

**Central Administrative Tribunal
Principal Bench, New Delhi**

OA No.4080/2014

This the 15th day of October, 2015

**Hon'ble Shri Justice L.N. Mittal, Member (J)
Hon'ble Shri Shekhar Agarwal, Member (A)**

Umesh Kuri Age 24 Pat Electrician
S/o Sh. Arjun Kuri
VPO-Kardka via Thoi,
Distt. Sikar, Rajasthan-332719. .. Applicant

(By Advocate: Shri Mohan S)

Versus

1. Commissioner of Police
Police Headquarters,
ITO, New Delhi-110002
2. Jt.Commissioner of Police
Central Range: Delhi
Police Headquarters,
ITO, New Delhi-110002
3. Union of India
(Through Secretary)
Ministry of Home Affairs
North Block,
New Delhi-110001. Respondents

(By Advocate: Ms.Ritika Chawla)

ORDER (ORAL)

By Justice L.N. Mittal, Member (J)

Applicant, Umesh Kuri, Constable with the Delhi Police has filed this OA. It is undisputed that the applicant

proceeding on casual leave for two days with effect from 16.6.2012 and was due to report back on 18.6.2012. However, he did not report back for duty on the due date and rather assumed duty on 21.9.2012. Meanwhile, he was served absentee notice dated 09.7.2012, requiring him to resume his duty failing which disciplinary action shall be taken and he was also asked to appear for medical examination. The applicant did not get himself medically examined pursuant to the said letter. Another absentee notice was served on the applicant requiring him to resume duty on 05.09.2012 but he did not respond to the same.

2. Case of the applicant is that after availing Casual Leave, he became sick and intimated the duty officer regarding his sickness, but the duty officer did not record in the Daily Diary Register (DDR). It is further case of the applicant that pursuant to first absentee notice dated 09.7.2012 he handed over his medical documents to the Constable who has served the said notice, along with written request to consider his medical certificate.

3. The disciplinary authority vide order dated 21.3.2003 applied the principle of 'No Work No Pay' for the absence period of the applicant from 18.6.2012 to 21.09.2012. The

applicant preferred representation against the said order which has been rejected by the Joint Commissioner of Police vide order dated 17.09.2014 which is under challenge in the instant OA. The applicant has also prayed that the respondents be directed to convert his medical leave into commuted leave and also direct the respondents to pay his salary for the aforesaid absentee period.

4. Respondents in their counter reiterated the claim of the applicant regarding intimation to the duty officer dated 18.06.2012 and regarding handing over the medical certificate and written request to the Constable who served the first absentee notice.

5. The applicant filed the rejoinder reiterating his version and denied the stand of the respondents.

6. We have heard counsel for the parties and perused the case file with their assistance.

7. Counsel for the applicant vehemently reiterated the stand of the applicant and contended that he had intimated the duty officer telephonically on 18.06.2012 regarding his illness and has also given medical certificate to the Constable who served the first absentee notice on the

applicant and, therefore, the applicant deserved the relief claimed by him.

8. On the other hand, counsel for the respondents contended that the applicant belongs to Disciplinary Forced and he remained unauthorizedly absent for more than 3 months, without any intimation and in fact, very lenient view has been taken by the respondents although the applicant could be removed from service for such unauthorized absent.

9. We have carefully considered the matter and the conversation of the applicant that he had intimated the duty officer on 18.06.2012 about his illness has to be taken with pinch of salt. The applicant has not even mentioned as to how he intimated the duty officer – whether in person or telephonically or by written letter or by post. It is exposes the hollowness of the applicant's version. It is further significant to note that the applicant did not even respond to the first absentee notice dated 09.07.2012. Vide said notice, he was required to assume the duty and also got himself medically examined. However, the applicant admittedly, neither responded to the first absentee notice nor he got himself medically examined. It not only shows

the attitude of the applicant that he remained on unauthorized absence but also amounts to disobedience of the order of the superior authority. In these circumstances, the claim of the applicant that he handed over the written request and medical certificate to the Constable who served first absentee notice on him cannot be accepted. Even if his contention that he handed over the medical documents to the Constable is accepted for the sake of argument only, he was still required to get himself medically examined to support his claim that he was unwell.

10. The matter does not rest here. The applicant was also served second absentee notice on 05.09.2012, but admittedly he did not respond to the same and did not resume his duty. untimely, he resumed duty as per his own volition on 21.09.2012, but in the meanwhile, failed to comply with the absentee notice served on him giving him opportunity to substantiate his claim. It is manifest that the applicant was unauthorisedly absent for 3 months and for such absence, absentee notice was served on him, but he did not got himself medically examined. In fact the respondents have already treated the applicant very leniently. The applicant was not only guilty of unauthorized absence, but also disobedience of the two absentee notices

served on him requiring him to resume duty and also to get himself medically examined.

11. In view of the aforesaid, we find no infirmity much less any legality in the impugned order or in the order of disciplinary authority. The applicant remained absent for more than 3 months. Therefore, he is not entitled to any salary for the absence period and it has rightly been ordered as 'No Work - No Pay'. It may also be mentioned that the applicant has not even challenged the order of the disciplinary authority.

12. Resultantly, there is no merit in the instant OA which is accordingly dismissed. No order as to costs.

(Shekhar Agarwal)
Member(A)

(Justice L.N. Mittal)
Member(J)

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