for four months as LBSNAA, Mussorie refused to accept the applicant alongwith three others as they qualified for Civil Services Mains exam 1994.

Oct 23 1994 The applicant gets married to M. Vani who is detected premaritally pregnant and differences crop up.

Dec 25 1994 The applicant and three others join and resume duty normally at IGNFA Dehradun. The leave is sanctioned.

Feb-April 1995 Course Director IGNFA spreads word among other Probationers that the applicant is solely responsible for the dispute between him and his wife.

June-Sept 1995

- i) The applicant sues his spouse for premarital pregnancy and the latter files a complaint under Dowry Prohibition Act falsely and the same registered as Crime No 33/95 CID Hyderabad.
- ii) Director IGNFA issues memo dated 28-08-1995 to the applicant to explain the charges levelled against him by his wife.
- iii) The Course Professor Sri A.K. Wahal issues letter dated 14th July'1995 warning the applicant of possible action against him under Rule 12 of IFS Probation Rules and follows it up issuing showcause notice against him for disciplinary action under Rule 12 of IFS Probation Rules.
- iv) The Course Director IGNFA makes a false statement before the Inspector CID, Hyderabad against the applicant in relation to the complaint against him by his wife.

20th Oct 1995 Director IGNFA recommends action to respondent 1 (Secretary Ministry of Environment & Forests, New Delhi) against the applicant on various serious allegations of misconduct, inefficiency, desertion, unauthorised absence without providing him an opportunity to showcause against his termination as provided in Rule 12 IFS (P) Rules in accordance with Rule 8 of All India Services, Discipline and Appeal Rules, 1969.

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Jan 2 1996 After a brief leave on account of matrimonial dispute applicant joins duty at Forest Aacademy, Dehradun. Joining report accepted and the applicant allowed to discharge duty.

Jan 3 1996 Applicant verbally asked to remain absent from duty until further orders on second thought.

Jan 6 1996 Applicant handed over order dated 6-1-1996 at Forest Academy requiring to discontinue duty and join Foundation Course in Sep'96 at Mussorie and in Jan'97 at Dehradun for Professional Phase of training.

Sep 29 1996 Ministry of Environment and Forests issues impugned order discharging him from service at the influence exerted by the estranged father-in-law of the applicant.

June 1997 Ministry of Environment and Forests communicates the impugned order to the applicant.

July 8 1997 Principal Family Court, Hyderabad issues a decree of divorce in favour of applicant.

Aug 7 1997 Govt. of A.P. concludes that the complaint of M. Vani is false and issues G.O. Rt No. 2087 of 1997 withdrawing prosecution against him.

Sep 19 1997 Applicant actually discharged from the false case against him by his divorced wife by the learned XXI Metropolitan Magistrate, Hyderabad.

Dec 23 1997 Applicant files a petition under Section 340 CrPC seeking prosecution of the Course Director, IGNFA Mr. Siddhant Das, IFS for making a false statement and thus initiating false criminal proceedings against the applicant punishable under Section 211 IPC r/w 468 & 417 IPC.

**IN THE JUDICATURE OF THE
HON'BLE CENTRAL ADMINISTRATIVE TRIBUNAL
AT HYDERABAD**

MEMORANDUM OF GROUNDS

1. The impugned order is the superstructure resting on the foundation of allegations of negligence, misconduct, unauthorised absenc, desertion from duty, inefficiency etc., made by the Director IGNFA or whose recommendation the impugned order was passed by the Ministry of Environment & Forests. As the allegations constitute clear misconduct alleged against the applicant enquiry as contemplated under Article 311 (2) is to be followed as per the provisions of Rule 12 IFS Probation Rules in accordance with Rule 8 All India Services (Discipline & Appeal) Rules, 1969. The impugned order casts a stigma against him.

Case Laws :

- i). *Shamsher Singh vs State of Punjab*
AIR 1974 SC 2192 at Page 2205 (Paras 63, 65)
- ii). *Anoop Jaiswal vs Union of India*
AIR 1984 SC 637 (Paras 11, 12, & 13)
- iii) *Jairnail Singh & Others vs State of Punjab*
AIR 1986 (2) SC 193 equivalent to 1986 (2) SLR at Page 285, 288 (Para 23 & 32)
- iv) *Union of India vs J. Kumar Parida*
1995 (8) SLR at Page 225
- v) *Madhusudhan Behera vs Union of India*
1994 (8) SLR at Page 500

2. Because the order visits the applicant with evil consequences and casts aspersion against his character the order must be considered as one by way of punishment.

Case Laws :

- i) *State of Punjab vs Sukh Raj Bahadur*
(1968) 3 SCR 234
- ii) *K.C. Joshi vs Union of India*
1985 (2) SLR at Page 204 & 205.

3. Expressions "unauthorised absence", "desertion", in impugned order should have been arrived at after a regular enquiry as the same clearly amount to misconduct and provisions of Article 311 (2) to be followed.

Case Laws :

- i) *Jai Shankar vs State of Rajasthan*
AIR 1966 SC 492 at Page 494 (Para 6)
- ii) *Robert D'Souza vs The Executive Engineer, Southern Railway and Another*
AIR 1992 SC 854 at Page 864 (Para 21)
- iii) *Ram Bilas Paswan vs Union of India*
1991 (1) SLR 304 at Page 308 & 309 (Paras 11), Page 311 (Para 19, 20)
- iv) *D.K. Yadav vs M/s. J.M.A. Industries Ltd.*,
1993 (4) SLR 126 at Page 131 (Paras 9, 10), Page 132 (Paras 10, 11)

4. Acts of misconduct made out in impugned order correspond to period prior to 20-10-1995 and the same were condoned by order dated 5-1-1996 requiring him to resume duties normally after a break.

5. Even discharge simplicitor is violative of Article 14.

Case Laws :

- i) *Omprakash Goyal vs Himachal Pradesh Tourism Development Corporation Ltd.*,
1991 (2) SC SLR 796
- ii) *K.C. Joshi vs Union of India*
1985 (2) SC SLR Page 204

Authority. None of the judgment cited before us have been able to persuade us to take a contrary view. We do not sit as an Appellate Authority to reappraise the evidence led during the enquiry. In these circumstances, we cannot interfere with the report of the Inquiry Officer and the orders of the Disciplinary Authority and the Appellate Authority.

7. In the circumstances, the O.A. is dismissed at the admission stage.
Application dismissed.

CENTRAL ADMINISTRATIVE TRIBUNAL

(CUTTACK)

Before:- K.P. Acharya, Vice-Chairman and H. Rajendra Prasad, Member (A)

O.A. No. 23 of 1993 / Decided on 24.6.1994

Madhusudan Behera

Applicant

Union of India and others

Respondents

For the Applicant : M/s. Deepak Misra, A. Deo and B.S. Tripathy, Advocates.

For the Respondents Nos. 1 : Mr. Akhyay Kumar Misra, Addl. Standing Counsel.

For the Respondent No. 2 to 4 : M/s. B. Routray, A.K. Mohanty and S.M. Biswal, Advocates.

Constitution of India, Article 311—Probation/Termination—Termination of services during the probationary period—Allegations of corruption, misconduct and unsatisfactory service—Termination held to be illegal as the order was not simpliciter in nature and was based on ground of misconduct and inefficiency though it was an innocuous one on the face of it.

(Para 18)

Cases referred :

1. Sansher Singh v. State of Punjab, 1974(2) SLR 701 (SC).
2. State of Bihar v. Shri Bhikshuk Mishra, 1970 SLR 863 (SC).
3. Anoop Jaiswal v. Government of India, 1984(1) SLR 426 (SC).
4. Jarnail Singh v. State of Punjab, 1986(2) SLR 278 (SC).

ORDER

K.P. Acharya, Vice-Chairman—Vide Annexure I dated 24.10.1989, the applicant Shri Madhusudan Behera was offered a post of Farm Manager (T-o) on temporary basis with certain terms and conditions. The terms and conditions having been accepted including the term that the applicant would remain on probation for a period of two years from the date of joining the post which may be extended at the discretion of the competent authority, the applicant accepted the offer and joined the post in question. Vide order No. 98/Estd/90-91 dated 20th December, 1991 the probation period was extended by one year from 12.12.1991 to 12.12.1992. Vide order No. 46/Estd/89-90/954 dated 16.1.1993 contained in Annexure 3, the services of the applicant were terminated forthwith, being aggrieved by this order contained in Annexure 3 terminating the services of the applicant this application has been filed with a prayer to quash the impugned order of termination contained in Annexure 3 and furthermore, it is prayed to direct the respondents to allow the applicant to continue in service with all consequential service benefits and to confirm and regularise the applicant in the said post as he has successfully completed the probation period.

2. In their counter, the respondents 2 to 4 maintained that the applicant had accepted the offer of appointment on the terms and conditions set forth in Annexure I and during the period of probation the applicant failed to

render satisfactory services for which oral warning had been given to the applicant for his improvement in the discharge of his duties and the applicant not having caused any improvement in his work, the competent authority on the recommendation of the Departmental Promotion Committee had no other option but to terminate the services of the applicant which is an order of termination simpliciter attaching no stigma to the impugned order. Hence, the order of termination is perfectly legal and should not be disturbed or unsettled--rather it should be sustained.

3. An additional counter on behalf of the Respondents 2 to 4 has been filed stating certain illegal acts to have been committed by the applicant during his incumbency as the Farm Manager. The details stated in the additional counter will be dealt with at the appropriate stage.

4. We have heard Mr. Deepak Misra, learned counsel for the applicant and Mr. Akhyay Kumar Misra, learned Additional Standing Counsel (Central) appearing for the Central Government and we have also heard Mr. B. Routray, learned counsel appearing for Respondent No. 2 being privately engaged by the said respondent.

5. During the course of argument, advanced by Mr. Deepak Misra, it was submitted before us that a probationer has also a right of claiming protection under Article 311 of the Constitution and it was further submitted that though the impugned order of termination appears to be an irremediable order and termination simpliciter without attaching a stigma but on lifting the veil or peeping through the veil one would find that the termination order has been passed keeping in mind the alleged misconduct said to have been committed by the applicant. It was further submitted that in case, the Bench after peeping through the veil or after lifting the veil comes to a conclusion that the concerned authority had taken a perverse view against the applicant that the applicant had misconducted himself in the due discharge of his official duties, the disciplinary authority was bound to attract the provisions contained under Article 311 of the Constitution rather than to adopt a short cut method of termination of services of the applicant and, therefore, the impugned order of termination should necessarily be quashed. While repudiating this argument of Mr. Deepak Misra, both Mr. Akhyay Kumar Misra and Mr. B. Routray submitted that the question of lifting the veil would arise only when the concerned employee is not a probationer but the applicant in the present case being a probationer, he cannot claim protection under Article 311 of the Constitution especially keeping in view the terms of the contract between the employer and himself namely if the applicant fails to discharge his duties satisfactorily during the probation period, the competent authority would be perfectly justified in passing an order of termination simpliciter without assigning any reason and that having been done in the present case, the impugned order of termination is not liable to be quashed but it should be sustained.

6. In order to substantiate his contention Mr. Deepak Misra relied upon certain judgments which would be discussed hereunder.

The observations of Their Lordships in the case of *Samsher Singh v. State of Punjab and another* reported in AIR 1974 SC 2192 [1974(2)SLR 701 (SC)] have been relied upon by the counsel for both sides. Therefore, it would be proper to discuss the law laid down by Their Lordships on this subject. Before the observations of Their Lordships are quoted, it is worthwhile to

mention that services of two subordinate Judicial Officers who were on probation had been dispensed with by an order of termination simpliciter. The contention before the Hon'ble Supreme Court was on behalf of two judicial officers that though the order of termination was an order simpliciter, but such termination amounted to removal attracting the provisions contained in Article 311 of the Constitution as there were certain allegations of misconduct against them and, therefore, the termination order is liable to be quashed. At paragraph 62 of the judgment, delivered by Hon'ble Chief Justice Mr. A.N. Ray, it was observed as follows :

"The position of a probationer was considered by this Court in *Punishottam Lal Dhingra v. Union of India*, 1958 SCR 828 = (AIR 1958 SC 36) Das, C.J. speaking for the Court said that where a person is appointed to a permanent post in Government service on probation the termination of his service during or at the end of the period of probation will not ordinarily and by itself be a punishment because the Government servant so appointed has not right to continue to hold such a post any more than a servant employed on probation by a private employer is entitled to do so. Such a termination does not operate as a forfeiture of any right of a servant to hold the post, for he has no such right. Obviously such a termination cannot be a dismissal, removal or reduction in rank by way of punishment. There are, however, two important observations of Das C.J., in Dhingra's case (supra). One is that if a right exists under a contract or service Rules to terminate the service the motive operating on the mind of the Government is wholly irrelevant. The other is that if the termination of service is sought to be founded on misconduct, negligence, inefficiency or other disqualification, then it is a punishment and violates Article 311 of the Constitution. The reasoning why motive is said to be irrelevant is that it inheres in the state of mind which is not discernible. On the other hand, if termination is founded on misconduct, it is objective and is manifest. In paragraph 63 of the judgment, it was observed as follows :

"No abstract proposition can be laid down that where the services of a probationer are terminated without saying anything more in the order of termination than that the services are terminated it can never amount to a punishment in the facts and circumstances of the case. If a probationer is discharged on the ground of misconduct, or inefficiency or for similar reason, without a proper Enquiry and without his getting a reasonable opportunity showing cause against his discharge it may in a given case amount to removal from service within the meaning of Article 311 (2) of the Constitution."

