

**THE CENTRAL ADMINISTRATIVE TRIBUNAL  
JAIPUR BENCH, JAIPUR  
ORDER SHEET**

APPLICATION NO.: \_\_\_\_\_

Applicant (S)

Respondent (S)

Advocate for Applicant (S)

Advocate for Respondent (S)

NOTES OF THE REGISTRY

ORDERS OF THE TRIBUNAL

**24.02.2009**

**OA No. 376/2007**


Mr. P.N. Jatti, Counsel for applicant.

Mr. V.S. Gurjar, Counsel for respondents.

Heard learned counsel for the parties.

For the reasons dictated separately, the OA is disposed of.

  
**(B.L. KHATRI)**  
**MEMBER (A)**

  
**(M.L. CHAUHAN)**  
**MEMBER (J)**

AHQ

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
JAIPUR BENCH

Jaipur, this the 24<sup>th</sup> day of February, 2009

**ORIGINATION APPLICATION NO. 376/2007**

**CORAM:**

HON'BLE MR. M.L. CHAUHAN, JUDICIAL MEMBER  
HON'BLE MR. B.L. KHATRI, ADMINISTRATIVE MEMBER

Harish Chandra Bhardwaj son of Late Shri S.M. Sharma by caste Sharma aged about 60 years, resident of D-835, Malviya Nagar, Jaipur. Presently retired as Deputy Director (Electronics) in the office of M.S. M.E.O. I., 22 Godown, Jaipur.

.....APPLICANT

(By Advocate: Mr. P.N. Jatti)

VERSUS

1. Union of India through the Secretary to the MSME (Micro Small Medium Enterprise), Government of India, Udhog Bhawan, New Delhi.
2. The Development commissioner, MSME, 7<sup>th</sup> Floor, Nirman Bhawan, New Delhi.
3. The Director, MSME Development Institute, 22 Godown, Jaipur.

.....RESPONDENTS

(By Advocate: Mr. V.S. Gurjar)

**ORDER (ORAL)**

The applicant has filed this OA thereby challenging the order dated 20.09.2007 (Annexure A/1) whereby the period w.e.f. 1.08.2007 to 03.08.2007 has been treated absent from duty and was treated as dies non.

2. Notice of this application was given to the respondents. The respondents have filed reply where they have tried to justify the order dated 20.09.2007 (Annexure A/1) entirely on different ground.

3. We have heard the learned counsel for the parties. In order to decide the matter and the controversy involved in this case, it will be

useful to quote the order dated 20.09.2007 in extenso, which thus reads as under:-

"With reference to his joining report dated 6.8.2007 alongwith an application for commuted leave on medical ground w.e.f. 1.8.07 to 3.8.07 and this Division's memorandum of even number dated 10.9.07, Shri H.C. Bhardwaj, Dy. Director (Electronics) is hereby informed that the commuted leave as applied by him for the said period has not been granted to him by the leave sanctioning authority because it is not permissible under FRSR Leave Rules 19(4)(iii). Since Shri Bharadwaj has not applied three days leave other than commuted leave for the said period, therefore, he has been treated absent from duty for three days i.e. from 1.8.07 to 3.8.07.

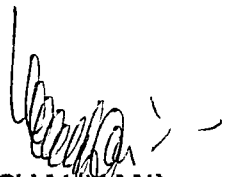
In view of the circumstances explained above it has been decided by the Director, MSME-DI, Jaipur that the period of his absence from duty viz. 1<sup>st</sup> to 3<sup>rd</sup> August, 2007 is treated as Dies-Non."

4. Thus from the aforesaid order, as quoted above, it is clear that the aforesaid period of three days has been treated as absent from duty and dies non solely on the ground that the applicant has applied three days' commuted leave w.e.f. 01.08.2007 to 03.08.2007 and the said leave is not permissible under FRSR Leave Rules 19(4)(iii). Further the applicant has not applied three days' leave other than the commuted leave. Thus in view of the categorical finding given by the competent authority in the aforesaid term, we are of the firm view that it was not permissible for the respondents to treat the aforesaid period as dies non. It was incumbent upon the competent authority to give opportunity to the applicant to submit fresh application for regularizing the aforesaid period other than commuted leave. Having not done so, we are of the view that this impugned order dated 20.09.2007 (Annexure A/1) is required to be quashed. Ordered accordingly. Liberty is reserved to the applicant to approach before the competent authority by submitting fresh application for regularizing the aforesaid period as leave of kind due. In case such application is made within 15 days from today, the competent authority will pass appropriate order on the application of the applicant. In case leave applied by the applicant is granted, consequential benefits, if any, will follow. We wish to submit here

that defense taken by the respondents that medical certificate submitted by the applicant was not of the prescribed Doctor cannot be taken into account on the face of impugned order dated 20.07.2007, as this is not the ground taken by the respondents for rejecting the claim of the applicant.

5. With these observations, the OA is disposed of with no order as to costs.

  
(B.L. KHATRI)  
MEMBER (A)

  
(M.L. CHAUHAN)  
MEMBER (J)

AHQ