

MAHARASHTRA ADMINISTRATIVE TRIBUNAL
NAGPUR BENCH NAGPUR
ORIGINAL APPLICATION NO. 811/2016(S.B.)

Sukhadev S/o Namdeorao Rathod,
Aged 36 years, Occupation : Service (Head Constable),
R/o Meharbaba Colony, Near Dental College, Amravati,
Tah. & Dist. Amravati.

Applicant.

Versus

- 1) The State of Maharashtra,
through its Secretary,
Ministry of Home Department,
Mantralaya, Mumbai - 32.
- 2) The Commissioner of Police,
Amravati, Tah. & Dist. Amravati.
- 3) The Police Inspector,
Gadge nagar Police Station, Amravati,
Tah. & Dist. Amravati.
- 4) Administrative Officer,
Commissioner of Police, Amravati,
Tah. & Dist. Amravati.

Respondents

Shri S.N.Gaikwad, Ld. Counsel for the applicant.
Shri S.A.Sainis, Ld. P.O. for the respondents.

Coram:- Hon'ble Shri M.A.Lovekar, Member (J).
Dated: - 17th July 2023.

JUDGMENT

Judgment is reserved on 11th July, 2023.

Judgment is pronounced on 17th July, 2023.

Heard Shri S.N.Gaikwad, learned counsel for the applicant and Shri S.A.Sainis, learned P.O. for the respondents.

2. Case of the applicant is as follows.

On 25.10.2016 the applicant was not keeping well. He requested respondent no.3 to let him proceed on leave whereupon respondent no.3 issued a sick pass (Annexure A-1). The applicant underwent treatment. He was advised rest for 15 days and accordingly medical certificate (Annexure A-2) was issued. He was certified to be fit to resume duty (Annexure A-3) on 15.11.2016. He was, however, not allowed to resume duty on that day (Annexure A-4). Thereafter, on 16.11.2016 order at Annexure A-5 was passed. Only the latter half of this order which reads as under is impugned-

दि.०५.११.२०१६ ते १५.११.२०१६ पर्यंत ११ दिवस म.ना.से. (रजा) नियम ६३ चे तस्तुदीनुसार वैद्यकीय कारणास्तव असाधारण रजा (विनावेतन रजा) मंजूर.

3. It was submitted by Shri S.N.Gaikwad, learned Advocate for the applicant that the impugned order cannot be sustained because it does not show that it was passed as per orders of respondent no.2, the Appointing Authority.

4. Further contention of the applicant is that he was not absent without authorisation, earned leave as well as medical leave were in balance in his account and hence the impugned order cannot be sustained. There is merit in this submission. Rule 63(1) of the M.C.S. (Leave) Rules, 1981 reads as under –

63. Extraordinary leave. – (1) Extraordinary leave may be granted to Government servant in special circumstances-

(a) when no other leave is admissible;

(b) when other leave is admissible but the Government servant applies in writing for the grant of extraordinary leave.

5. It is not disputed that medical as well as earned leave were in balance in the account of the applicant. Considering these aspects and the provision under Rule 63(1) of the M.C.S.(Leave) Rules, 1981 the impugned order cannot be sustained. Hence, the O.A. is allowed in terms of prayer clauses (i) and (ii). No order as to costs.

(M.A.Lovekar)
Member (J)

Dated – 17/07/2023
rsm.

I affirm that the contents of the PDF file order are word to word same as per original Judgment.

Name of Steno : Raksha Shashikant Mankawde
Court Name : Court of Hon'ble Member (J).
Judgment signed on : 17/07/2023.
and pronounced on