In paragraph 67 of the judgment, it was observed as follows :

"An order terminating the services of a temporary servant or probationer under the Rules of Employment and without saying more will not attract Article 311. Where a Departmental enquiry is contemplated and if an enquiry is not in fact proceeded with Article 311 will not be attracted unless it can be shown that the order though unexceptionable in form is made following a report based on misconduct."

7. In the case of *State of Bihar and others v. Shiva Bhikshuk Mishra* reported in (1971) 2 S.C.R. 191 : [1970 SLR 863 (SC)], Their Lordships were pleased to observe as follows :

"So far as we are aware no such rigid principle has ever been laid down by this Court that one has only to look to the order and if it

does not contain any imputation of misconduct or words attaching a stigma to the character or reputation of a Government Officer it must be held to have been made in ordinary course of administrative routine and the court is debarred from looking at all the attendant circumstances to discover whether order had been made by way of punishment. The form of the order is not conclusive of its true nature and it might merely be a cloak or camouflage for an order founded on misconduct. It may be that an order which is innocuous on the face and does not contain any imputation of misconduct is a circumstance or a piece of evidence for finding whether it was made by way of punishment or administrative routine. But the entirety of circumstances preceding or attendant on the impugned order must be examined and the overriding test will always be whether the misconduct is a mere motive or is the very foundation of the order. (emphasis is ours).

In the case of *Anoop Jaiswal v. Government of India and another* reported in 1984(2) S.C.R. 369 : [1984(1) SLR 426 (SC)] it would be found that the petitioner Anoop Jaiswal was a member of the Indian Police Service and was undergoing training as a probationer. On a particular day all the trainees arrived late at the place where PT/unarmed combat practice was to be conducted, although prior intimation was sent to them in this regard. This delay was considered as an incident which called for an enquiry. The appellant was considered to be one of the ring leaders who was responsible for the delay. Explanation was called for from all the probationers. The appellant in his explanation sincerely regretted the lapse while denying the charge of instigating other in reporting late. After receiving the explanation all the probationers including the appellant were individually interviewed in order to ascertain the facts. On the basis of the explanation and interview without holding a proper enquiry, the Director recommended to the Government of India that the appellant (Mr. Anoop Jaiswal) should be discharged from service. The Government accordingly passed an order of discharge of the appellant on the ground of unsuitability for being a member of the IFS. This order was challenged in the writ petition. Their Lordships were pleased to observe as follows :

"Where the form of the order is merely a camouflage for an order of dismissal for misconduct, it is always open to the Court before which the order is challenged to go behind the form and ascertain the true character of the order. If the court holds that the order though in the form is in reality a cloak for an order of punishment the court would not be debarred merely because of the form of the order in giving effect to the rights conferred by law upon the employees". The order of discharge was held by Their Lordships to be bad in law on the ground that reasonable opportunity was not given to the petitioner as provided under Article 311(2) of the Constitution.

9. Last but not the least, we feel persuaded to refer to the judgment passed by Their Lordships of the Hon'ble Supreme Court in the case of *Mal Singh and others v. State of Punjab and others* reported in AIR 1986(2) 193 : [1986(2) SLR 278 (SC)]. In this case, the appellants were appointed *ad hoc* basis as Surveyors on various dates between December, 1976 to November, 1977, with a condition that their services would be dispensed with at any time without any notice or assigning any reasons. The services of the petitioners were terminated by the order of the Chief Conservator of Soil, Punjab in which it was said that the posts are no longer required. Some of

the petitioners had filed affidavits stating that at one point of time one of the petitioner was accused of shortage of cash and at one point of time one of the petitioner was also accused of shortfall and a First Information Report had been lodged against them. Similarly shortage of cash was also alleged against some other petitioners. While discussing the law laid down in the case of Purusottam Lal Dhingra v. Union of India, State of Bihar and others v. Shiva Bhikshuk Misra etc. (Supra), Their Lordships finally came to the conclusion which runs thus :

"The position is now well settled on a conspectus of the decisions referred to herein before that the mere form of the order is not sufficient to hold that the order of termination was innocuous and the order of termination of the services of a probationer or an ad hoc appointee is a termination simpliciter in accordance with the terms of the appointment without attaching any stigma to the employee concerned. It is the substance of the order i.e. the attending circumstances as well as the basis of the order that have to be taken into consideration. In other words, when an allegation is made by the employee assailing the order of termination as one based on misconduct though couched in innocuous terms, it is incumbent on the court to lift the veil and to see the real circumstances as well as the basis and foundation, of the order complained of (emphasis ours). In other words, the Court, in such case, will lift the veil and will see whether the order was made on the ground of misconduct inefficiency or not".

The Judgment of the Hon'ble Supreme Court relied upon by the learned counsel on behalf of Opposite Party Nos. 2 and 3 namely AIR 1980 SC 1242; 1978 SC 363; AIR 1976 SC 2457, AIR 1974 SC 2192 and several other decisions have not made a departure from the view expressed in the cases mentioned above and therefore there is no necessity to discuss those cases in detail. The ratio decidendi of all the judgments relied upon on behalf of the Petitioner and on behalf of the Opposite Parties could be summarised as follows :

- (a) A probationer or an ad hoc employee has no right to the post;
- (b) The employer is at liberty to pass an order of termination simpliciter dispensing with the services of the employee;
- (c) If the order of termination is founded or the ground of misconduct or inefficiency or for similar reason then provisions contained under Article 311(2) is bound to be attracted;
- (d) The Court has a right and duty to lift the veil or peep through the veil to find out whether the impugned order is merely a cloak or camouflage for an order founded on misconduct.

Therefore, the courts have to find out whether the impugned order is based on misconduct which is a mere motive or is the very foundation of the order. If the probationer is discharged on the ground of misconduct or inefficiency or for similar reason, in that case, it has to be held that non-compliance of the provisions contained under Article 311(2) of the Constitution is illegal. Now applying these principles to the case in hand one would find that the impugned order contained in Annexure 3 runs thus :

"In pursuance of the terms and condition No. 6 of the offer of appointment vide this Office Order No. 20 dated 24.10.1989, I Dr. S.R. Singh, Project Director, Water Technology Centre for Eastern Region, Bhubaneswar, hereby terminate forthwith the services of Shri M.S. Behera T-6 (Farm Manager) who is on probation".

10. In paragraph 5 of the counter filed by the Opposite Parties it is stated as follows :

"It is submitted that Departmental Promotion Committee after taking all relevant facts has come to the conclusion for extending the period of probation of the applicant from 12.12.1991 to 11.12.1992 to bring about improvement over his inefficiencies. Accordingly an office order was issued to the applicant by Respondent No. 2 wherein the applicant was advised to make special efforts in his own interest for improvement. xxx xxxx."

11. In paragraph 7 of the counter, it is stated as follows :

"The DPC in which the respondent No. 2 was not a member, assessed the work and conduct of the applicant for the purpose of determining his suitability and after careful consideration the DPC was of the view that the applicant was not suitable to continue in service in the larger interest of the organisation-WTCER and ICAR".

12. In paragraph 10 of the counter, it is stated as follows :-

It may be noted here that the respondent No. 2 on a routine visit to W.T.C.E.R. Farm received complaints from the labourers at the farm that they are not getting their daily wages. After receipt of such complaints the Respondent No. 2 with other officers viz, Shri B.K. James, Scientist (SG) and incharge Farm, Shri C.V. Joseph, Assistant Administrative Officer and Shri S.R. Khuntia, Assistant Finance and Account Officer visited the Farm on 29.9.1992 to ascertain the correctness of allegations received from the labourers. The above officers made a preliminary enquiry and prepared a report and on the basis of such report and explanation was called for asking the applicant to show cause as to why disciplinary action should not be taken against the applicant. On receipt of show cause notice the applicant has admitted some of his own faults as will be clear from Annexure 5 of the application and the applicant verbally apologised with the authorities and requested not to take any action against him. In fact the applicant in his explanation expressed his regret for such happenings and assured that he will take all care to avoid such type of problems in future. It may be clarified here that no action has been taken against the applicant pursuant to the show cause notice but the order of termination was issued as per clause 6 of his appointment letter and therefore, explanation whatsoever were called for from the applicant by the Respondent No. 2 has nothing to do with the order of termination".

13. An additional counter-affidavit was filed on behalf of the Opposite Party Nos. 2, 3 and 4. In paragraph 3 of the affidavit it is stated as follows:

"It undoubtedly proves that the applicant Shri M.S. Behera (i) does not possess adequate knowledge of the requirement of the job of Farm Manager, (ii) is not dependable, (iii) lacks thoroughness and sense of responsibility".

14. In paragraph 5 of the additional counter affidavit it is stated as follows:

"It may be mentioned here that the applicant Shri M.S. Behera, T-6 (Farm Manager) is the key functionary on the farm to manage all the inputs and the produce of the farm. Such a low income is only possible due to (i) professional incompetance and (ii) doubtful integrity of the part of the applicant".

15. In paragraph 6 of the additional affidavit it is stated as follows:

"The exact amount drawn during each month is given in Annexure 2. With this large amount to take home salary, Mr. M.S. Behera

he

maintained Royal Enfield Bullet Motorcycle (Bearing registration No. ORY 6274) and bought and maintained one Ambassador Car".

16. In paragraph 7 of the said additional affidavit it is stated as follows:

"In respondents' view such a standard of living is not possible with only meagre take home salary and applicant Shri M.S. Behera, T-6 (Farm Manager) has lived and purchased property by diverting farm input and produce".

17. In paragraph 12 of the additional counter-affidavit it is stated as follows:

"Hence the second DPC while considering all these facts recommended that he is not useful either for WTCER, Bhubaneswar or for ICAR. The competent authority accepted the decision/recommendation of the DPC and on the basis of such recommendation of DPC issued necessary instructions of termination of service in terms of his appointment letter".

Keeping in view the above quoted averments finding place in the counter, one would find from the order bearing No.1/Vig/92-93/197 dated 12th October, 1992 that certain allegations of corruption misconduct and unsatisfactory service were alleged against the petitioner and the petitioner was called upon to submit his explanation for his unbecoming conduct/behaviour/action and to show cause as to why disciplinary action should not be taken against him. The petitioner submitted his explanation in respect of each of the allegations vide his letter dated 14.10.1992 contained in Annexure 5 addressed to the Project Director.

18. The averments finding place in the counter quoted above also indicates that all these allegations were taken into consideration by the DPC before the impugned order of termination was passed. At this stage at least of repetition we would say for the purpose of emphasis that the facts of this case are similar to the facts of the cases mentioned above, especially the case of Anoop Jaiswal and Jarnail Singh (supra). In the case of Anoop Jaiswal, allegations were made against Anoop that he was a ring leader in regard to the indiscipline pervading in the academy for which an explanation had been called for and he had been interviewed along with others. Anoop had partly admitted the allegations and the expressed regret and assured the authorities that such misconduct will not be repeated. In the case of Jarnail Singh there were allegations of misconduct etc. and Their Lordships came to the conclusion that the order of termination was not an order simpliciter and was founded upon misconduct. Applying such principles to the facts of the present case, we would hold that there is no escape from the conclusion that the petitioner was discharged on the ground of misconduct and inefficiency though the impugned order of termination is an innocuous one or in other words is a camouflage in styling it as the termination order simpliciter. We would further hold that in the present case, non-application of the provisions contained under Article 311(2) of the Constitution completely vitiates the impugned order of termination and, therefore, it is hereby quashed and it is directed that the petitioner should be reinstated into service forthwith but he would not be entitled to any back wages.

19. In certain judgments, the Hon'ble Supreme Court has ruled that if a particular officer has not kept himself out from duty on his own volition, he is entitled to back wages. In the present case, we have refused to grant back wages in favour of the petitioner on the principle of 'no work no pay' because

we have quashed the impugned order of termination on a technical ground; namely the impugned order of discharge was not according to law and, therefore, we would repeat to say that the petitioner is not entitled to any back wages.

20. Thus, the application is accordingly disposed of leaving the parties to bear their own costs.

Ordered accordingly.

