

**Central Administrative Tribunal
Principal Bench**

OA No.4088/2015

New Delhi, this the 25th day of January, 2019

**Hon'ble Sh. Justice L. Narasimha Reddy, Chairman
Hon'ble Sh. Mohd. Jamshed, Member (A)**

Dr. Abdul Wahab Mirza, Aged about 61 years,
S/o Late Haji Dawood Mirza,
R/o 701, Aziz Castle,
Mumbai Central, Mumbai.

...Applicant

(By Advocate : Shri Dhanesh Dhotre for Ms. Sandhya
Gupta)

Versus

1. Union of India, through the,
Secretary,
Ministry of Health & Family Planning,
(Department of Health & Family Welfare),
Nirman Bhawan, New Delhi.
2. The Under Secretary,
Ministry of Health & Family Planning,
(Department of Health & Family Welfare),
Nirman Bhawan, New Delhi.
3. The Director,
Central Government Health Scheme,
2nd Floor, Sangam Place, Civil Lines,
Allahabad.

...Respondents

(By Advocate : Shri R.K. Jain)

ORDER (ORAL)**Justice L. Narasimha Reddy, Chairman :-**

The applicant initially joined the Central Government Health Services at Mumbai as Senior Medical Officer on daily wage basis, in February, 1984. His services were regularised in April, 1992. In September 2000, he was transferred to Allahabad. However, he did not join that place. On 03.05.2010, he was transferred from Allahabad to Mumbai. Between 2000 and 2010, he is said to have undergone treatments for one ailment or the other. After he worked for sometime in Mumbai, the disciplinary proceedings were initiated against him. In the meanwhile, he attained the age of superannuation.

2. This OA is filed with a prayer to direct the respondents to treat the leave period of the applicant as on duty, and to regularise his services and to grant him all the benefits that have accrued to him, on superannuation from the service.

3. The respondents filed counter affidavit stating that the applicant remained unauthorisedly absent for a long time and the question to treating the leave period as on

duty, does not arise. It is also stated that the disciplinary proceedings are still pending against him.

4. We heard Shri Dhanesh Dhotre for Ms. Sandhya Gupta, learned counsel for applicant and Shri R.K. Jain, learned counsel for respondents.

5. Even from the contents of the OA, it is evident that the applicant remained absent ever since he was transferred from Mumbai to Allahabad and reported to duty, only after he was re-transferred. For about a decade, he did not join the duties. Assuming that he suffered any illness, he was expected to apply for a leave and take further steps, to get the leave sanctioned. Without taking any steps in that behalf, he remained unauthorisedly absent. The applicant is not able to cite any rules to support his claim for regularisation of his absence. Further, disciplinary proceedings are pending. We do not find any merit in the OA and the same is dismissed.

6. There shall be no order as to costs.

(Mohd. Jamshed)
Member (A)
'rk'

(Justice L.Narasimha Reddy)
Chairman