

**Central Administrative Tribunal
Principal Bench
New Delhi**

OA No.2904/2015

This the 18th day of July, 2018

Hon'ble Mr. Justice L. Narasimha Reddy, Chairman
Hon'ble Ms. Aradhana Johri, Member (A)

Dr. Anil Kumar Garg S/o late Gordhan Dass,
R/o 464, Southridge Way,
Irving, Texas, 75063, U.S.A. ... Applicant

[Prior to Order dated 16.09.2011,
Applicant held the Group-'A' post of
Asstt. Executive Engineer (Civil) in the
DSI IDC Ltd.]

(By Mr. R. A. Sharma, Advocate)

Versus

The Delhi State Industrial & Infrastructure
Development Corporation Ltd. Through its
Chairman & Managing Director,
N-36, Bombay Life Building,
Connaught Circus, New Delhi-110001. ... Respondent

(By Ms. Deepali Gupta, Advocates)

ORDER

Justice L. Narasimha Reddy, Chairman :

The applicant was appointed as Junior Engineer in the
Delhi State Industrial & Infrastructure Development
Corporation Ltd. (DSI IDC), the sole respondent herein, on
29.12.1988. It is stated that over the period, he obtained the

qualifications of MBA and M.Tech. in IIT. He was promoted on *ad hoc* basis in the year 2001 as Assistant Executive Engineer, and was regularized in that post through order dated 28.03.2005.

2. The applicant intended to pursue research programme at an institution in Texas, USA. He applied for study leave in the year 2004, and was granted three years' leave from 16.08.2004 to 15.08.2007. The programme which the applicant was pursuing is stated to be not attendance-specific. The applicant states that though he was entitled to be paid leave salary for the entire period of leave, it was stopped from February, 2005 onwards, and that in February, 2007, the respondents addressed a letter requiring him to join duty. He states that on account of the non-payment of leave salary and the incomplete nature of the research work, he could not come to India, even after expiry of leave.

3. The respondents issued a charge-sheet dated 30.05.2008, wherein charges, mostly referable to the period of absence were framed. An inquiry officer was appointed. The applicant, however, did not participate in the proceedings. Report was submitted by the inquiry officer holding that the

charges are proved. Taking the same into account, the disciplinary authority passed order dated 16.09.2011 (Annexure A-1), dismissing the applicant from service on account of his unauthorised absence from 01.02.2007 till the date of the order. The same is challenged in this OA.

4. The applicant contends that his failure to return to India was on account of non-payment of leave salary, and that neither the charge-sheet, nor any other proceedings, were served upon him. It is stated that only when he sought information under the Right to Information Act, in the recent past, he came to know about the order of dismissal. Several grounds are urged in challenging the same.

5. In their counter-affidavit, the respondents stated that the applicant over-stayed the leave period by several years, and the very purpose of his having been appointed as engineer was defeated. Lastly, it is stated that the applicant did not even respond to the show cause notices sent to him, and that the disciplinary proceedings were conducted strictly in accordance with law.

6. We heard Shri R. A. Sharma, learned counsel for the applicant, and Ms. Deepali Gupta, learned counsel appearing for the respondents.

7. It is not uncommon that employees are granted study leave with the fond hope that the knowledge acquired by them on account of such higher study would be of much help to the organisation. However, in majority of cases, the so-called higher study has proved to be not of much use to the organisations, and, if at all anything, it has only benefited the concerned individuals in many ways.

8. Ever since the applicant joined the service of the respondent, every possible benefit was extended to him, be it promotion on *ad hoc* basis, promotion on regular basis, or sanction of study leave. Any person in the place of the applicant would have reciprocated with better quality of services to the organisation, after winding ups the study, at the earliest. However, the applicant has chosen to remain in Texas for more than a decade on the basis of three years' leave. If he had a better avenue there, nothing prevented him to avail that, and be peaceful, and leave the respondent organisation to its own fate. The applicant, however, wanted, on the one hand, to

enjoy life in a foreign country, and at the same time, to fleece the respondent, which provided bread and butter to him at the hour of need; on the other hand. Even the best of the reasons or excuses cannot justify the stay of an employee, that too, holding the post of Assistant Executive Engineer, out of the country for decades together. No organisation can afford the luxury of appointing officers with huge pay scales, only for the purpose of enabling them to enjoy life abroad, even while highly qualified persons from poor sections of the society are languishing without employment. This Tribunal does not find any legal or factual basis to interfere with the order of dismissal.

9. The OA is accordingly dismissed. There shall be no order as to costs.

(Aradhana Johri)
Member (A)

(Justice L. Narasimha Reddy)
Chairman

/as/