

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
JAIPUR BENCH, JAIPUR

O.A. No. 398/2001
T.A/ No.

109

DATE OF DECISION 20.11.2002

RAJ KUMAR BADHA PANCHAL

Petitioner

MR. VINOD GOYAL

Advocate for the Petitioner (s)

Versus

UDI & ORS.

Respondent

MR. GARAV JAIN

Advocate for the Respondent (s)

CORAM :

The Hon'ble Mr. JUSTICE G.L. GUPTA, VICE CHAIRMAN

The Hon'ble Mr. GOPAL SINGH, ADMINISTRATIVE MEMBER

1. Whether Reporters of local papers may be allowed to see the Judgement ?
2. To be referred to the Reporter or not ?
3. Whether their Lordships wish to see the fair copy of the Judgement ?
4. Whether it needs to be circulated to other Benches of the Tribunal ?

(Gopal Singh)
Adm. Member

Hon'ble VC

May kindly see
J/11

(G.L.Gupta)
Vice Chairman

Govt. of India

In the Central Administrative Tribunal
Jaipur Bench, Jaipur

...
Date of Order : 20/11/02

O.A. NO. 398/2001

Raj Kumar Badha Panchal S/o Shri Sant Lal Badha Panchal, age about 42 years, resident of IIIrd 134, A.G. Colony, Bajaj Nagar, Jaipur, presently holding the post of Asstt. Audit Officer.

..... Applicant.

versus

1. The Comptroller & Auditor General of India, 10, Bahadurshah Jafar Marg, Indian Audit & Accounts Department, Inder Prasth Estate, New Delhi.
2. The Accountant General (Audit), A.G. Office, Near Statue Circle, Jaipur.
3. Senior Deputy Accountant General, I.C. III, A.G. Office, Near Statue Circle, Jaipur.

..... Respondents.

...

CORAM :

HON'BLE MR. JUSTICE G.L.GUPTA, VICE CHAIRMAN
HON'BLE MR. GOPAL SINGH, ADMINISTRATIVE MEMBER

...

Mr. Vinod Goyal, counsel for the applicant.

Mr. Gaurav Jain, counsel for the respondents.

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ORDER
(PER MR. GOPAL SINGH)

In this application under section 19 of the Administrative Tribunals Act, 1985, applicant, Raj Kumar Badha Panchal, has prayed for quashing the impugned order dated 6.6.2001 (Annex.A/1) and order dated 13.2.2001 (Annex.A/2) and further for a direction to respondents not to declare the period from 9.9.2000 to 11.9.2000 as dies non, with all consequential benefits.

2. Applicant's case is that he was initially appointed on the post of Auditor on 22.10.1982 with the respondent-department and was promoted as Section Officer on 21.6.1993 and as an Assistant Audit Officer with effect from 5.10.2000. It is the contention of the applicant that he had left the Inspection station on the evening of 8.9.2000 at 6.00 PM after taking prior permission from the Inspecting Officer because the condition of her elder daughter was deteriorated due to brain fever for which a separate information was sent immediately to the Pali Headquarter and the same was received and sanctioned by the Inspecting Officer. The applicant was issued a warning vide order dated 13.2.2001 (Annex.A/3). By an another order dated 13.2.2001, the period of unauthorised absence from the Inspection Station from 9.9.2000 to 11.9.2000 was treated as dies non. Applicant submitted a detailed representation dated 19.2.2001 but, to no avail. The appeal filed by the applicant against

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the order dated 13.2.2001 declaring his period of absence as dies non, has also been rejected by the appellate authority.

3. Contention of the applicant is that he has been victim of double jeopardy for the same mis-conduct- on the one hand, warning has been issued for being absent from Inspection Station while, on the other the period has been treated as dies non.

4. In the counter, it has been stated by the respondents that as per the provisions contained in para 2.16 of Manual of Outside Audit Department (Civil) Wing, no member of inspecting staff should leave his place of halt without previous permission of the Senior Dy. Accountant General (Inspection Civil) except for very strong reasons, otherwise they will be treated as absent from duty without leave. Despite the aforesaid clear instructions, the applicant being Incharge of the said Inspection Party, left the audit camp without permission of the competent authority. His contention that he left the Camp after taking prior permission from the Inspecting Officer, is not tenable in view of the fact that the applicant carried the Attendance Register and the Despatch Register with him instead of leaving it with the member of the party available in the Camp. Had he sought permission, there was no need to carry these

Copals of

these documents with him. It is also pointed-out that the applicant could have taken permission from the competent authority by telephone, telefax or telegram. In these circumstances, it cannot be held that the applicant left the Audit Camp with permission. It has, therefore, been averred by the respondents that applicant has no case and this application is liable to be dismissed.

5. We have heard the learned counsel for the parties and perused ~~the~~ record of the case.

6. It is not in dispute that the applicant had left the Inspection Station without permission of the competent authority. In this connection, we consider it appropriate to reproduce below para 2.16 of the Manual of the Outside Audit Department (Civil Wing) Chapter-II, "General Rules and procedure" :-

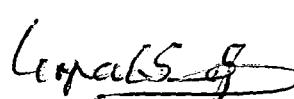
"2.16 Attendance

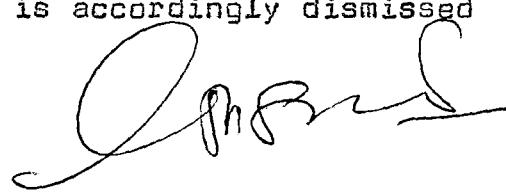
Auditors/Senior Auditors must attend the office which they inspect during its regular office hours. No member of the inspecting staff whether an Assistant Audit Officer/Section Officer or a Auditor/Senior Auditor or a Group 'D' Employee should leave his place of halt without the previous permission of the Senior Deputy Accountant General (Inspection Civil) except for very strong reasons. Otherwise, they will be treated as absent from duty without leave. Even when a member of the inspection staff is forced to leave his place of halt for very strong and urgent reasons he should report the fact immediately to the Senior Deputy Accountant General (Inspection Civil) explaining the circumstances, which required his absence from the place of his inspection or halt in anticipation of formal orders

Uppal

It is very clear that the person leaving the Inspection Station during emergency, has to take permission from the Senior Deputy Accountant General. The applicant has only taken permission from the Inspecting Officer. It is also not denied by the applicant that he has taken along with him, Attendance Register and the Despatch Register. In our opinion, there was no necessity of carrying these documents by the applicant during his absence to another station. This whole exercise smacks of a mala fide on the part of the applicant. Putting an excuse that, his daughter was seriously ill, seems to be a after thought because in his application dated 8.9.2000 seeking permission he had never mentioned about illness of his daughter. In these circumstances, we do not find any merit in this application and the same is liable to be dismissed.

7. The Original Application is accordingly dismissed with no order as to cost.


(Gopal Singh)
Administrative Member


(G.L. Gupta)
Vice Chairman

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mehta, jrm