

**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

CWP-7656-2021

Date of Decision:-27/7/2021

Deo Narayan Prasad

... Petitioner

Versus

Union of India and others

... Respondents

**CORAM: HON'BLE MR. JUSTICE RAJAN GUPTA
HON'BLE MR. JUSTICE KARAMJIT SINGH**

Present:- Ms. Monika Thakur, Advocate
for the petitioner.

Mr. Arvind Seth, Advocate
for respondent No.1-UOI.

KARAMJIT SINGH, J.

Case has been heard through video conferencing on account of
COVID-19 Pandemic.

The petitioner has filed this petition seeking writ in the nature
of Certiorari for quashing the impugned order dated 2.2.2021 (Annexure P-
8) passed by Central Administrative Tribunal, Chandigarh Bench (in short
'the Tribunal) in OA-060/328-2019 whereby the order dated 8.1.2019
(Annexure P-6) passed by the Deputy Director, Doordarshan Kendra,

Chandigarh was upheld and further writ in the nature of Mandamus directing the respondents to grant 94 days medical leave to the petitioner along with all the consequential benefits.

The brief facts of the case of the petitioner are that he joined Doordarshan Kendra as Engineering Assistant on 17.4.1984 and he was promoted as Senior Engineering Assistant in 1988. Thereafter the petitioner was promoted to the post of Assistant Engineer in 1998. He was further promoted as Assistant Director on 30.5.2018 and was posted in All India Radio Hisar, Haryana. The petitioner made request that he be adjusted against the post of Assistant Director, Doordarshan Kendra, Chandigarh which at that time was lying vacant, as he was having some medical problem. However, his request was not considered and he was relieved from the post of Assistant Engineer, Doordarshan Kendra, Chandigarh on 08.6.2018 and was directed to join at All India Radio Hisar, Haryana on promotion as an Assistant Director. In the meantime, the petitioner applied for medical leave from 8.6.2018 to 14.6.2018 and he also made request that he be not relieved till he joins back. The request of the petitioner was accepted by the Directorate Delhi vide order dated 16.11.2018 and he joined as Assistant Director, Doordarshan Kendra, Chandigarh on 20.11.2018. The petitioner remained on leave from 8.6.2018 to 19.11.2018 and out of the aforesaid period, he was granted earned leave for 74 days. The petitioner made request that the remaining leave for 94 days be adjusted against medical leave but his request was declined by respondent No.2 vide order dated 8.1.2019 (Annexure P-6).

The petitioner approached the Tribunal to challenge the said order, by filing OA No.060/328-2019, the same was contested by the respondents. After hearing both the parties, the Tribunal rejected the claim of the petitioner vide order dated 22.2.2021 (Annexure P-8).

Being not satisfied, the petitioner has filed the present writ petition challenging impugned orders Annexure P-6 and Annexure P-8.

We have heard the counsel for the petitioner and the counsel for respondent No.1.

The case of the petitioner is that he had applied for medical leave, but the same was not granted to him by the competent authority. The medical leave period applied for is as under:-

08.06.2018 to 14.06.20218	7 days
01.07.2018 to 21.07.2018	21 days
10.08.2018 to 16.08.2018	7 days
17.08.2018 to 26.08.2018	10 days
08.09.2018 to 28.09.2018	21 days
10.10.2018 to 30.10.2018	21 days
05.11.2018 to 11.11.2018	7 days
Total days	94 days

The counsel for the petitioner contended that the request for grant of medical leave was declined on the ground that the petitioner was a Gazetted Officer and living in CGHS covered area and as per rules he should produce medical certificate of a CGHS hospital or of a Doctor working in a Government Hospital to avail the facility of commuted leave. The counsel for the petitioner further argued that the concerned authority rejected the

medical leave of the petitioner just on the ground that the same was not supported by medical certificate(s) of a government Doctor. The said rejection was totally illegal. The counsel for the petitioner further contented that necessary direction be given to the respondent Nos.1 and 2 to grant medical leave to the petitioner for the aforementioned period of 94 days.

Per contra the counsel for respondent No.1 submitted that the petitioner was never hospitalized. The medical certificates issued by the private Doctor were produced by the petitioner only in January, 2019 and thus rightly rejected by the competent authority. The counsel for respondent No.1 further contented that there is no illegality or perversity in the order (Annexure P-8) passed by the Tribunal.

We have considered the submissions made by counsel for the petitioner and respondent No.1.

Admittedly, the petitioner was working in Doordarshan Kendra, Chandigarh as an Assistant Engineer from where he was promoted and posted as Assistant Director in All India Radio Hisar, Haryana on 30.5.2018. He was ordered to join at his new place of posting on 8.6.2018. In the meantime, he applied for medical leave from 8.6.2018 to 14.6.2018 and also made request that he be posted as Assistant Director in Doordarshan Kendra, Chandigarh as the said post was lying vacant. The petitioner was posted as Assistant Director, Doordarshan Kendra, Chandigarh vide order dated 16.11.2018 (Annexure P-3) and accordingly he joined on 20.11.2018.

The petitioner applied for medical leave of 94 days during the intermittent period from 8.6.2018 to 19.11.2018 as has been detailed above, but his request for grant of medical leave was declined by the competent authority as well as by the Tribunal.

We are of the view that there was no illegality in the impugned orders (Annexure P-6 and Annexure P-8) passed by the competent authority and the Tribunal respectively. From the perusal of the record, it transpires that the medical leave, if any, submitted during the period from 8.6.2018 to 19.11.2018 was not supported by any medical certificate(s). From the perusal of the Annexure P-5 (colly.) it appears that the petitioner submitted medical leave on 4.1.2019 for grant of medical leave for the abovestated period, making it clear that the petitioner applied for medical leave at belated stage. Thus the competent authority was not left with any opportunity to seek second medical opinion with regard to the medical condition of the petitioner during the aforesaid period. The said application for medical leave was not supported by medical certificate(s) of any government Doctor as required under the rules. Rather the leave application was supported only by medical certificate(s) issued by private BAMS Doctor who was running private health clinic under the name of Khullar Health Care Center, Sector -44, Chandigarh. The said medical certificate(s) were relating to different diseases like typhoid, jaundice, fever, UTI, LS with CS, but there is no record of hospitalization. All the said medical certificate(s) advised the patient to take rest, however no medical fitness certificate(s) have been annexed with the leave application by the petitioner. So it is not

clear as to when the petitioner became medically fit to join his duty. All the aforesaid circumstances create doubt regarding the genuineness of the medical problem(s) of the petitioner, as has been rightly observed by the Tribunal.

In the light of the above, we do not see any reason to disagree with the findings of the Tribunal. Consequently, the writ petition is dismissed being devoid of merits.

(RAJAN GUPTA)
JUDGE

(KARAMJIT SINGH)
JUDGE

27.07.2021
Gaurav Sorot

Whether reasoned / speaking?
Whether reportable?

Yes / No
Yes / No