CENTRAL ADMINISTRATIVE TRIBUNAL
(ERNAKULAM)

Before :- N. Dharmadan Member (J) and S. Kasipandian, Member (A)
O.A. No. 788 of 1993 / Decided on 21.2.1994.

N. Velayadhan

Applicant

Versus

Respondents

Sr. Superintendent of Post Offices and others
For the Applicant : Mr. K.S. Bahuleyan, Advocate.

Fix the Respondents : Shri S. Krishnamoorthy, Advocate.

For the Respondent No. 4 : Shri M.R. Rajendran Nair, Advocate.

Constitution of India, Articles 14 and 16—Discrimination—Selection for the post of Branch Postmaster—Eligibility—Pass in SSLC examination—Interview—Selection of candidate who had secured better marks in the first attempt—Candidates having secured more marks in second attempt ignored—Selection held to be Justified. (Para 8)

Case referred :

Vijaya Mohan v. Registrar, 1991(2) KLT S.N. Case No. 49.

ORDER

S. Kasipandian, Member (A)—The applicant, along with some other eligible candidates, was considered for selection to the post of ED Branch Postmaster at Nagaripuram Post Office. An interview for selection was held by the 1st respondent on 11.1.93. Thereafter, on 20th January 1993, the 1st respondent sent a letter to the 3rd respondent intimating that the applicant is selected for the post of Branch Postmaster, Nagaripuram. He has mentioned in the letter "in case essential particulars etc. are found to be genuine, Shri N. Velayudhan may be appointed as Branch Postmaster after giving required training. The assuming charge report may be forwarded to this office." On receipt of this letter from the 1st respondent, the 3rd respondent called the applicant to appear before him on 1.2.93 and the applicant was asked to produce all the documents required to be produced by the selected candidate i.e. medical certificate, 2 photographs of this, conduct certificates, application for security bond, etc. These formalities were completed by the applicant as desired by the 3rd respondent on 3.2.93.

2. In the meantime on 27.1.93 the 4th respondent filed an appeal before the second respondent stating as follows :

"I am one of the applicants for the above post at Nagaripuram Branch Post Office under SSP Palakkad. I appeared for the interview on 11.1.93.

— Now, I understand that a candidate is selected and the orders are issued to the concerned candidate. Here I would like to point out that the marks obtained for SSLC Exam. by the selected candidate is less than me. I do not think that passing examination of the second chance may not be a reason for disqualification. And to my little knowledge I understand woman candidate is preferred for this post. Therefore I hope

142/1

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, HYDERABAD BENCH

OA No.1215/97

Shri M. Balakrishna Reddy Applicant

Versus

Union of India & Another Respondents

S.No.	Description	Page No.
01	Reply to the Original Application	1 to 24
02	ANNEXURES (R.I to R-XIX)	25 to 51

THROUGH

(Vinod Kumar Vasireddy)
Addl. Central Govt. Standing Counsel,
5-9-47/5, Beside Jaya Sri Kirloskar Nursing Home,
114, Basheerbagh, Hyderabad-500 029.

43

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, HYDERABAD BENCH

OA No.1215/97

Shri M. Balakrishna Reddy Applicant

Versus

Union of India & Another Respondents

Reply on behalf of Respondent No.1 & 2

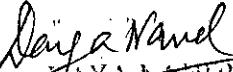
I, R. Sanehwal, aged 44 years, Under Secretary in the Ministry of Environment and Forests, Government of India, Paryavaran Bhavan, New Delhi, do hereby solemnly affirm and say as follows.

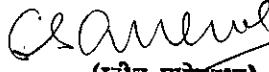
2. That I am Under Secretary in the Ministry of Environment and Forests, Government of India, New Delhi. I am acquainted with the facts and circumstances of the case. I have gone through the application and understood the contents thereof. Save and except whatever is specifically admitted in this reply, rest of the averments will be deemed to have been denied.

3. In reply to paras 1 & 2, it is submitted that the averments made therein do not require any comments, being formal.

4. In reply to para-3, it is true that the applicant was appointed to the Indian Forest Service (IFS) w.e.f. 16.5.1994 and joined the Indira Gandhi National

ATTESTOR


(रवीश सानेहवाल)
रवीश सानेहवाल, अधिकारी
पर्यावरण विभाग
मिनिस्ट्री ऑफ एन्वायरेन्मेंट
गवर्नमेंट ऑफ इंडिया


DEPONENT
(R. SANEHWAL)
अवार सचिव/Under Secretary
पर्यावरण विभाग मंत्रालय
मिनिस्ट्री ऑफ एन्वायरेन्मेंट
गवर्नमेंट ऑफ इंडिया/Govt. of India
नई दिल्ली/New Delhi

Forest Academy, Dehradun (hereinafter referred to as the 'Academy') as an IFS Probationer for undertaking training in the 1994-97 Course. The applicant underwent induction phase of training from 16.5.94 to 2.9.94 and was directed to report for foundational course at Lal Bahadur Shastri National Academy of Administration, Mussoorie (hereinafter referred to as LBSNAA) along with other probationers of 1994-97 course. The applicant was to report for the foundational course at LBSNAA in the afternoon of 4.9.1994. He, however, submitted an application dated 2.9.1994 to the Course Director of the said batch requesting station leave for 3.9.94 on the ground of personal work at Delhi. A copy of the same is filed as Annexure-R-I. On the same date, he also submitted an application to the Course Director giving formal intimation about his appearance in the Civil Services (Main) Examination, 1994. A copy of the same is filed as Annexure-R-II. The applicant, however, did not return back to the Academy nor did he join the foundational course at LBSNAA as directed to do so. He sent a telegram dated 5.9.94 originating from Vijaywada, Andhra Pradesh informing the Course Director that being bed-ridden due to ill health he may be granted medical leave for 15 days w.e.f. 5.9.94. A copy of the same is filed herewith as Annexure-R-III. The applicant followed

ATTESTOR

Daya Nand
 (Signature)
 Daya Nand
 Secretary, Office of
 Ministry of Environment &
 Forests
 Govt. of India

R. Sanehwal
 (रामेहवाल)
 DEPONENT
 (R. SANEHWAL)
 अवार सेकेटरी/Under Secretary
 अपोर्ट्युट एवं फॉरेस्ट मंत्रालय
 Ministry of Env. & Forests
 भारत सरकार/Govt. of India
 नई दिल्ली/New Delhi

the same with a letter dated 9.9.94 submitting therewith a medical certificate regarding his ill health. The same was further followed with a telegram received on 23.9.94 requesting extension of sick leave for one month w.e.f. 20.9.94 i.e. on the date of expiry of the first application. This was further followed by a letter dated 20.9.94 (received in the Academy on 26.9.94) addressed to the Course Director alongwith a medical certificate for his sufferance from entric fever for which he was advised rest from period 20.9.94 to 19.10.94. Again, after a lapse of one month, the applicant requested for extension of medical leave from 20.10.94 till 5.11.94 appending therewith a medical certificate issued from a government dispensary at Naydupet, Andhra Pradesh. This was further followed with an application for extension of leave w.e.f. 6.11.94 till 10.1.95. The applicant, however, reported for duty in the forenoon of 20.12.94 i.e., this time submitting a medical certificate of fitness dated 17.12.94 issued from Government headquarter hospital, Anantpur. The applicant also produced a certificate dated 20.9.94 for his treatment for 90 days w.e.f. 20.9.94 from the same hospital at Anantpur, Andhra Pradesh, though earlier medical certificates were issued from different places. Copies of the letter dated 9.9.94 with enclosure, telegram dated 23.9.94, letter

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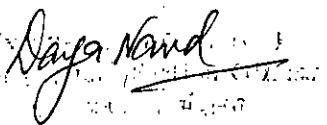
Daya Nand
Daya Nand
Under Secretary
Ministry of Env. & Forests
Govt. of India
New Delhi

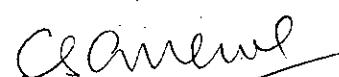
Chandival
DEPONENT (दिवान चन्दिवाल)
(R. SANDEEP)
अवर सेक्रेटरी/Under Secretary
एयरवेण विभाग मंत्रालय
Ministry of Env. & Forests
भारत सरकार/Govt. of India
नई दिल्ली/New Delhi

dated 20.9.94, the medical certificate issued by the Govt. dispensary, Naydupet and Medical Certificate dated 17.12.94 are filed herewith as Annexure-R-IV to VIII.

From the above, it is clear that the applicant submitted a station leave application and without waiting for the same to be granted, he left his headquarters viz. Dehradun for New Delhi and from there he proceeded to his native State Andhra Pradesh. He obtained medical certificates from various hospitals/dispensaries for his alleged ailment i.e., entric fever/viral hepatitis etc. These certificates being issued from different places also do not bear any consistency with regard to the treatment taken by the applicant, thus casting doubt upon the fact of his illness. Apparently, these certificates were procured by the applicant with the sole purpose and intention of being away from government duty without any prior approval/sanction from the competent authority. His contention that he was instructed by the Director, LBSNAA that the probationers who had passed Civil Services (Preliminary) Examination need not report for Foundational Course at LBSNAA and that he was advised to go on leave despite his intention to continue on duty in the Academy is patently false and baseless. The applicant's contention that doors of LBSNAA were closed

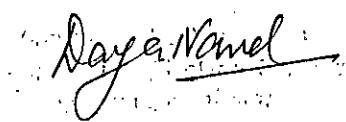
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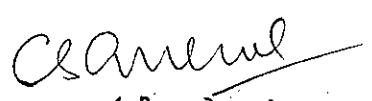

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Ministry of Env. & Forests
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R. Sanehwala
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मंत्र सचिव/Under Secretary
पर्यावरण और वन मंत्रालय
Ministry of Env. & Forests
भारत सरकार/Govt. of India
नई दिल्ली/New Delhi

for him and he reluctantly proceeded on leave is patently wrong, as is manifest from the above details. At no point of time was he or any other officer trainee advised to proceed on leave by the Academy or any other authority. The above documents are fully suggestive of the applicant's intentions not to join the Foundational Course, which he ultimately did so by submitting an application for the station leave and left the headquarters i.e. the Academy without waiting for its sanction and then followed the same with the medical leave applications and procuring medical certificates in support of his alleged illness later on. The veracity of these certificates is doubtful and may also be substantiated from the fact that the applicant subsequently got married during this period (on 23.10.1994) and has been allegedly staying with his spouse by taking a quarter on rent at Ashirwad Enclave, Dehradun. Proof of his stay at Dehradun during period of his purported sickness is also substantiated from the complaint letter dated 3.7.1995 received from his father-in-law Shri M. Ramchandra Reddy R/o Nellore, Andhra Pradesh and the bank transaction carried out by the applicant in the Central Bank of India, FRI extension during this period. The copies of the complaint letter dated 3.7.1995 and the said transaction are filed

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Daya Nandan
Under Secretary
Ministry of Env. & Forests
Government of India
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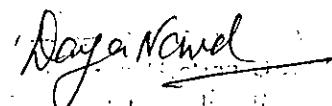

R. SANEHWAL
Under Secretary
Ministry of Env. & Forests
Government of India
New Delhi

herewith as Annexure-R-IX & R-X. Leave to the applicant and three other officer trainees, who did not join the foundational course for writing the Civil Services (Main) Examination was sanctioned by the respondent No.1 vide letter No.17022/03/94-IFS.II dated 25.3.1995 (a copy of which is filed herewith as Annexure-R-XI).

This leave was granted to the applicant alongwith three other officer trainees on the basis of the respondent No.1 agreeing to allow them to appear in Civil Services (Main) Examination, 1994 about which the respondent No.1 had informed the Union Public Service Commission vide their letter dated 26th September, 1994 (a copy of which is filed as Annexure-R-XII) in pursuance of the order dated 26.8.1994 (a copy of which is filed as Annexure-R-XIII) passed by the Allahabad Bench of this Hon'ble Tribunal in OA No.1254/94 allowing Shri Sanjeev Kumar Gupta, one of the four candidates including the applicant, for appearing in the Civil Services (Main) Examination, 1994. The applicant had subsequently neither informed the Academy nor the respondent No.1 about the fact of his non-appearance in the Civil Services (Main) Examination i.e., the ground on which leave was granted to the applicant and three others.

The Academy, vide its letter dt. 23.1.1995 had only sought clarification from the Respondent No.1 about

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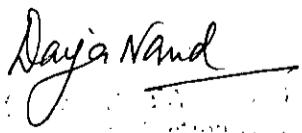

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Joint Secretary
Ministry of Home Affairs
Government of India
New Delhi

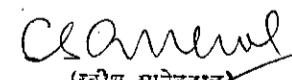

R. Sandhuwal
DEPONENT
Joint Secretary/Under Secretary
Ministry of Home Affairs
Government of India
New Delhi

the manner in which period of absence of above mentioned Officer-trainees was to be regularised. In response to the same, the respondent No.1 allowed regularisation of period of absence of all the four officer-trainees including the applicant by granting them eligible leave.

