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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
JAIPUR BENCH, JAIPUR

O.A. No. 163/98 199
T.A. No.

DATE OF DECISION 2.9.99

P.D. Jef Petitioner

Mr.K.L.Thawani Advocate for the Petitioner (s)

Versus

Union of India & Ors. Respondent

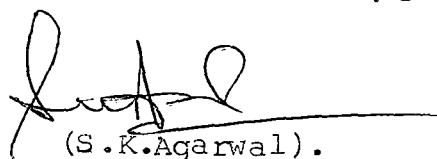
Mr.Asgar Khan Proxy of Mr.M.Rafiq Advocate for the Respondent (s)

CORAM :

The Hon'ble Mr. S.K.Agarwal, Judicial Member.

The Hon'ble Mr.

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


(S.K.Agarwal).

(10) (9)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, JAIPUR BENCH, JAIPUR.

O.A No.163/98

Date of order: 2/9/99

1. P.D.Jef, S/o Luxmi Narain, R/o Ajitgarh Distt. Sikar, Ex.
Postal Assistant, Sikar Postal Division, Sikar.

...Applicant.

Vs.

1. Union of India through Secretary to the Govt. of India,
Deptt. of Posts, Ministry of Communication, New Delhi.
2. Director General, Deptt. of Posts, Dak Bhavan, Sansad Marg,
New Delhi.
3. Postmaster General, Rajasthan Western Region, Jodhpur.
4. Superintendent of Post Offices, Sikar Division, Sikar.

...Respondents.

Mr.K.L.Thawani - Counsel for applicant.

Mr.Asgar Khan, Proxy of Mr.M.Rafiq - Counsel for respondents.

CORAM:

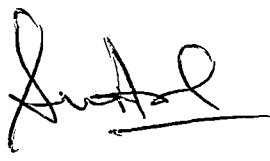
Hon'ble Mr.S.K.Agarwal, Judicial Member.

PER HON'BLE MR.S.K.AGARWAL, JUDICIAL MEMBER.

In this O.A the applicant makws a prayer to quash the impugned order at Annx.A1 by which the applicant was refused financial assistance from Welfare Fund and to direct the respondents to grant financial assistance to him as per rules.

2. The facts of the case as stated by the applicant are that the applicant while working as Postal Assistant in Sikar Division fell ill and was sanctioned Extra Ordinary Leve w.e.f.

- (i) 28.8.94 to 27.12.94 (128 days) on Medical grounds on account of Fracture in hand and Piles.
- (ii) 31.7.95 to 30.9.95 (61 days on Medical ground, disease T.B)
- (iii) 26.2.96 to 18.7.96 (102 days on Medical ground, diseases T.B & Piles.

 It is stated by the applicant that he applied for financial assistance from time to time but his request was rejected on the ground that no more financial assistance can be given to him and

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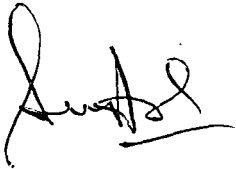
communicated to the applicant vide letter dated 26.11.97 whereas the applicant did not receive any financial assistance. It is also stated that during the period of EOL, the applicant did not receive any salary and he has to incur much amount on his illness. As per the instructions contained in D.G Posts letter dated 2.9.92, the applicant is entitled to financial assistance from Welfare Fund but the applicant was denied the same arbitrarily and without any basis. Therefore, by this O.A, the applicant has requested this Tribunal to quash the impugned order at Annx.A1 and to direct the respondents to grant financial assistance to him as per rules.

3. Counter was filed. In the counter it has been mentioned that the applicant is not entitled to any financial assistance. A show cause notice of removal from service was issued to the applicant vide Memo dated 3.1.90 by the Director, Postal Services, Jodhpur. The applicant approached this Tribunal against this show cause notice and ultimately the stay granted by the Tribunal was vacated. Again a show cause notice was issued to the applicant on 29.7.1994 but the applicant did not submit any representation against the same and produced a Medical Certificate from 18.8.94 to 27.12.94. In the meantime the applicant filed ~~an~~ SLP before the Hon'ble Supreme Court of India, which was dismissed by the Apex Court on 7.11.94. Thereafter, the applicant again produced Medical Certificate of illness from 31.7.95 to 30.9.95. On dismissal of SLP, again a show cause notice of removal was issued to the applicant on 24.2.96 and the applicant again produced Medical Certificate from 26.2.96 to 18.7.96 instead of submitting representation against the show cause notice and the applicant was ultimately removed from service on 19.7.96. Therefore, it is submitted that the applicant produced the Medical Certificates in order to avoid representations against the show cause notices. It is admitted that the applicant was granted EOL for the period as mentioned by the applicant but the applicant produced medical certificates for leave only to protect himself against the show cause

