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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH
AT HYDERABAD

ORIGINAL APPLICATION NO.898/99

DATE OF ORDER : 17-4-2000

Between :-

K.Narsimlu

...Applicant

And

1. The Ordnance Factories Board,
rep. by the Additional Director General,
Ordnance Factories, Armoured Vehicles Head-
Quarters, Avadi, Chennai-600 054.
2. The General Manager,
Ordnance Factory Project,
M/o Defence, Govt. of India,
Eddumailaram, Medak Dist., A.P.

...Respondents

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Counsel for the Applicant : Shri P.Kishore Rao

Counsel for the Respondents : Shri B.N.Sharma, Sr.CGSC

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CORAM:

THE HON'BLE SHRI JUSTICE D.H.NASIR : VICE-CHAIRMAN

THE HON'BLE SHRI R.RANGARAJAN : MEMBER (A)

(Order per Hon'ble Shri R.Rangarajan, Member (A)).

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(Order per Hon'ble Shri R.Rangarajan, Member (A)).

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Heard Sri P.Naveen Rao for Sri P.Kishore Rao, learned counsel for the applicant and Sri B.N.Sharma, learned Standing Counsel for the Respondents.

2. The applicant in this OA while working as Labourer under Respondent No.2 was issued with a charge sheet No. 02/00058/Estt./96/66 dated 24-12-1996 (Annexure-I page-12 to the OA). The articles of charges reads as follows :-

1. Wilful neglect of duty - habitual irregular attendance during the period from 01/95 to 11/96.
2. Failure to maintain devotion to duty.
3. Conduct unbecoming of a Govt. servant.

3. An enquiry was conducted and the enquiry proceedings are at Annexure-II (Page-16 to the OA) whereby it was held that the applicant remained absent from duty ~~for~~ 214 days on 63 occasions. The applicant has filed a defence statement on the basis of the enquiry report furnished to him by his representation dated 11.2.98 (Annexure-IX page-25 to the OA). This is very short. Though he submits that some of the unauthorised absence has been covered by granting leave, the Disciplinary Authority by order dated 6-4-1998 (Annexure-XI page-28 to the OA) punished the applicant by removing him from service. Against that order the applicant had filed an appeal dt.27-4-1998 (Annexure-X page-26 to the OA) wherein also he complains that the period of unauthorised absence is not fully unauthorised and some portion of the absence had been regularised by granting leave. The Appellate Authority by order dated 4-5-1999 (Annexure-XII page-30 to the OA) had confirmed the punishment of

removal from service imposed by the Disciplinary Authority. A reading of the order dated 4-5-1999 clearly indicates that the Appellate Authority has ^{not} taken note of the contention of the applicant that some of the period for which he was charge sheeted as unauthorisedly absent is regularised as leave due to him. Para-3(c) of the Appellate Authorities order dated 4-5-1999 is relevant in this connection, which is re-produced below :-

"That he has intimated his sickness to the appropriate authorities and applied for leave and regularised his absence period. Hence, the sanctioned leave may not be treated as irregular attendance."

After indicating the various contentions, especially para-3(c), the Appellate Authority has passed the order without examining any of the points. The Appellate Authority atleast should have examined the contention at para-3(c) of his orders and should have seen whether there is any truth in this contention. The Appellate Authority could have easily checked up from the records whether the period mentioned as unauthorised absence is correct or not. Hence we are of the opinion that the Appellate Authorities order dated 4-5-1999 is not in accordance with the rules as provided for in the CCS(CCA) Rules. In that view, the Appellate Authorities order has to be set aside and the case has to be reconsidered, especially the contention indicated in para-3(c) of the Appellate Authority order. It is also to be noted that the Appellate Authority should not take ^{note of the earlier unauthorised absence} ~~the~~ periods other than what is ^{any} mentioned in the Charge Sheet.

4. The applicant should also be given a personal hearing before passing the appellate order after review.

5. In the facts and circumstances of the case, the following directions are given :-


(i) The Appellate order dated 4-5-1999 (Annexure-XII page.30 to the OA) is set aside;


(ii) The case is remitted back to the Appellate Authority for reconsideration keeping in mind the observations as made above;

(iii) If the applicant requests for personal hearing, the same should be granted before disposal of his appeal;

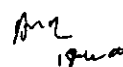
(iv) Time for compliance is three months from the date of receipt of a copy of this order.

6. No order as to costs.


(R. RANGARAJAN)
Member (A)


(D.H. NASIR)
Vice-Chairman

Dated: 17th April, 2000.
Dictated in Open Court.


19/4/00

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