The fact of the applicant's marriage during this period was neither informed nor known to the respondents till June, 1995 when a complaint letter (Annexure-R-IX) was received from the father-in-law of the applicant alleging straining of relation between his daughter and the applicant and requesting the Course Director Shri Siddhanta Das to take custody of Car bearing Chassis No.696922 from the applicant. The applicant's contention that Shri Siddhanta Das, the then Course Coordinator, furnished a false furnished a false statement to the investigating officer in the said case against him smacks of his malicious intention and is mischievously designed. It may be borne from the Annexure-R-IX which goes to show that Maruti Car bearing No. AP 26C 122, which was being used by the applicant at Dehradun, was detained on the basis of a complaint received from Shri M. Ramachandra Reddy, father-in-law of the applicant. The possession of this car was taken over by Shri M. Sahikiran Reddy in presence of the investigating officer Shri S.M. Basha,

ATTESTOR


Naya Nand
Deputy Conservator of Forests
Ministry of Env. & Forests
Government of India
New Delhi


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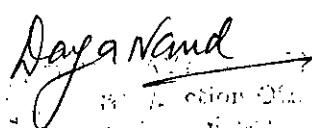
DEPONENT
(प्रमाणात्मक)
Chanchal
Secretary
Ministry of Env. & Forests
Government of India
New Delhi

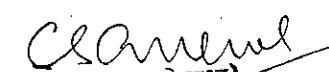
Inspector of Police, CID Hyderabad, Andhra Pradesh and the applicant himself on 23.8.95. The applicant did not raise any objection to transfer of the vehicle. The statement of Shri Siddhanta Das, the then Course Director is, therefore, based on factual happening. Any government officer is required to cooperate with an investigating agency in the matter of state investigation, which duty was performed by Shri Das in his capacity as Course Director of the batch.

As regards the Memo (a copy of which is filed as Annexure-R-XIV) issued to the applicant by then course professor Shri A.K. Wahal in July, 1995, a reading of the same would reveal that action against him was intended under IFS (Probation) Rules, 1968 and not under All India Service (Discipline & Appeal) Rules as alleged by the applicant. In fact this show cause notice to the applicant was preceded by an advice memo to him during July, 1995 wherein his attention was drawn towards the IFS (Probation) Rules, 1968 and he was advised to devote whole heartedly towards his probationary duties. He was also informed thereby that failing to do so would make him liable for action under IFS (Probation) Rules, 1968.

It is admitted that a report was sent to the respondent No.1 by the Academy during November, 1995

ATTESTOR


Daya Nand
Under Secretary
Ministry of Env. & Forests
New Delhi

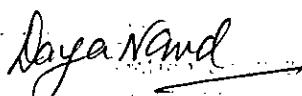

Chanchal
(रवीश रामेहरवाल)
DEPOENT
(R. RAMEHARWAL)
अवार सचिव/Under Secretary
दृष्टिगति विभाग
Ministry of Env. & Forests
भारत सरकार/Govt. of India
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giving the account of unauthorised absence from duty of the applicant and recommending action against him under IFS (Probation) Rules, 1968. A copy of the report is filed as Annexure R-XV.

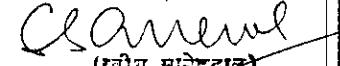
It is also true that a telegram was issued to the applicant at his home address in November, 1995 informing him about refusal of leave and directing him to join for duty immediately by the then Course Director. A copy of the telegram is filed therewith as Annexure-R-XVI.

The applicant, after remaining unauthorisedly absent from duty for a prolonged period, reported for duty to the Academy on 2.1.96. It is desired that the applicant had formally applied for leave between the period May, 1995 to December, 1995. From Annexure-R-XVII it is clear that the applicant applied for leave on 15.5.95 when he was on Hill Tour on the pretext of his mother's illness which was not sanctioned. From 19.5.95 to 5.6.95 he remained absent from duty while on tour without any intimation to the Accompanying Faculty. During this period, he apparently left the camp and returned to Dehradun on 5.6.95, when he again applied for 10 days leave. The leave was not sanctioned and the applicant left the Headquarter without any permission.

ATTESTOR



Dyanand
Deputy Director
IFS


Charanwal
(रवीर नेहवाल)
DEPONENT NEHWAL
महाराजा/Under Secretary
परोक्ष शासन मंत्रालय
Ministry of P. & F. & E.
आरत सरकार/Govt. of India
नई दिल्ली/New Delhi

On 13.7.95, a telegram was received from the applicant for extension of leave. He joined back his duty on 18th July, 1995. Again on 12th August, 1995 he applied for station leave on the pretext of consultation with the respondent No.1 which was not sanctioned. Further, on 23.8.95, he applied for leave stating emergency conditions which was refused. On 25.8.1995, he again applied for 10 days leave stating emergency condition, which was refused. From 25.8.95 to 11.9.95, he remained absent from duty and also away from Headquarters without any intimation. On 12.9.95, the applicant reported for duty alongwith his batch during South Indian Tour at Hyderabad. On 18.9.95 i.e. only after 6 days of his reporting, he left the camp during South Indian Tour giving an application for one month leave for attending Court Case, which was again not sanctioned. On 26.10.95 the applicant applied for leave through telegram for 20 days stating urgent personal work which was not sanctioned. This was further followed by a telegram on 10.11.95 for leave for 20 days on account of illness which was again not sanctioned. On 15.12.95, one more telegram was received for extension of leave which was refused. On 2.1.1996 he reported for duty to the Academy and his joining report was not accepted. A report, which is filed herewith at Annexure-R-XVII detailing

ATTESTOR

Daya Nand

Chander
(रवीश चंद्रेहवाल)
DEPONENNEHWAL
अमर सचिव/Under Secretary
प्रदीप राम राज पाटेल
Ministry of Env. & Forests
भारत सरकार/Govt. of India
नई दिल्ली/New Delhi

unauthorised absence of the applicant, as mentioned aforesaid in this para, was sent to the respondent No.1 on 3.1.96. In response thereto, the respondent No.1 directed not to allow the applicant and another probationer to resume duty immediately and advised the Academy to direct him to report for duty for undergoing training at the relevant time during the next year alongwith his junior batch. Accordingly, the applicant's joining report was not accepted and he was advised to report for duty for undergoing training in the foundational course at LBSNAA which was to commence during September, 1996. A letter was sent to the applicant at his home address in Andhra Pradesh during July, 1996 informing him to resume duties. The applicant, however, did not report for duty and sent a telegram dated 9.9.96 requesting for leave on medico legal reason. A telegram alongwith a medical certificate sent by the applicant in September, 1996 is filed herewith as Annexure-R-XVIII. The said medical certificate did not bear any signature of the applicant nor was any formal leave application attached therewith, thus causing doubt upon the genuineness of the certificate.

The respondent No.1 issued an order discharging the applicant from the Service on 27.9.96 under rule 13

ATTESTOR

Daya Ward

Chandru
 DEPARTMENT OF EXTERNAL AFFAIRS
 (R. SANEHWAL)
 भारत सचिव/Under Secretary
 पर्यावरण एवं संस्कृति
 Ministry of Env. & Culture
 भारत सरकार/Govt. of India
 नई दिल्ली/New Delhi

(c) & (d) of the IFS (Probation) Rules, 1968. The discharge order was sent by the respondent No.1 to the applicant at his home address at Andhra Pradesh which was returned with the remarks 'REFUSED'. A copy of the same is filed herewith as Annexure-R-XIX. Subsequently, on his request, a copy of the impugned order was again sent to him by respondent No.1 on 27.5.97.

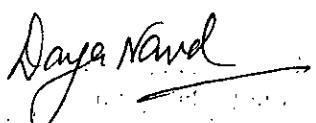
5. The contents of paras 4 & 5 need no specific reply as being legal in nature.

6. It is submitted that the averments made paras 6(a) & (b) pertain to the personal bio-data of the applicant and are matters of record; hence no specific reply is needed.

7. In reply to para 6(c), it is submitted that the applicant was appointed to the IFS on the basis of IFS Examination, 1992 conducted by the UPSC.

8. In reply to para 6(d), it is submitted that the Civil Services (Preliminary) Examination, 1994 was conducted during June, 1994. The applicant did not inform the authorities about his appearance in the said Examination. On completion of induction phase of

ATTESTOR




Chanchal
(विवेक नेहवाल)
DEPONENT/NEHWAL
मंत्र सचिव/Under Secretary
प्रधानमंत्री कार्यालय
Ministry of P. & F. Works
भारत सरकार/Govt. of India
नई दिल्ली/New Delhi

training at the Academy, the applicant along with other probationers of his batch was required to report for foundational course at LBSNAA on 5.9.94 for a period of about four months. The applicant's contention that an impasse was created because he was not to be permitted to attend the foundation course at LBSNAA is not correct, as no such direction was issued to him either by the Academy or LBSNAA authorities. As stated earlier, the applicant left the headquarters on 2.9.94 without obtaining prior approval/sanction and continued to send medical certificates on the ground of his sickness till 20.12.94 when he reported for duty at the Academy. The applicant's allegation that he was advised by the then course professor Shri A.K. Wahal for a whole hearted preparation of the main examination is a figment of his imagination and an after-thought to drag the Academy into an unnecessary controversy whereas the fact is that he remained unauthorisedly away from government duty for a long period. The applicant, however, got married during this period and allegedly came down to stay in a privately rented accommodation at Dehradun alongwith his spouse. As submitted supra, the medical certificates submitted by him for this period were procured/obtained by him with the sole intention of getting unauthorised absence from duty regularised.

ATTESTOR

Chamail
(रवीरा नानेहाल)

DEPONENT (NEHWAL)
जवाहरलाल नेहवाल
परोपरण द्वारा दिया गया
Ministry of P. & F. & Forests
सरकारी/गोव्ह. of India
नई दिल्ली/New Delhi

9. In reply to para 6(e), the answering respondents have no comments to offer so far as the marriage of the applicant is concerned. However, it is submitted that the fact about his marriage was never reported by the applicant to the answering respondents. The respondent No.2 only received his applications/telegrams accompanied with presumably false medical certificates for extension of his leave during the material period. The fact that he got married during this period also falsifies the alleged sickness by the Applicant.

10. In reply to para 6(f), it is submitted that the answering respondent had regularised the period of absence of the applicant from the Academy during September to December, 1994. As regards the contention of the applicant about his strained relations with his course professor, it is again a figment of his over-stretched imagination and an after-thought. Such an incident never took place in the first instance. His allegation is, therefore, highly motivated and mischievously oriented and borne out of his malice towards the authorities viz. Course Director/Course Professor, who were the two main officers responsible for the conduct of the course, and were required to keep a

ATTESTOR

Daya Nand

Chandru
(रवीश चंद्रु दास)

DEPONENT BHAWAL
मंत्र सचिव/Under Secretary
प्रधानमंत्री कार्यालय
Ministry of P.M. & U.O.
मान्य सरकार/Govt. of India
नई दिल्ली/N. w Delhi

watch on the conduct of the officer-trainees of the course. The allegation of strained relation is brought out for the first time for the purpose of filing this application, as at no point of time the applicant had complained about it to the higher authorities.

11. In reply to para 6(g), it is submitted that the fact regarding marriage of the applicant came to the notice of the Academy's authorities only when a complaint against him was received during June, 1995. Shri Sidhanta Das, the then Course Director, had to inform the investigating agency regarding facts about the Maruti car which was taken over by the brother-in-law of the applicant in his own presence. This fact is borne by the signature of the applicant on the handing over document which is filed herewith as Annexure-R-XX. No other averment has been made by any official of the Academy, as no one was aware about the matter involving his marriage and subsequent developments which fall within the personal domain of an officer. The applicant's contention that the communication emerging from the Academy to the respondent No.1 are tainted does not have any basis and is an after-thought to give a colour to the action taken by the respondents against him.

ATTESTOR

Daya Nand

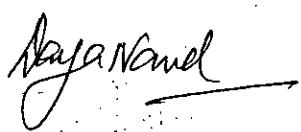
Chander

(रवीश सरदेहवाल)
DEPARTMENT OF HUMAN RESOURCE DEVELOPMENT
मंत्र सचिव/Under Secretary
प्रधानमंत्री कार्यालय
Ministry of P. & T. & D.
भारत सरकार/Govt. of India
नई दिल्ली/New Delhi

12. In reply to para 6(h), it is submitted that the 2nd respondent had reported to the respondent No.1 about his frequent absence from the Academy during the course of his training.

