

**Central Administrative Tribunal
Principal Bench**

OA No.3031/2017

New Delhi, this the 18th day of September, 2017

**Hon'ble Mr. Justice Permod Kohli, Chairman
Hon'ble Ms. Praveen Mahajan, Member (A)**

Shri Sunil Gupta, (TGT (Maths) ID 19980017)
S/o Shri Hem Chand Gupta,
R/o A-3/147, Block-A,
Pocket-3, Sec.-8, Rohini,
Delhi-110085.

...Applicant

(By Advocate : Shri Ashok Gupta with Ms. Laxmi Gupta)

Versus

1. The Director of Education,
Delhi Directorate of Education,
Old Secretariat, Near Vidhan Sabha,
Civil Lines,
Delhi-110054.
2. The Vice Principal,
Head of School (Sch. ID 1411001),
Sarvodaya Bal Vidyalaya,
Anandvas (Lok Vihar),
Delhi-110034.

...Respondents

(By Advocate : Shri N.K. Singh for Ms. Avnish Ahlawat)

ORDER (ORAL)

Justice Permod Kohli, Chairman :-

Heard Shri Ashok Gupta, learned counsel for applicant and Shri N.K. Singh for Ms. Avnish Ahlawat, learned counsel for respondents, who has appeared on advance notice.

2. The applicant is aggrieved of Order dated 22.07.2017 passed by respondent No.2, whereunder the request of the applicant for leave without pay from 21.07.2017 to 31.12.2017 has been rejected.

3. The applicant is working as PGT (Maths) with the Delhi Government. It is stated that on account of family dispute with his wife which commenced in the year 2012, he is mentally disturbed. Though the decree of divorce has been passed, but the minor daughter is staying with his wife since 2014. It is also mentioned that due to disturbed family circumstances, the applicant sought leave without pay w.e.f. 01.07.2016 to 31.12.2016. His mother was also ill on account of old age, which contributed for the further disturbance of his mental status. He has further mentioned that his mother expired on 13.01.2017. Death Certificate of the mother is placed on record. The applicant resumed duty on 16.01.2016. On 17.07.2017, he was transferred from Sarvodaya Vidyalaya, Sector 3, Rohini, Delhi to Sarvodaya Bal Vidyalaya, Anandvas (Lok Vihar), Delhi. It is mentioned that though he has joined the duty on 18.07.2017, but due to indifferent behaviour of respondent No.2, he again became mentally disturbed and had a fall from rickshaw and sustained minor injuries etc. The further grievance of the applicant is that he applied for leave without pay from 21.07.2017 to 31.12.2017, which has been declined by the respondents. The applicant has placed on record some medical prescriptions and a certificate.

4. It is settled law that leave is not a right, however, the authorities must consider the circumstances under which a Government servant is seeking the leave. The applicant is seeking leave on account of depression and other disturbed family circumstances. The respondents while rejecting the request of the applicant have not referred to the mental condition of the applicant. Although some medical evidences are placed on record, but no reference is made in the impugned order.

5. In the overall conspectus of the circumstances, we are of the opinion that the respondents should re-consider the whole issue of grant of leave without pay after the applicant is medically examined by the Board of Doctors. While setting aside the order dated 22.07.2017, we direct the respondents to refer the applicant to a Board of Doctors for his medical examination to find out his mental state of affairs and other related issues from medical angle and on receipt of the report of the Medical Board, the respondents may pass a fresh order. Let entire exercise be completed within a period of one month from the date of receipt of a certified copy of this order. No costs.

(Praveen Mahajan)
Member (A)

(Justice Permod Kohli)
Chairman

‘rk’