

**CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH**

O.A. No. 1465/2014

New Delhi, this the 4th day of October, 2016

HON'BLE MR. P.K. BASU, MEMBER (A)

Mrituanjay Mishra,
Manager/Assistant Director,
Aged about 50 years,
S/o Late Shri B.M. Mishra,
R/o D-1/85, Janak Puri,
New Delhi.

Presently posted as
Manager/Assistant Director at India Tourism,
15, B, The Mall, Varanasi, U.P.

.. Applicant

(By Advocate : Shri Ajesh Luthra)

Versus

Union of India,
Through its Secretary,
Ministry of Tourism,
Transport Bhawan,
1, Parliament Street,
New Delhi-110001.

.. Respondent

(By Advocate : Shri Manjeet Singh Reen)

ORDER (ORAL)

The applicant was transferred from Delhi to Port Blair on 06.06.2007. He requested for three months' leave to settle his domestic issues. Ultimately, the Ministry of Tourism issued a memorandum dated 12.12.2007 rejecting further extension of leave for 30 days beyond 05.09.2007 and also a separate request made

by the applicant for change of place of posting on transfer, and directed the applicant to immediately, without any further delay, report to Port Blair, failing which he shall render himself liable to disciplinary action under the Rules. When this ultimatum was issued by the department, the applicant joined at Port Blair on 24.12.2007.

2. Learned counsel for the applicant states that since in the memorandum dated 12.12.2007, it has been stated by the respondents that only if the applicant fails to join after this order, he shall render himself liable to disciplinary proceedings and since he joined immediately thereafter on 24.12.2007, the department should not have issued charge memorandum dated 24.12.2007 for major penalty and ultimately imposed a minor penalty of 'Reduction to lower stage (one increment) in the pay scale for a period of three years, without cumulative effect and not adversely affecting his pension as contained in Rule 11 (iii)(a) of CCS (CCA) Rules, 1965'. It is further stated that on 15.12.2007 (Annexure A-17), the applicant had applied for Transfer T.A., which was not granted to him and the applicant had, therefore, arranged for money himself for travelling from Delhi to Port Blair by the earliest available flight.

3. Learned counsel for the respondents states that the applicant had unauthorisedly absented himself from duty after his transfer order on 06.06.2007 till he joined at Port Blair on 24.12.2007 and, therefore, departmental proceedings had been started against him. The department took a lenient view as, despite a major penalty proceeding, he was awarded a minor penalty and, therefore, the Tribunal may not like to interfere in this matter.

4. Heard the learned counsel for both sides and perused the relevant orders.

5. Admittedly, since the leave of the applicant was not sanctioned and he was directed to join at Port Blair vide order dated 06.06.2007 (Annexure R-1), he absented himself. Therefore, the department proceeded against him under the CCS (CCA) Rules.

6. From the above facts, the following becomes clear:

(i) The applicant, after his transfer order dated 06.06.2007, proceeded on leave, which was not sanctioned by the respondents.

(ii) However, around 15.12.2007, he decided to join at Port Blair and sought Transfer T.A. advance, which was not granted to him but he joined by arranging the money on his own at Port Blair on 24.12.2007, after the memorandum dated 12.12.2007 was issued by the Ministry of Tourism.

7. Learned counsel for the applicant's only argument is that since the memorandum dated 12.12.2007 stated that only if he fails to join, he shall render himself liable to disciplinary action, the department could not start a disciplinary proceeding, once he had complied with the order dated 12.12.2007 and joined at Port Blair on 24.12.2007. However, the fact remains that the applicant absented himself for almost six months and joined only after issuance of letter dated 12.12.2007.

8. I do not accept this plea of the applicant that departmental proceedings could be started only if he did not join at Port Blair after issuance of letter dated 12.12.2007. He has behaved irresponsibly but since the disobedience is delay in joining at the new place of posting, the department took a lenient view and awarded a minor penalty.

9. In view of this, I feel that there is no ground for interference in the order passed by the respondents. The O.A. is, therefore, dismissed. No order as to costs.

(P.K. Basu)
Member (A)

/Jyoti/