13. In reply to para 6(i), it is submitted that the contention of the applicant that reports sent against him to the respondent No.1 by the Academy does not hold any legal validity in view of the fact that in November, 1995 he was asked to join his duties by the Academy. In fact, the report of November, 1995 to the respondent No.1 bears the record of his unauthorised absence and frequent absconding from duty prior to that period. The applicant was given further opportunity to report to duty and desist from remaining unauthorisedly away from duty. It is further stated that the applicant, having been unauthorisedly away from duties, was repeatedly informed about refusal of his leave and asked to report for duty. Even then he failed to heed to the advice given to him in this regard. A chronology of unauthorised absence of the applicant (Annexure R-XVII) would show that he has been absenting from his probationary duties and absconding from his headquarters on several occasions despite the fact that leave was never granted to him. A total absence of 12 months out of a period of 18 months would

ATTESTOR




DEPONENT (रामेश नेहवाल)
NEHWAL
अवर सचिव/Under Secretary
पर्याप्तता संचयन संस्थान
Ministry of PWD & FR
भारत सरकार/Govt. of India
बाह्य संस्करण/New Delhi

suggest that the applicant had not been taking his probationary duties seriously. He had been repeatedly absenting/absconding from his duties unauthorisedly on one pretext or the other. It is not true that his joining report dated 2.1.96 i.e., after he remained absent from duty for a period of nearly 8 months i.e. for the entire period during May to December, 1995 was accepted, nor was he verbally advised to abstain from duty by the concerned Course Director. Since the matter was referred by the Academy to respondent No.1 for communicating action to be taken in the matter, and only after the receipt of the same on 6.1.96, he was advised by the Academy to resume duties in September, 1996 alongwith the next batch. The applicant's contention about the transpiring of the communication between the Academy and the Respondent No.1 within a period of two day's time, is neither accepted nor desirable. It is not upto him to question the mode of communication involved in the process. The communication dated 6.1.96 asking him to report for duty in September, 1996 for the foundational course at LBSNAA alongwith his junior batch was based on the respondent No.1's conscious decision. This, in fact, gave him yet another opportunity to mend his actions, which he failed to do so subsequently. It is admitted that the applicant met the answering

ATTESTOR

Maya Nand

Charniwal
(रवीन नेहवाल)
DEPONENT NEHWAL
लक्ष्मीनाथ/Under Secretary
प्रधानमंत्री/Minister of P. & C. & S.
Ministry of P. & C. & S.
भारत सरकार/Govt. of India
नई दिल्ली/New Delhi

respondent and discussed his case. He was informed that appropriate action would be taken in the matter. His contention that the entire exercise was a proven case of malafide exercise of power is neither borne out by facts nor true. Training of IFS officers in the Academy is well structured and so designed that all components are inter-linked. This training is held in different modules which are followed by field study tours in different bio-geographic regions of the country. Since the applicant did not attend a significant part of training and had also missed foundational course/study tours, etc. it was not advisable to allow him to continue further alongwith his other batch-mates. Due to this very reason, the Academy advised the respondent No.1 that the applicant be asked to discontinue his training on his reporting in January, 1996 and be allowed to join the same afresh alongwith the next batch starting with the foundational course at LBSNAA commencing in September, 1996. An All India Service officer is required to discharge higher functions and responsibilities in various capacities in his career; as such, his training is to be rigorous and thorough. Any lacunae/lapse on the part of a probationer is not desirable and thus cannot be allowed as it would affect his performance in his future career. Considering this in mind, a conscious decision

ATTESTOR

Daya Navel

Chander
(रवीर सनेहवाल)
DEPONENT: CHANDER
अवर सचिव/Under Secretary
प्रशासन एवं संचालन
Ministry of P. & S.
भारत सरकार/Govt. of India
नई दिल्ली/New Delhi

was taken by the respondent No.1 to discontinue his duties when he returned after his prolonged absence in January, 1996. The said action was taken in the interest of public service and, therefore, cannot be termed as illegal, as contended by the applicant. No such letter addressing these issues was received from the applicant in the Academy during October, 1996, as submitted him. As such, the question of furnishing him any reply does not arise. In view of the above, the applicant's contention that a secret plan was brewing to secure his expulsion from the Academy is totally unfounded and is without any basis.

14. In reply to para 6(j), it is submitted that the applicant's contention that he could not join duty in September, 1996 to attend foundational course at LBSNAA as directed to him earlier due to his being sick is simply an excuse for the lapse on his part of deliberately remaining away from duty. As stated earlier, his contention of being sick during this period is doubtful.

15. In reply to para 6(k), it is submitted that the applicant was discharged from the Service vide impugned order dated the 27th September, 1996 taking into

ATTESTOR

Daya Navel

Chamewal
(रवीश चामेवाल)
DEPONENT NEHWAL
अधिकारी/Under Secretary
प्रांतीक संचालन विभाग
Ministry of P. & C. 1996
आवास मंत्रालय/Govt. of India
नई दिल्ली/New Delhi

account the report received from the Academy about his long absence from the training. It is, however, submitted that the impugned order was received back from the Postal Authority with the endorsement "Refused". On the request of the applicant, a copy of the said order was subsequently supplied to him.

16. In reply to para 6(1), it is denied that no explanation was called from the applicant in the matter. In fact, during July, 1995, he was given a detailed account of his unauthorised absence from duty and was advised by the Academy to follow his training schedule properly. His explanation was called for in August, 1995. The applicant furnished a reply that due to his mother's sickness he remained absent from duty, which was not at all convincing. In fact, this was another excuse taken by the applicant to justify his unauthorised absence. As such, this fact never found any mention in his earlier applications nor was the same reported by him to any of the authorities. He was subsequently asked to report for duty in September, 1996 for attending foundational course at LBSNAA which he did not comply with despite two reminders to him. All the attempts on the part of the Academy in making him to report to duty and to follow his training sincerely proved futile.

ATTESTOR

Daya Nand

C. Sanehwal
(राजीव सानेहवाल)
DEPONENT
(B. SANEHWAL)
भावर सचिव/Under Secretary
प्रधानमंत्री कार्यालय
Ministry of P. & R. S.
आवास मंत्रालय, Govt. of India
कार्यालय, New Delhi

GROUND

In reply to the Grounds taken by the applicant, the Respondents submit as follows :

17. In reply to sub-para (1), it is submitted that the applicant has been discharged from the Service under Rule 13 (c) & (d) of the IFS (Probation) Rules, 1968 after taking into account all the facts and circumstances of the case.

18. In reply to sub-para (2), it is submitted that the applicant had deserted from duty, as he left his place of duty without taking prior sanction/approval of the Academy on many occasions. Foundational course at the LBSNAA is a part of total mandatory training of three years for the IFS probationers and, therefore, cannot be considered as separate except for the fact that this part of training is conducted at LBSNAA, Mussoorie. He along with other probationers was required to join the same during September, 1994 which he did not. On at least two occasions Shri Reddy left the camp from study tour simply sending an application and without waiting for the same to be approved/sanctioned from the competent authority. As regards qualities of mind and character, his conduct

ATTESTOR

S. Nand

Chander
(रवीन सानेहवाल)
(R. SANEHWAL)
DEPONENT
Ministry of P. & F.
भारत सरकार
गोव्य सरकार
नई दिल्ली/New Delhi

right from the beginning i.e., falsely securing medical certificates in support of his absence from duty and leaving his place of purported treatment to live at another place alongwith his spouse, non-reporting of the matter of his marriage to the government and other developments related to his marriage go to prove that he lacked in the qualities of mind and character befitting an All India Service officer.

19. In reply to sub-para (3), it is submitted that the Course Professor can always seek an explanation from a probationer who is not taking his training seriously. So far as the action for discharging him from the Service is concerned, the same could be taken only by the respondent No.1 who were the appointing Authority in this case. The impugned order was, therefore, passed by the respondent No.1 after examining the report received from the respondent No.2 regarding his frequent absence from the Academy during the course of training.

20. In reply to sub-para (4), it is submitted that the period of absence upto 237 days as stood in October, 1995 did cover a period of 4 months of foundational course at LBSNAA which was not attended by the applicant. The applicant was never deprived of

ATTESTOR

Daya Nand

Chandru
(राजेन्द्र साहेहवाल)
DEPONENT
अधर सचिव/Under Secretary
प्रधानमंत्री के साथी
Ministry of P. & C. & S.
भारत सरकार/Govt. of India
नई दिल्ली/New Delhi

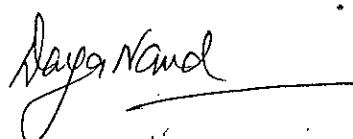
joining the LBSNAA and asked to go on leave. He left the headquarters with a station leave application and remained away from duty on the pretext of being sick. The Academy never recommended leave for his unauthorised absence. The extraordinary leave granted by the respondent NO.1 to the applicant and three others was on the basis of allowing them to appear in the Civil Services (Main) Examination, as communicated to the UPSC by the respondent No.1 in view of the orders dated 26.8.94 passed by the Hon'ble Tribunal, Allahabad Bench in the case of Shri S.K. Gupta, IFS Probationer of the same batch, i.e. 1994-97. The applicant's contention that the officials of the Academy were prejudiced against him is totally unfounded and bears no credibility.

21. sub-para (5) does not require any reply.

22. Paras 7 & 8 of the Application also do not require any reply, being formal.

23. In reply to paras 9 & 10, it is submitted that in view of the position explained in detail in reply to the preceding paragraphs, the applicant is not entitled to any relief or interim relief, as prayed for. The application is without any merit and deserves to be dismissed with costs.

ATTESTOR




(रामेश सानेहवाल)
DEPONENT
(P. SANEHWAL)
मानव संसाधन विभाग
परिवर्तन विभाग
मंत्री कार्यालय
मिनिस्टरी ऑफ एज्युकेशन
मानव संसाधन/गोव. ऑफ इंडिया
नई दिल्ली/New Delhi

24. Paragraphs 11 & 12 need no reply.

New Delhi

Dated: 13.1.1998

R. Sanehwal

For Respondents No.1 & 2

VERIFICATION

I, R. Sanehwal, Under Secretary to the Govt. of India having my office at Paryavaran Bhavan, Lodi Road, New Delhi-110003, do hereby verify that the contents stated above are true and correct to the best of my knowledge, belief and information and that nothing has been suppressed therefrom.

Verified at New Delhi on this the 13th day of January, 1998.

New Delhi

Dated: 13.1.1998

R. Sanehwal

For Respondents No.1 & 2

(R. SANEHWAL)

अधिकारी/Under Secretary

पर्यावरण विभाग

Ministry of Env. & Forests

मानव संरक्षण/Govt. of India

नई दिल्ली/New Delhi

Mr. Lourse Deviwal

1994-97 batch

India Gandhi National Forest Academy.

Sir,

This is to request you to kindly grant me station leave for 3-09-94 as I wish to proceed to Delhi on a personal work.

Thank you.

faithfully yours,
H. Bale Krishna Reddy
1994-97 course

Channal

Director
Sahar, Dehradun National Forest Academy
New Forest, Dehradun.

9-09-94

16/26/1994
5.919

Sir,

Sub: Intimation of the Probationer's
appearing for the Civil Services
Mains Examinations - 1994.

In pursuit of my career interests
I formally intimate you of my appearing
for the Civil Services Mains Examinations - 1994.

Thank you.

C.D. 1994-97 batch
R
519

Faithfully yours,
M. Bala Krishna Reddy
IFS - Probationer
1994-97 Course

Chamrel

DNCCAO 72, XXX, UDNDNAEZ
R222, VIJAYAWADA 05 024

ANNEXURE R-III

2/2
S/Chq, des
nurse Dir. C.
Gardian Ganchi foss
N/FOREST DEHRADUN
DEHRADUN 248006

ACADEMY

C 19

(S)



BEDRIDDDEEN DUE TO ILLHEALTH PLEASE GRANT MEDICAL LEAVE
FOR FIFTEEN DAYS FROM FIFTH SEPTEMBER

M. BALAFKRISJHNAREDDY

COL 248006

CCUL-EE

AVJCCAU337 AVJSFM1/54 AHDSFBU762 UDNMSSU550

NNNN

Delhi or

work

Thank you

Chandral

for

H. G.

9-9-94,

The Course Director

94-97 Course

IGRRA

Dehradun.

Sir,

In pursuance of my

telegram intimating you of my ill-
health a medical certificate
duly attesting the same is enclosed
You may kindly sanction me leave
from 5-9-94 to 20-9-94 on
medical grounds.

Thank you

for it truly yours

M. Balaji Krishna R.R.

94-97 course

IGRRA.

Chennavel

D. P. Narayana Rao,
Reg No 6682. M.D.,
Asst Professor of Medicine
Andhra Medical College
Asst Physician, K.G.H.

78
71
Certificate

This is to certify that Sri
M. Balakrishna Reddy, IFS
Probationer, Dehra Dun, whose
signature is given below is
on examination found to suffer
from 'Pneumonia' and advised
rest from 5-9-94 to 20-9-94

26/5/94

M. Balakrishna Reddy

D. P. Narayana Rao,
Reg No 6682. M.D.,
Asst Professor of Medicine
Andhra Medical College
Asst Physician, K.G.H.

Channan

To

20-09-94.