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notices and to get more time for his defence. It is stated specifically that the applicant obtained such medical certificates from different places and from different Private Practitioners and no certificate was obtained from Govt Hospital and Specialist which are available at Neem Ka Thana. The applicant also did not submit any bill for medical reimbursement which clearly shows that he has not taken any treatment but managed such certificates illegally from private practitioners. It is also stated that the applicant has only applied for financial assistance for the leave period 18.8.94 to 27.12.94 and 31.7.95 to 30.9.95 and for the period from 26.2.96 to 18.7.96 he did not submit any application for leave. It is further stated that the case of the applicant was considered by Post Master General, Jodhpur but the same was not found worthy on merits and the applicant was informed vide letter dated 28.8.96.

4. The applicant submitted further petitions to Member (P) Postal Services Board, which were forwarded and the applicant also submitted petition to Director General (Post), New Delhi, which was also returned to the Post Master General, Jodhpur, for sympathetic consideration but the case of the applicant was not justified as per the provisions regarding grant of financial assistance. Therefore, the applicant was informed accordingly. It is stated in the counter that the applicant was not suffering from any serious/prolonged illness and he has also not undergone any major surgical operation. The applicant did not submit bills for its reimbursement whereas he only submitted the Medical Certificates from different private practitioners of different places which shows clearly that the applicant was not suffering from any serious/prolonged illness and he was not in financial hardship. Therefore, the case of the applicant was not found justified for financial assistance from Welfare Fund and it was rejected.

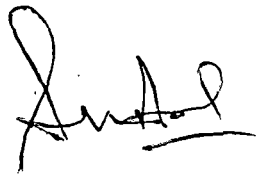


5. In view of the counter filed that the applicant is not entitled to any relief sought for against which no rejoinder has been

filed in this case by the applicant to controvert the facts stated in the counter reply.

6. Heard the learned counsel for the parties and also perused the whole record.

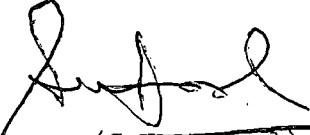
7. Admittedly, the applicant remained on EOL w.e.f. 18.8.94 to 27.12.94, 31.7.95 to 30.9.95 and 26.2.96 to 18.7.96 but the application for financial assistance was only submitted for the period commencing from 18.8.94 to 27.12.94 and 31.7.95 to 30.9.95. No application was submitted for the EOL for the period commencing from 26.2.96 to 18.7.96. In the counter it has been made specific that the applicant managed the Certificate of illness from private practioners and he never suffered prolonged illness or he has not been subjected to any major operation. In the counter, it has also been made specific that why treatment was not taken from the Specialised Govt. Hospital and why the Certificates of illness were not obtained from Govt/ Specialised Hospital, has not been explained by the applicant by filing a rejoinder. In the counter, the respondents have made very clear that the applicant has managed to obtain these certificates with a view to defend the case of show cause notice against him to which no rejoinder has been filed by the applicants to controvert these facts mentioned in the counter. The case of the applicant for financial assistance was rejected mainly on the ground that there was no justification to grant financial assistance to the applicant in the facts and circumstances of this case, as mentioned in the counter affidavit filed by the respondents. Since there has been no rejoinder to the facts mentioned in the counter affidavit filed by the respondents and the applicant did not produce any evidence before this Tribunal so as to establish the fact of prolonged illness of T.B so as to attract the provisions of financial assistance in favour of the applicant whereas the respondents have made it very clear that the applicant has managed these certificates of illness only to protect his case of show cause notice issued to him. It is very strange that the applicant is a Govt of India employee and he did not produce any





bill for its reimbursement before the concerned authority so as to establish the fact that he was incurring the expenditure on medicines. If there was a prolonged illness like T.B, the expenditure on medicines is bound to be incurred and the applicant should have approached the Hospital on whose authorisation he could get the reimbursement of the expenditure on medicines. But nothing could be established by the applicant in support of his contentions. Therefore, in my considered opinion case of the applicant for financial assistance from Welfare Fund is not made out and no arbitrariness against the applicant himself could be established by the applicant, therefore, the applicant is not entitled to any relief sought for and this O.A lacking merits and liable to be dismissed.

8. I, therefore, dismiss this O.A with no order as to costs.


(S.K. Agarwal) 2/9/99
Judicial Member.