

MAHARASHTRA ADMINISTRATIVE TRIBUNAL

NAGPUR BENCH NAGPUR

ORIGINAL APPLICATION No. 747/2015 (S.B.)

Priti Singh S/o Gaurishankar Baghele,
Aged about 48 years, Occ. Service,
R/o Quarter No.8, Opp. Lady Harding Hospital,
Sagar Building, Akola.

Applicant.

Versus

- 1) State of Maharashtra,
through Secretary,
Home Department,
Mantralaya, Mumbai- 32.
- 2) Additional Director General of Police,
Training & Special Unit,
Near Regal Talkies, Shaheed Bhagat Marg,
Colaba, Mumbai.
- 3) Principal,
Police Training Centre, Akola.

Respondents.

Shri M.R. Khan, Advocate for the applicant.

Shri H.K. Pande, P.O. for respondents.

**Coram :- Hon'ble Shri Anand Karanjkar,
Member (J).**

Date of Reserving for Judgment : 28th June, 2019

Date of Pronouncement of Judgment : 28th June, 2019

JUDGMENT

(Delivered on this 28th day of June,2019)

Heard Shri M.R. Khan, learned counsel for the applicant and Shri H.K. Pande, learned P.O. for the respondents.

2. The applicant is challenging the order passed by the respondent no.3 thereby rejecting application for Earned Leave for the period from **20/02/2015** to 15/07/2015 submitted by the applicant. The facts in brief are as under –

3. The applicant was serving as Assistant Accounts Officer at Police Training Centre, Akola. The applicant was in need of Earn Leave, therefore, he submitted application and requested to grant him Earn Leave from 20/02/2015 to 23/02/2016. The applicant thereafter requested for extension of Earn Leave from time to time from 24/02/2015 to 31/07/2015 for his personal work. It is submitted that the applicant learnt that offences under Sections 420,468 & 120-B of IPC were registered against some Co-Operative Societies and also against him, the applicant was to collect the relevant necessary papers and therefore he was in need of the leave from 20/02/2015 to 15/07/2015. It is submission of the applicant that the respondent no.3 rejected the leave application of the applicant without recording sound reasons, therefore, decision is arbitrary. It is submitted that though there was a leave at the credit of the applicant, but the

respondent no.3 rejected the leave application, therefore, order is illegal it be quashed and set aside.

4. The respondent no.3 submitted reply which is at Page no.22. It is submitted that since 01/02/2013 the applicant was serving as Assistant Accounts Officer at Police Training Centre, Akola. The applicant was posted in the Integrated Tribal Development Office, Gadchiroli. When the applicant was serving on that post it was noticed that there was a misappropriation of the funds of Scholarship for which offences under Sections 409,420,465,468,471,473, 120 (B) r/w Section 34 of IPC were registered in Police Station, Charmorshi and Gadchiroli. The applicant was one of the accused in that matter. The applicant was arrested and he was detained in Police Custody for more than 48 hours. The respondent no.3 received wireless message from Local Crime Branch, Gadchiroli and it was informed that presence of applicant was necessary for interrogation. The respondents granted leave to the applicant from 15/02/2015 to 16/02/2015. It is submitted that the applicant did not join the duty after expiry of the leave, but he moved application for grant of Earn Leave from 20/02/2015 to 23/02/2015 and from 24/02/2015 to 13/03/2015. Thereafter, the applicant never turned up to join the duty, consequently, letters were written to the applicant to resume the duty, but it was in vain. Ultimately the applicant

joined the duty and he submitted the application for Earn Leave on 03/09/2015 in the prescribed format. It is submitted that there was no cogent reason shown by the applicant for his 146 days long absence. It is submitted that no intimation was given by the applicant why he was unable to join the duty after 24/02/2015. It is submitted that this behaviour of the applicant was reckless and due continuous long absence of the applicant serious prejudice was caused to office work and consequently the respondent no.3 rejected the application for 146 days Earn Leave. It is submitted that there is no illegality in this order and consequently the application is liable to be dismissed.

5. I have heard submissions on behalf of the applicant and on behalf of the respondents. The applicant was unable to place before the Bench the copies of the Earned Leave application in format submitted by him while leaving the office, but as it is submitted in the reply that permission was given to the applicant from 15/02/2015 to 16/02/2015 to appear before the Police Authority for interrogation, therefore, it is not in dispute.

6. So far as absence of the applicant from 20/02/2015 till he resumed the duty is concerned, it must be mentioned that during this period the applicant never submitted any application for Earned Leave in the

format or never gave any intimation why he was unable to join the duty. The learned counsel for the applicant conceded that on 3/9/2015 the applicant submitted the application for Earned Leave in the format which is at Page No.17. In Column no.8 it is simply mentioned that "important personal work". As a matter of fact the Government servant is bound to follow the office discipline, the Government servant cannot leave the office unless his leave application is granted. Rule 10 of M.C.S. (Leave) Rules 1981 says that the leave is permission granted by the competent authority to remain absent from the duty, the leave can not be claimed as of right. For a sake of argument, it is accepted that there was some urgent work then also the Government servant is bound to satisfy that there was sufficient reason for his absence from the office and due to sufficient reasons he was unable to leave the office before sanctioning his leave. In the present case after reading the application Annex-A-2, dated 3/9/2015 and the leave application in format, it is not possible to accept that any such reasons were shown by the applicant for his continuous absence from 20/02/2015 till he resumed his duty after 15/7/2015. The respondent no.3 has placed on record the letter addressed to the applicant dated 10/06/2015. It seems that by this letter the applicant was called upon to resume duty immediately. It seems from Annex-R-2 that as the applicant

was in Custody for a period more than 48 hours, therefore, he was placed under deemed suspension vide order dated 28/07/2015 passed by the Director, Accounts and Treasury (M.S.), Mumbai.

7. Even after considering the entire material, facts remains that the applicant was unable to give any explanation why he did not resume the duty from 20/02/2015 till 15/07/2015 or give any information to the office. It seems that the applicant was absent from the duty for a period of 146 days without giving any intimation. It appears from the impugned order that the prayer of the applicant for granting him leave from 20/02/2015 to 15/07/2015, other than leave without pay was rejected. It seems that the absence of the applicant from 15/02/2015 till 19/02/2015 was condoned by the respondent no.3 and as the applicant thereafter not submitted any application or gave any intimation to the office, therefore, the respondent no.3 treated the absence of the applicant from 20/02/2015 to 15/07/2015 as unauthorised and therefore directed that the absence shall be treated as leave without pay. The legal position is clear that if the Government servant remained absent from the duty unauthorisely, then he has no right to claim the wages for that period. In view of this discussion, I do not see any merit in this application. In the result, the following order –

ORDER

The application stands dismissed with no order as to costs.

Dated :- 28/06/2019.

(A.D. Karanjkar)
Member (J).

*dnk./pdg.