The Course Director

1994-95 batch

Indira Gandhi National Forest Academy
Dehradun - 248006

Sir,

In view of my continuing
illness (malaria fever) I seek
continuation of leave from 20-09-94
till 19-09-94.

Thank you.

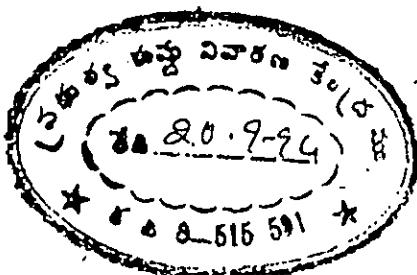
Faithfully yours

M. Balaji Krishnam Reddy
IFS Probationer

Caravel

Medical certificate

This is to certify that I have examined Sri M. Balakrishna Reddy I.P.S probationer, 6 Devaranam and found that he is suffering from enteric fever for which I advised him to take rest from 20-9-94 to 19-10-94.



Golay
20.9.94

Stamp
20.9.94

C. Amruth

UDN+ 0006

====

UDNTAB0110

NNNN

Dr. Vijayachandra Reddy,

ANNEXURE : R-VIII
M.D., F.I.S.E.

ONCIAN

Regd. No. 4362

ANANTAPUR

Phone : 21451

75 (33)
TAL-
RSE ROAD,
1 P.M.

Date, 17.12.94.

17.12.94. DATE

Thus far nothing till

Govt. m. P. S. Dr. Vijayachandra Reddy M.D. F.I.S.E.

Probationer in N.T.A. Dehra Dun

has recovered from his illness

and he is fit to begin duty

From 17.12.94

Vijayachandra

17/12/94

Channal

Dr. V. Vijayachandra Reddy, M.D.
Civil Asst Surgeon.
Govt. Head Quarters Hospital,
ANANTAPUR - 515 001

3rd July, 1995.

From

M. Ramachandra Reddy,
 Agrahar Pet (St),
 Nayudupet - 524 126,
 NELLORE (dt.) A.P.

To

Sri Siddanth Das, I.F.S.,
 Course Director (Asst. Prof.),
 I.G.N. Forest Academy,
 New Forest,
 DEHRADUN, U.P.

Sir,

Sub : Sri M. Balakrishna Reddy, I.F.S. Probationer moving
with Maruthi Car - Safecustody request - Req.

Honourable Sir I am father-in-law of Sri M. Balakrishna Reddy, I.F.S., probationer 1994 batch. My daughter Smt. Vani married the above probationer on 23-10-1994 at Srinivasa Kalyana Mandapam, Tirupati. Later he has taken my daughter and set up family at Ashrwad Enclave Dehradun.

During November, 1994 we brought the car to Dehradun. The same was left at Dehradun. Mean time some difference have taken place between Sri M. Balakrishna Reddy and my daughter and she returned to home by leaving.

Above car bearing Engine No: _____
 and Body No: _____ and other belonging.

Further it is submitted that the same car was registered at my native district Nellore in Andhar Pradesh in the name of my son Sri M. Sai Kiran Reddy.

Hence, I request that the same car may be taken into your custodiy and kept in safe place till we come and personally receive it.

Thanking you sir,

Yours faithfully,

C. Chinnai

(M. RAMACHANDRA REDDY)
 Father-in-law of
 M. Balakrishna Reddy, I.F.S.,
 (Probationer 1994 Batch).

सेंट्रल बैंक

ऑफ इंडिया

Central Bank
of IndiaConfidential

Branch.....

राशा.....

FRIDAY, 21.10.97.

तारीख :

कोन :

Gram :

Phone :

To

22/10/97

M.C. Joint. Director

I.G. N.P.A.

Pehsodan

Sir,

In response to your letter No. 9) I.P.A.

B/ 20-21 dated 21/10/97 we are giving below information
about Mr. M. Balakrishna Reddy, I.F.S(P).

(i) On 02/7/94 Mr. Reddy operated his saving account

(ii) On 30/11/94 Mr. Reddy operated his safe deposit locker

Thanking you.

Yours faithfully,

Chintan,

B/S Manager

C. Anand

By Regd. P. 36

No. 17022/03/94 IFS II

Dt. 25th March, 1995

तार:

Telegram : PARYAVARAN,
NEW DELHI

दूरभाष :

Telephone :

टेलेक्स :

Telex : W-66185 DOE IN

FAX : 4360678

भारत सरकार

पर्यावरण एवं वन मंत्रालय

GOVERNMENT OF INDIA
MINISTRY OF ENVIRONMENT & FORESTS
पर्यावरण भवन, सी. जी. ओ. कॉम्प्लेक्स
PARYAVARAN BHAWAN, C.G.O. COMPLEX
लोदी रोड, नई दिल्ली-110003
LODI ROAD, NEW DELHI-110003

To

The Director,
Indira Gandhi National Forest Academy,
P.O. New Forest,
Dehra Dun.Sub: Appearance in Civil Service Examination by IFS
probationers - regularisation of absence thereof.

Sir,

I am directed to refer to your letter No. 250/94-NFA/70.21 dated 23.1.95 on the subject noted above and to convey approval of the competent Authority to regularise the period of absence in respect of the following four probationers by granting them eligible Leave:-

<u>S.No.</u>	<u>Name of the Probationer</u>	<u>Period of absence from duty</u>
	S/ Shri	
1.	Sanjiv Kumar Gupta	5.9.94 to 4.1.95
2.	Santosh Kumar	5.9.94 to 4.1.95
3.	M. Bala Krishna Reddy	<u>5.9.94 to 19.12.94</u>
4.	M.S. Peddy	5.9.94 to 15.1.95

Yours faithfully,

Chamail
(R. Sanehwal)

Under Secretary to the Govt. of India

Chamail

IMMEDIATE
TIME BOUND

31

पात्र :
Telegram : PARYAVARAN
NEW DELHI
दूरभाष :
Telephone :
टेलेक्स :
Telex : W-66185 DOE IN
FAX : 4360678

भारत सरकार
पर्यावरण एवं वन मंत्रालय

GOVERNMENT OF INDIA
MINISTRY OF ENVIRONMENT & FORESTS
पर्यावरण भवन, सी. जी. ओ. कॉम्प्लेक्स
PARYAVARAN BHAWAN, C.G.O. COMPLEX
लोदी रोड, नई दिल्ली-110003
LODI ROAD, NEW DELHI-110003

No. 17011/04/90 IFS-II
Dt. 26th September, 1994

1742
17-10-94

To

The Secretary,
Union Public Service Commission,
Dholpur House,
Shahjahan Road,
New Delhi-110011.

Sub: Application of Sh. Sanjeev Kumar Gupta, IFS Probationer (1993 batch) for appearing in Civil Services (Main) Examination, 1994.

Sir,

I am directed to forward herewith the Application Form (in original) of Shri Sanjeev Kumar Gupta, IFS Probationer (1993 batch) for appearing in the Civil Services (Main) Examination 1994. This is in pursuance of order dated 26.8.94 passed by the Central Administrative Tribunal - Allahabad Bench in Original Application No.1254 of 1994 filed by Shri Gupta (copy enclosed).

CD 1594-97 batch

fc
12/10

38/14
17/10

Yours faithfully,

Sd/-

(R. Sanehwal)

Under Secretary to the Govt. of India

Encl:-

1. Original Application Form of Sh. S.K. Gupta for Civil Services (Main) Examination, 1994.
2. Copy of CAT's orders dt. 26.8.94.

Celarun

Copy to: The Director, Indira Gandhi National Forest Academy, Dehra Dun with reference to your letter No.1571/94-MEA/70-21 dt. 14th September, 1994. They may inform Sh. S.K. Gupta that his Application Form for the Civil Services (Main) Examination has been forwarded to the UPSC vide this Ministry's letter of even number dated 26.9.94.

Celarun
(R. Sanehwal)

Under Secretary to the Govt. of India

For Commencement of
THE INDIA FOREST SERVICE (PROBATIONERS)
INDIRA GANDHI NATIONAL FOREST ACADEMY
CHAKRATA ROAD, DEHRADUN
CENTRAL HIGHEST COURT TRIBUNAL
ALLAHABAD BENCH, ALLAHABAD

Annexure IX

Original Application No. 1254 of 1994

S.K.Gupta Applicant.

Venue

Union of India & Ors. Respondents.

Hon'ble Mr. S. Das Gupta, Member-A

Hon'ble Mr. T.L.V. Iyer, Member-B

(By Hon'ble Mr. S. Das Gupta, A.M.)

Heard Shri Sudhir Agarwal, learned counsel

for the applicant on admission,

2. The applicant's case is that on being successful in the Indian Forest Service Examination, 1992, held at Indira Gandhi National Forest Academy, Dehradun as Indian Forest Service (Probationer) pursuant to the appointment order dated 15.04.1994. Thereafter, he appeared in the Civil Services Preliminary Examination 1994 on 26.06.1994 for which, he had submitted his before joining as I.F.S. (Probationer). The applicant has since qualified in the Preliminary Examination and is now required to appear in the main examination.

3. It has been stated in the application that the Ministry of Personnel, Public Grievances and Pensions (Department of Personnel and Training) have since issued a notification dated 24.06.1994 enacting an amendment to the I.F.S. (probation) Rules 1985 by introduction of a previous Sub-hrule 1 of Rule 6 ibid which reads:

Cancelled

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1121

10/10/94

"Provided that no probationer in the service, should, during the period of training of the Forest Research Institute and Colleges, Dehradun appear either in the Civil Services Examination or any other examination for appointment to the Central or State services by Open Competitive Examination"

It is stated that this notification would come into force on the date of their publication in the official gazette. This notification has been forwarded to the Director, Indira Gandhi National Forest Academy, Dehradun for ~~of late~~ quick compliance and according to the applicant, he has also been given a copy of the same by the respondent No. 3. Apprehending that he might be prevented from appearing in the Civil Services Mains Examination, the applicant submitted a representation dated 23.07.1994 in which he has inter alia, challenged the validity of the said notification and has prayed that he be allowed to appear in the Civil Services Examination of 1994 and also in future Civil Services Examinations.

4. On the basis of the above facts, the applicant has prayed for the relief of quashing the impugned notification dated 24.06.1994 and also for issuing a direction to the respondents not to prevent the applicant from appearing in the Civil Services Examination, 1994 or thereafter.

5. From the facts submitted in the application and also the oral submissions made by the learned counsel for the applicant, it appears that apart from giving a copy of the impugned notification to the applicant, the respondents have not taken any overt action in

Clarified

preventing the applicant from appearing in the Civil Services Mains Examination of 1994. The applicant is stated to have joined as a Probationer before the date of issue of the notification which in any case is to come into effect prospectively from the date of its actual notification in the official gazette. The apprehension of the applicant that he may be prevented from appearing in the Civil Services Examination does not appear to be well-founded at this stage, it are, therefore, in the view that the application at this stage is premature. The cause of action, if at all, will arise only if the applicant submits his application for the Mains Examination and the same is not forwarded by the respondent No. 3 or is otherwise refused permission to appear in the Civil Services Examination, 1994. The applicant therefore should fill the application form for the 1994 Civil Services Mains Examination and submit it to respondent No. 3 for onward transmission to the Union Public Service Commission. If the respondent No. 3 refuses to forward the same to U.P.S.C. or takes no action for forwarding the same, the applicant may approach a Tribunal for appropriate orders.

6. The application is otherwise premature at this stage and the game is disposed of accordingly with the above observations.

~~Continued~~ ~~ed.~~

W. S. Sd.

1. Number (J)

1. (1) 1. (1) 1. (1)

~~Confidential~~
ANNEXURE R-XIV

69/195-NFA/70-21

Dated the 19th July, 1995

Shri M. Balakrishna Reddy,
IFS (Probationer),
1994-97 Course,
I.G.N.F.A., Dehradun.

53
(41)

Sub: Unauthorised absence from duty.

You had proceeded on Hill Tour on 29.4.95 along with other probationers, but on 15/5/95 you left the camp for your home town in Andhra Pradesh after submitting an application for leave for four days. You did not return back to your duties on expiry of the above period. On 5/6/95 you submitted an application to the Course Director, requesting for leave for ten days. You subsequently remained absent from your duty till 17/7/95 and joined on 18/7/95 (F/N).

