

**IN THE MAHARASHTRA ADMINISTRATIVE TRIBUNAL
MUMBAI
ORIGINAL APPLICATION NO.491 OF 2020**

DISTRICT : PALGHAR

Shri Arun Hari Shinde,)
Prosthetic and Orthotic Engineer (Jr.),)
26, Karmveer Bhaurao Hsg. Society, Sahayognagar,)
4 Bungalow, Andheri (W), Mumbai)..Applicant

Versus

1. The Commissioner,)
For the Persons with Disabilities, M.S.,)
3, Church Road, Camp, Pune 411001)
2. District Handicapped Rehabilitation Officer,)
District Handicapped Rehabilitation Centre,)
Boling, Behind Virar Garden Compex,)
Virar (West), Tal. Vasai, District Palghar 401403)..Respondents

Shri C.T. Chandratre – Advocate for the Applicant

Ms. Neelima Gohad – Presenting Officer for the Respondents

CORAM : Smt. Medha A. Gadgil, Member (A)

DATE : 17th June, 2021

J U D G M E N T

1. Heard Shri C.T. Chandratre, learned Advocate for the Applicant and Ms. Neelima Gohad, learned Presenting Officer for the Respondents.
2. The main issue in this case is to sanction the medical leave of the applicant for the period from 10.12.2018 to 29.4.2019.
3. The brief facts of the case are as under.
4. The applicant is working as Prosthetic and Orthotic Engineer (Jr.) in the office of Respondent no.2 – District Handicapped Rehabilitation Centre, Virar (West), Taluka Vasai, District Palghar. Ld. Advocate for the applicant argues that the applicant went for a medical checkup on 10.12.2018 when he was advised to undergo surgery as a clot was noticed in his body. He went on to intimate the office on 11.12.2018 and proceeded on medical leave. He further pointed out that applicant underwent surgery and was admitted from 10.12.2018 to 20.12.2018 and was asked to remain under observation and dressing from 21.12.2018 to 29.4.2019. He has also annexed medical certificate dated 29.4.2019 which has been duly countersigned by District Civil Surgeon, Palghar.
5. Ld. Advocate for the applicant further pointed out that Respondent no.2 – District Handicapped Rehabilitation Centre, Virar (West), Taluka Vasai, District Palghar by his letter dated 24.5.2019 recommended Respondent No.1 – The Commissioner for the Persons with Disabilities, Pune to grant commuted leave to the applicant for medical reasons.
6. Since no action was taken on the said letter dated 24.5.2019, the applicant approached this Tribunal by filing OA No.143 of 2020 and this

Tribunal by its order dated 28.2.2020 disposed of the OA and directed as under:

“5. Respondent no.1 is directed to pass appropriate order on proposal submitted by respondent no.2 on 24.5.2019 in accordance to rules within three weeks from today and it be communicated to the applicant immediately.”

7. In the meanwhile the applicant was also told to remain present before medical board and he duly appeared before the medical board on 11.3.2020 and the Medical Board attached to the J.J. Group of Hospitals issued fitness certificate on 15.4.2020. However, the Respondent No.1 – Commissioner without waiting for report from the Medical Board by her order dated 20.3.2020 rejected the medical leave of the applicant for the period from 10.12.2018 to 29.4.2019.

8. Respondents No.1 & 2 have filed their reply dated 16.2.2021 and denied the claim of the applicant. Ld. Presenting Officer for the respondents pointed out that since the applicant had not submitted the competent medical board certificate within time he had no statutory right to avail medical leave under the said provisions and respondent no.1 had rightly passed the order rejecting the medical leave by order dated 20.3.2020.

9. After looking at the facts of the case, it is clear that respondent no.1 should have waited for the report of the competent medical board before passing the impugned order dated 20.3.2020. I therefore in the interest of justice proceed to pass the following order.

ORDER

The Original Application is allowed and the impugned order dated 20.3.2020 is quashed and set aside. The respondent no.1 is directed to consider the medical leave of the applicant for the period from 10.12.2018 to 29.4.2019 considering the medical fitness certificate dated 15.4.2020 issued by Medical Board attached to the J.J. Group of Hospitals, Mumbai, in accordance with rules within a period of one month from today. No orders as to cost.

(Medha A. Gadgil)
Member (A)
17.6.2021

Dictation taken by: S.G. Jawalkar.