

**CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH**

OA 103/2013

New Delhi, this the 8th day of November, 2016

**Hon'ble Mr. Justice M.S. Sullar, Member (J)
Hon'ble Mr. P.K. Basu, Member (A)**

S.S. Saini
Aged about 42 years
S/o Shri Harbhajan Singh
Resident of C-Block,
Quarter No.101/01,
Badshah Nagar,
Lucknow ... Applicant

(Through Ms. Ankita Bhadouriya for Shri M.K. Bhardwaj,
Advocate)

Versus

Union of India, through

1. The Inspector General
SSB, Kendriya Bhawan,
Aliganj, Lucknow
2. The Area Organizer
SSB, Bhinga,
District – Srawasti (UP)
3. The Deputy Inspector General
SSB, Sector HQ,
FCI Campus, Gorakhpur
4. Shri W. Norbu EBI,
Area Organizer,
SSB, Bhinga,
District – Srawasti (UP)
5. Shri B. Shome
Deputy Inspector General
SSB, Sector HQ,
FCI Campus, Gorakhpur ... Respondents

(Through Shri Amit Anand, Advocate)

ORDER (Oral)Mr. P.K. Basu, Member (A)

The applicant, who was a Circle Organizer, was posted at Sirsia Circle under the jurisdiction of Area Organizer, Bhinga District Shravasti (UP) on 20.10.2007 on transfer from Pithoragarh District (Uttarakhand) after availing usual joining time. After joining his new place of posting, the applicant submitted an earned leave application for 12 days from 27.10.2007 to 7.11.2007. He was sanctioned EL for the said period vide order dated 30.10.2007. During the period of his leave, the Circle Organizer, Jamunah was directed to look after the charge of the applicant. As per instructions, the applicant was required to submit the statement of charge, which he did not do. The applicant was relieved with a direction to report to SHQ Gorakhpur on 7.01.2008 for vigilance duty during recruitment of Constable (GD) in SSB.

2. Immediately on reporting at SHQ, Gorakhpur, the applicant represented to DIG, SHQ for detailment of some other officer for the task but the said representation was not entertained. The applicant was nominated in the Board of Officers for selection of best Battalion and area falling under the jurisdiction of SHQ Gorakhpur and such communication was issued to the applicant on 18.02.2008. On receipt of this detailment order, the applicant complained of fever since 17.02.2008. His explanation was sought as to why he did not intimate about his illness earlier on 17.02.2008 itself when he

was residing within a radius of about 500 mtrs from Area Organizer's office. After the said episode, the applicant, on joining, submitted his formal leave application supported by form-3 and 5 on which the Area Organizer, Bhinga had taken a lenient view to give the applicant another chance to improve upon his conduct and regularized his absence period with effect from 18.02.2008 to 29.02.2008 on medical ground.

3. The applicant thereafter filed a leave application from 15.04.2008 to 3.05.2008, which was agreed to by his superior. However, on 8.04.2008, the applicant was nominated for computer course at T.C. Faridabad from 21.04.2008 to 2.05.2008. In view of this exigency, leave was not granted by Area Organizer Bhinga to the applicant and an order dated 10.04.2008 was issued to the applicant with the request to submit revised leave application after attending the said computer course. In fact, the applicant was kept as reserve for the computer course but when another Circle Organizer Shri Anurag Mishra had to be posted for temporary duty at Chhatisgarh, who was detailed for the said computer course, the nomination of the applicant was confirmed against Shri Mishra as he was kept reserve. The said order was handed over to the applicant on 11.04.2008 at 1030 hours through special messenger. However, the applicant proceeded on leave on 12.04.2008, without sanction of the controlling officer and remained on leave till 3.05.2008. His explanation was sought and his salary for the period under controversy was ordered not to be disbursed till regularization of the said period.

4. Again the applicant sought casual leave from 14.07.2008 to 17.07.2008 with permission to avail Restricted Holiday on 17.07.2008 and was liable to resume his duty on 18.07.2008, whereas he reported for duty one day late and then submitted one day casual leave for 18.07.2008.

5. Vide order dated 21.07.2008, the respondents have granted EOL with effect from 12.04.2008 to 11.05.2008 in favour of the applicant and issued warning through Memorandum dated 6.08.2008 for absenting himself from duty with effect from 11.04.2008 to 15.04.2008. Further, for 30 days EOL from 12.04.2008 to 11.05.2008, he was asked to deposit Rs.6864/- apart from an amount of Rs.12938/- already deducted.

6. The applicant has filed this OA seeking the following reliefs:

1. To quash the impugned order dated 21.07.2008, order dated 6.08.2008 and recovery made/proposed to be made from the pay of the applicant vide order dated 12.09.2008 contained as Annexure no.A-1, A-2 and A-3 to this OA with all consequential benefits.
2. To direct the respondents to regularize the period in dispute as earned leave.
3. To refund the amount recovered from the applicant along with interest @ 12 PA.

7. This is a very small and old matter and needs closure. The applicant has stated in the OA that there was no intention on his part to disobey the orders but it was only on account of lack of communication that he proceeded on leave on 12.04.2008 and he was unwell and, therefore, on 12.05.2008, he reported for duty.

8. Learned counsel for the applicant further informed us that the applicant is seriously ill and is in a state of coma. We also note that SSB is a very sensitive organization and the officers have to go through lot of stress and in such armed services, which involve working under tremendous stressful conditions, denial of leave, many a times, leads to unfortunate and ugly results.

9. Though, normally we would not have interfered in such a matter but keeping in view the conspectus of facts, we are of the opinion that benefit of doubt may be given to the applicant and, therefore, the impugned orders dated 21.07.2008, 6.08.2008 and 12.09.2008 are quashed and the respondents are directed to adjust the period treated as EOL against his EL/ medical leave account. We fix a time frame of 90 days from the receipt of a copy of this order for implementation of our directions. No costs.

(P.K. Basu)
Member (A)

(Justice M.S. Sullar)
Member (J)

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