On both the occasions you had proceeded on leave on your accord as the same has not been sanctioned/approved by the competent authority. Such an unauthorised and wilful absence from duty is in violation of Section 12 of Indian Forest Service (Probation) Rules, 1968. In the past also you have availed extraordinary leave for a very long period thus missing a considerable part of training and have been casual in attending to your probationary duties, which is borne out from the official records. In the instant case, you have absented from training for about two months and have joined on 10th instant apparently with a motive to appear at the examinations scheduled from 19/7/95. Such a conduct on your part is highly improper and violative of IFS(P) Rules. You are hereby called upon to explain the circumstances for your unauthorised and wilful absence from government duty from 15/5/95 upto 17/5/95 and why action should not be initiated against you U/s 12 of IFS(P) Rules. Your explanation should reach within three days of receipt of this memo.

Please acknowledge the receipt of this letter.

Yours faithfully

Y. T. Murthy
19/7/95
Professor

Course Director
1994-97 Course
IGNFA, Deh. Dun.

Chhawal

ANNEXURE R-XV

54

No. 2646/95-NFA/70.1-1

Dated the 14TH Nov., 1995

To

The Secretary to Government of India,
Ministry of Environment & Forests,
Parivaran Bhawan,
CGO Complex, Lodi Road,
New Delhi - 110003.

(Kind attention - Shri A.K. Goyal, Director,

Sub: Frequent unauthorised absence from duty by Shri M. Balakrishna Reddy, IFS probationer - initiation of action under IFS (Probation) Rules

Sir,

This is to bring to your kind notice that Shri M. Balakrishna Reddy, IFS (probationer) undergoing training in 1994-97 course in this Academy has been neglecting his probationary studies/duties by prolonged and frequent unauthorised absence from duty. In the past one year, Shri Reddy has left HQs without permission on atleast five occasions and remained unauthorisedly absent from duty for considerably long period thus missing a significant part of his training. Details of his absence from duty are furnished as under:

1) On 2/9/94 he submitted an application to the Course Director for granting him station leave for 3/9/94 for proceeding to Delhi on a personal work. He was to report for foundational course at Mussoorie on 4/9/94 but he did not report for the same. On 5/9/94, he sent telegram from Vijaywada, Andhra Pradesh (copy enclosed) informing that he was bed-ridden due to ill health and requested for grant of medical leave for fifteen days. He followed the same with a letter dated 9/9/94 and a Medical Certificate alongwith the same. He extended his sick leave for another one month w.e.f. 20/9/94 by sending another telegram.

In the meantime he had informed that he wished to appear in the Civil Services (Main) Examination, 1994. He extended his medical leave upto 19.12.94 by furnishing medical certificates. His case was forwarded to Ministry alongwith five other probationers vide this office letter No. 1487/94-NFA/70.21 dated 8/9/94 for their not joining the foundational course at LBSNAA, Mussoorie due to appearing in Civil Services (Main) Examination. The Ministry have granted permission for the same vide their letter No. 17011/04/90-IFS-II Dated 8/12/94 and also approved grant of EOL to all these probationers to regularise their period of absence from duty. Accordingly, Shri Reddy has been granted EOL for 106 days w.e.f. 5/9/94 to 19/12/94.

Original

Further, it is stated that Shri M. Balakrishna Reddy did not appear in Civil Services (Main) Examination, 1994, but instead, he utilised the aforementioned period of his leave on medical grounds to get married. This fact came to the notice of the Academy on a later stage, as such, his unauthorised absence from duty from 5/9/94 to 19/12/94 on medical grounds, casts suspicion on his claim of having remained medically unfit during the above period. He has, therefore, suppressed the facts with malafide intention to unauthorisedly remain absent from duty and not joining the foundational course at LBSNAA, Mussoorie which was a part of his probationary studies//duties.

2) He submitted a leave application on 31/3/95 pleading that he was suffering from kidney stone. He left for Delhi prior to sanction of the leave and reported for duty on 10/4/95. He has been subsequently further granted commuted leave on medical grounds on the strength of medical certificate for this period.

3) He applied for one day leave on 24/4/95 but remained absent till 28/4/95 on the plea that he was suffering from mumps. The above period of absence has been regularised by granting him casual leave.

4) Shri Balakrishna Reddy while on study tour to Himachal Pradesh in the month of May '95 left the camp on 15/5/95 without taking permission from the accompanying faculty member simply dropping a leave note for 4 days and proceeded to his hometown. He did not return to join the rest of the tour nor sent any information. He remained absent from duty till 16/7/95 i.e., for 63 days. On being called upon to explain the reason for his unauthorised absence he informed that due to his mother's illness he could not report for duty. The explanation submitted by him is not at all convincing.

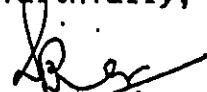
5) Again on 22/8/95 while an Inspector of Police from CID branch of Andhra Pradesh was here in connection with an enquiry on dowry related complaint case against Shri Reddy, he applied for 2 days leave on 23/8/95 and left Dehradun. Later on he sent a fax message for extention of his leave. He didn't appear in mid-term examination conducted by this Academy during first week of September. He was telegraphically asked to report for duty immediately, but he did not do so and joined back for duty at Hyderabad on 12.9.95 during South India tour which commenced W.e.f. 10.9.95. He, however left the camp again on 18.9.95 at Mysore giving an application to the accompanying faculty member stating that his presence was required at his native place in connection with court case and he wanted leave for one month.

Certified

The aforementioned conduct of Shri M. Balakrishnan Reddy indicates that he has been contemptuously absconding from duty without prior approval/sanction of leave thus wilfully neglecting his probationary duties. Out of a period of one year and five months of training so far, he has remained absent for 237 days (upto 20.10.95) i.e., about 50% of the total. His conduct regarding deliberate missing of foundational course, desertion from study-tours, non-seriousness towards training and skipping the examination would only go to suggest that he has not been sincerely devoting to his probationary duties and calls for initiation of action against him U/S 12 of Indian Forest Service (Probation) Rules, 1968.

In the light of details stated above Ministry may kindly take necessary action, as deemed fit, against Shri M. Balakrishna Reddy under the relevant provisions of the rules.

Your faithfully,


DR. (P.N. RAY)

DIRECTOR

INDIRA GANDHI NATIONAL FOREST ACADEMY, DEHRADUN.

Encl: as stated.

Cancelled

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87

STATE

TELEGRAM

ORDINARY

M. BALA KRISHNA REDDY
IFS PROBATIONER
KALYANAMANDAPAM, P.O. PRASANTHINILAYAM,
DISTRICT ANANTAPUR
ANDHRA PRADESH - 515 134

LEAVE REFUSED(.) JOIN IMMEDIATELY(.)

FORACADEMY

NTT.
P.O. New Forest
Dehra Dun - 248 006

Course Director
1994-97 course
Indira Gandhi National Forest Academy

Copy of telegram sent by post in confirmation:

Sh. M. BALAKRISHNA. REDDY
IFS PROBATIONER
KALYANAMANDAPAM, P.O PRASANTHINILAYAM,
DISTRICT ANANTAPUR,
ANDHRA PRADESH - 515 134

Course Director
1994-97 Course
Indira Gandhi National Forest Academy

Channul

16th May, 1994 = Joined

Period of Absence from duty to Shri M.B.K. Reddy, IFS (P)

Period	Whether application submitted for leave	Ground on which leave applied	Whether leave sanctioned/refused	Remarks
20/6/94 to 28/6/94 (6 day)	Yes	Pre-Ph.D Examination	Sanctioned	
7/7/94 (1/2 day)	Yes	Illness	Sanctioned	
19/8/94 (1/2 day)	Yes	Illness	Sanctioned	
3/9/94	station leave application submitted on 2/9/94	Personal Work	Not Sanctioned	
5/9/94 to 20/9/94 (15 days)	Telegram received on 6/9/94 & leave application alongwith Medical Certificate received on 12/9/94	Ill Health	Not Sanctioned	
20/9/94 to 20/10/94	Telegram received on 23/9/94 & leave application alongwith Medical Certificate received on 26/9/94	Ill Health	Not Sanctioned	
20/10/94 to 05/11/94	Telegram received on 26/10/94 & leave application alongwith Medical Certificate received on 22/11/94	Ill Health	Not Sanctioned	
6/11/94 to 10/01/95	leave application alongwith Medical Certificate received on 22/11/94	Ill Health	Not Sanctioned	

JOINING REPORT SUBMITTED ON 20/12/94

5/9/94 to 19/12/94 Leave Sanctioned as per Ministry letter No.17022/03/94-IFS-II dt.25/3/95

Channal

47/86

19/1/95 to 13/1/95	leave application submitted	cousin's marriage	Sanctioned
16/1/95	leave applied	overstay at home	Sanctioned
13/3/95 to 20/3/95	application submitted	mother's sickness	Sanctioned
31/03/95 - 07/04/95	application submitted	Illness	Sanctioned
24/04/95	application submitted for 3 days leave but remained absent till 28/4/95.	Illness	Not sanctioned
13/5/95 (1/2 day)	leave applied	Missing of Bus during tour	Sanctioned
15/5/95 to 18/5/95 (4 days)	leave applied during Hill Tour	Mothers illness	Not Sanctioned
19/5/95 to 5/6/95	absent without intimation		
5/6/95	leave applied for 10 days	Mothers illness	Not sanctioned
13/7/95	Telegram received for extention of leave and joined duty on 20th July, 1995		
18/7/95	Joined his Duty		
12/08/95 - 14/08/95	station leave applied and one day overstay	Consultation with the Ministry of Env. & Forests.	Not sanctioned
23/8/95- 24/8/95	leave applied	Emergency conditions	Refused
25/08/95	leave applied for 10 days	Emergency conditions	Refused
25/8/95 to 11/9/95	Absence without intimation		
12/9/95	Reported for duty during South India Tour		

Charnel

18/9/95

Leave applied during South India tour

court case for one month

Not sanctioned

26/10/95

Leave applied urgent through telegram personal work for 20 days

Not sanctioned

10/11/95

Leave applied Illness through telegram for 20 days

Not sanctioned

15/12/95

Extension for Continuing leave applied Illness through telegram

Refused

2/1/96

Reported for duty in Academy

Joining report not accepted

5/1/96

Not allowed to resume duty as per Ministry's letter No. 17022/03/94-IFS II dated 5/1/96.

CSAmenel

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E.D. 94-97 Comm

JOINT DIRECTOR

IGNFA REPORT

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KINDLY, GRNT, LEV FOR THI DYG, MEXICO

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D. K. SANJEEVI
M.D.
Civil Surgeon & Physician
Osmania General Hospital
Hyderabad - A.P.

3030

18-7-96

(50)
(92)

Date: 2.7.96

Medical certificate

This is to certify that Mr. M. Balaji

Kishan Reddy, aged 28 yrs. of Sri:

M. A. Reddy is suffering from Viral Hepatitis.

Has received treatment &

Completed his rest for four weeks
from 2.7.96

C. D. 94-97 Convalescence

18/9/96

Dr. K. SANJEEVI M.D.
Civil Surgeon And Physician
Osmania General Hospital
Hyderabad, A.P.

Convalescence

O.A. NO. 1215 OF 1997

95

Pre-delivery Judgment as dictated by Hon'ble SRI B.S.JAI
PARAMESHWARA MEMBER (J) is placed below for kind perusal
and approval.



(D. SATYANARAYANA)

STENO-Grade-D

HM(J) JR

HM(A)-II

May be posted for pronouncement in the Open
Court on 8-5-97

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL: HYDERABAD BENCH
HYDERABAD

C.A. No. 1215 OF 1997

DATE OF DECISION: 8.5.1998

M. Bala Krishna Reddy

PETITIONER(S)

Mr. D. Vijaya Shankar

ADVOCATE FOR THE
PETITIONER(S)

VERSUS

1. Union of India & another

RESPONDENT(S)

Mr. V. Vinod Kumar

ADVOCATE FOR THE
RESPONDENT(S)

THE HON'BLE H. RAJENDRA PRASAD, MEMBER (ADMN)

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

1. Whether Reporters of local papers may be allowed to see the Judgement? No
2. To be referred to the Reporter or not? No
3. Whether their Lordships wish to see the fair copy of the Judgement? No
4. Whether the Judgement is to be circulated to the other Benches No

JUDGEMENT DELIVERED BY HON'BLE B. S. JAI PARAMESHWAR, MEMBER (J)

Jc

97

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL: HYDERABAD BENCH:
AT HYDERABAD

O.A.No. 1215 OF 1997.

Date of Decision 8-5-98

Between:

M.Bala Krishna Reddy. .. Applicant

and

1. Union of India, represented by Secretary, Ministry of Environment and Forests, Paryavaran Bhavan, C.G.C.Complex, Lodi Road, New Delhi.
2. Director, Indira Gandhi National Forest Academy, New Forest, Dehradun, Uttar Pradesh.

.. Respondents

COUNSEL FOR THE APPLICANT :: Mr.D.Vijaya Shanker

COUNSEL FOR THE RESPONDENTS :: Mr.V.Vinod Kumar

CORAM:

THE HON'BLE SRI H.RAJENDRA PRASAD, MEMBER (ADMN)

AND

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

: O R D E R :

ORAL ORDER (PER HON'BLE SRI B.S.JAI PARAMESHWAR, MEMBER (J))

Heard Sri N.Rama Mohan Rao for Sri D.Vijaya Shanker, learned Counsel for the Applicant and Sri V.Vinod Kumar, learned Standing Counsel for the Respondents.

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2. This is an application under section 19 of the Administrative Tribunals Act. The application was filed on 9-9-1997.

3. The applicant herein had passed IFS examination, 1993 and was a probationer undergoing Induction, Foundational and Administrative Training Courses during the years 1994-1997. On 16-5-1994, the applicant reported for duty at Indira Gandhi National Forest Academy, Dehradun. The applicant under-went induction phase of training from 16-5-1994 to 2-9-1994. He was directed to report for foundational course at Lal Bahadur Sastry National Academy for Administration, Mussorie alongwith other probationers of his batch. He was to report for duty at Mussorie on 4-9-1994.

4. On 2-9-1994, the applicant submitted an application for leave for 3-9-1994 to the Course Director. The said leave was sought on his personal work at New Delhi.

5. The applicant, thereafter remained absent from the training courses. The applicant used to send telegrams and letters accompanied by the medical certificates issued by the Medical Practitioners at various places in the State of Andhra Pradesh.

6. By the impugned Proceedings No. F/17016/02/95-IFS-II, dated 27-9-1996 he was discharged from service.

7. At this stage it may be noted that the applicant was governed by the Indian Forest Service (Probation) Rules, 1968 (in short "the rules, 1968") and the amended Rules, 1996.

8. The applicant has filed this O.A. challenging the impugned Order of discharge dated 27-9-1996 on the following grounds:-

- (a) The impugned discharge order passed under Rule 13(c) & (d) of the rules, 1968 has been passed with an intention to punish him;
- (b) The impugned order is in reality an order under Rule 12 (3) of the Rules, 1968;
- (c) The impugned order is severely hit by the provisions of Article 311(2) of the Constitution of India;
- (d) The language terminology used in the impugned order are strictures in nature and cast a stigma on his career.

He has relied upon the decision of the Hon'ble Supreme Court in the case of SAMJHAR SINGH Vs STATE OF PUNJAB (reported in 1974(2) SCC, 831) and in the case of ANOOP JAISWAL Vs GOVT. OF INDIA, (reported in 1984(2) SCC, 369).

9. Hence he has prayed for the following reliefs:-

- (a) call for the entire record with the first respondent pertaining to the applicant and the records pertaining to file No.17016/02/95-IFS.II which dealt with his discharge from service; and
- (b) to set aside the orders of the 1st respondent herein in F.No.17016/02/95-IFS.II, dated 27-9-1996 served through communication dated 27-5-1997 and issue a consequential direction to the 1st respondent to reinstate him in service with all consequential benefits in IFS batch, 1993 to which he was originally appointed by the first respondent herein.

Jc

10. The respondents have filed a detailed counter right from the date of submission of leave application by the applicant on 2-9-1984 till the impugned order of discharge is passed. They deny the averments made in the O.A. They contend that those averments are figments of his imagination and are intended to gain undeserved sympathy at the hands of this Tribunal. They deny the said averments in toto. They further submit that the applicant remained absent and no detailed enquiry was necessary to discharge a probationer. A probationer has no right or lein for a post. He failed to evince interest in the IFS probationer training courses.

11. The telegrams, medical certificates, and the letters written by the applicant were contrary to the then existing affairs. It is their contention that during such period, the applicant got married one Smt. Vani on 23-9-1994 and was living with his wife at Asheerwad Enclave, Dehradum. Thus they submit that the facts brought out by the applicant in the leave applications were absolutely devoid of truth. Thus they pray for dismissal of the O.A.

12. Having heard the learned Counsels on both sides, we are required to see whether the impugned order of discharge is a discharge simplicitor or intended to cast any aspersions or stigma on the applicant.

13. The Cuttack Bench of this Tribunal in MADHUSUDHAN BEHERA Vs UNION OF INDIA, (reported in 1994 (8) SLR at page 500) has dealt with the case of a probationer and his right for protection under Article 311 of the Constitution. The applicant has relied on the said decision also. He has produced the xerox copies of the Judgment in the said case.

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14. The applicant relied upon the IFS (Probation) Rules amended in 1996. In the amended rule, a proviso was added reading as follows:-

"Provided that except in a case falling under clause (a), the Central Government shall hold a summary enquiry before passing an order under these rules".

In our humble view the summary enquiry intended in the proviso is only an enquiry required to be made by the competent authority to consider whether the probationer is fit to be continued in service or not. It is not a detailed enquiry. It is an enquiry to be made by the authorities on the basis of the service and the performances of the probationer.

15. The applicant made much of his pre-marital complications of his would be wife and post-marital complications between his father-in-law and his wife.

16. In our opinion these allegations are made for the first time when he filed the O.A. during the year 1997. These facts were never brought to the notice of the Course Director. We feel that/these facts were actually true and those facts prevented him from reporting for duty at the training then we feel he should have been truthful enough to his service and brought to the notice all these facts to the Course Director. In our humble view, the Course Director would have taken sympathetic view and that the Course Director could have come to the rescue but that is not the case here. The applicant used to send telegrams and leave applications purely on medical grounds. It is during the period of his absence he married Smt. Vani. He did not bring to the notice of the authorities of the Academy about his marriage and about his living with

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his wife at Dehradun. Infact, the respondent-authorities have collected facts about the applicant living with his wife and operating an account bearing SB account No.11031.

17. On going through the enclosures to the counter, we are fully satisfied that the applicant suppressed real facts and deliberately remained absent. He showed utter disregard to the course of training which he was scheduled to undergo between 1994 and 1997.

18. The Hon'ble Supreme Court in the case of KUNWAR ARUN KUMAR Vs U.P.HILL ELECTRONICS CORPORATION LTD. AND OTHERS has observed as follows:

"5. The petitioner challenged the order of termination in the High Court. The High Court without going into the question whether or not it is a stigma, came to the conclusion that the respondents had totally lost confidence in the appellant and that he was totally unsuitable for the job for which he was employed and, therefore, he was found not entitled to any enquiry. Consequently, it dismissed the writ petition. Shri Schgal, learned Senior Counsel for the petitioner, contends that the finding recorded amounts to a stigma; action taken without conducting enquiry and giving an opportunity to the petitioner, is violative of Article 311(2) of the Constitution and the rules made thereunder. Therefore, he is entitled to an opportunity of being heard and be dismissed only on the ground of misconduct and not by termination simpliciter. We do not agree with the learned counsel. The reasons mentioned in the order may be a motive and not a foundation as a

Dr

ground for dismissal. During the period of probation, the authorities are entitled to assess the suitability of the candidates and if it is found that the candidate is not suitable to remain in service they are entitled to record a finding of unsatisfactory performance of the work and duties during the period of probation. Under these circumstances, necessarily the appointing authority has to look into the performance of the work and duties during the period of probation and if they record a finding that during that probation period, the work and performance of the duties were unsatisfactory, they are entitled to terminate the service in terms of the letter of appointment without conducting any enquiry. That does not amount to any stigma. If the record does not support such a conclusion reached by the authorities, a different complexion would arise. In this case, they have recorded the finding that the petitioner was regularly absent on one ground or the other. Under these circumstances, the respondents terminated his services. We do not find any illegality in the action taken by the respondents."

19. In the case of RAJASTHAN ADULT EDUCATION ASSOCIATION VS K.A.BHATACHARYA & ANOTHER, (reported in 1998 (1)SIR.97 & 98 has observed as follows :-

"5. We do not think High Court has examined the issue involved in the case in its proper perspective. The respondent was not holding any regular appointment with the appellant. She was employed for a particular project. At the most she was on probation during the period of her appointment. She was told to show improvement in her work. Not only that she was told so

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in writing by letter dated March 11, 1989 but the matter was discussed with her on other occasions as well. When the appellant found that the work of the respondent was not upto the mark and she was not showing any improvement during the probation period, her services were dispensed with. Her employment was purely temporary. Letter terminating her services does not cast any stigma on the respondent. Termination of her services was not by way of any punishment. It was a termination simpliciter. The appellant was within its right to terminate the temporary employment of the respondent."

20. In the case of CHHITARLAL VS STATE OF MADHYA PRADESH, (reported in 1998 (1) SLR, page 366 (p.369) Para.9), the Hon'ble High Court was pleased to observe as follows:

"9. It is well settled that during the period of probation, the employer/authority concerned is entitled to assess the suitability of the candidates and if it is found that the candidate is not suitable to remain in service, the employer/authority is entitled to record a finding of unsatisfactory performance and duty. Under these circumstances, necessarily the appointment authority has to look into the performance of work and performance if a finding of unsatisfactory work is recorded during the probation period the service of such probationer is liable to be terminated in terms of conditions of appointment without conducting an enquiry. That does not amount to any stigma. If the record does not

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support such a conclusion reached by the authority a different complexion would arise. See : Kunwar Arun Kumar Vs. U.P. Hill, Electronics Corporation Ltd., (1997)2 SCC 191 : (1997(1)SIR 136 (SC))."

21. The applicant contended that the language/terminology applied by the authorities in the impugned order cast a stigma on him. We do not feel persuaded to accept the said contention. Infact, those are the very grounds under which a probationer can be discharged. Those are the terminology used in the Probation Rules, 1968. When that is so, applying the rule position to the applicant cannot be regarded as casting a stigma on him.

22. On 2-8-1994 the applicant submitted a leave application for a date on 3-9-1994 stating that he had some personal work at New Delhi. Thereafter, he came back to the Andhra Pradesh and remained absent. The applicant started sending telegrams and letters accompanied by medical certificates of different medical practitioners at different places in the State of Andhra Pradesh.

23. It is not known why the applicant did not bring to the notice of /the respondent authorities the real facts for his absence. It is not known why he failed to report to the matter as to his absence. If he was entangled in any matrimonial litigations, he should have brought to the notice of the authorities. As already observed, many of the averments made by him in respect of his would be wife's pre-marital and post-marital complications between his wife and father-in-law have not been brought to the notice of the authorities at any stage prior to the impugned order. If the applicant felt delicate

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to bring these facts to the respondent authorities in black and white then he should have sought a personal hearing with the Course Director and explained him the real position. Moreover, these averments were made for the first time in the O.A. that is why the respondents have in their counter taken a stand that those averments are his figment of his imagination.

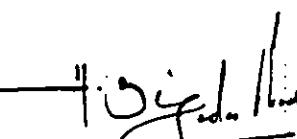
24. He did not attend the training deliberately and submitted leave applications and medical certificates on false and untenable grounds thereby giving scope to the authorities to suspect his integrity. These circumstances in our humble view are fully justified for the authorities to take into consideration to pass the impugned order.

25. We find no illegality or irregularity in the impugned

26. In view of the above, we find no merits in this O.A. and the O.A. is liable to be dismissed.

27. Accordingly, the O.A. is dismissed leaving the parties to bear their own costs.


(B.S.JAI PARAMESHWAR)
MEMBER (J) 8/5/98


(H.RAJENDRA PRASAD)
MEMBER (A)

Dated: 8th May 1998

DSN

*for the
Deputy Registrar*

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C.A. 1215/97

To

and Forces, Paryavaran Environment
Union of India, C.G.O.Complex,
Lodi Road, New Delhi.

Forest Academy, New Forest,
Dehradun, Uttar Pradesh.

Chandru Advocate, CAT.Hyd.

4. One copy to Mr. V.Vinod Kumar, Advl.CGSC. CAT.Hyd.
5. One copy to HBSJP.M.(J) CAT.Hyd.
6. One copy to DR(A) CAT.Hyd.
7. One spare copy.

pvm

10/6/98
I COURT

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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH AT HYDERABAD

THE HON'BLE MR.JUSTICE

VICE-CHAIRMAN

AND

THE HON'BLE MR.H.RAJENDRA PRASAD:M(A)
The Hon'ble Mr. B.S. Sai Pramodwar, M.C.
DATED: 8-5-1998.

ORDER/JUDGMENT

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

in

O.A.No.

1215197

T.A.No.

(w.p.)

Admitted and Interim directions
issued.

Allowed.

Disposed of with directions

Dismissed.

Dismissed as withdrawn.

Dismissed for Default.

Ordered/Rejected.

No order as to costs.

pvm.

केन्द्रीय प्रशासनिक अधिकरण
Central Administrative Tribunal
हैदराबाद न्यायस्थीठ
HYDERABAD BENCH

27 MAY 1998

Despatch No.

~~RECEIVED~~

27 MAY 1998
LIAISON/APPAL SECTION