

Form No. J.(2)
Item No.8
Court No. 1
KS

**IN THE HIGH COURT OF JUDICATURE AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
APPELLATE SIDE**

HEARD ON: 06.01.2026

DELIVERED ON: 06.01.2026

**CORAM:
THE HON'BLE ACTING CHIEF JUSTICE SUJOY PAUL
AND
THE HON'BLE JUSTICE PARTHA SARATHI SEN**

WP.CT 271 of 2024

**The General Manager, India Government Mint
Vs.
Sri Gopal Dutta & Ors.**

Appearance:-

Mr. Hemanta Kr. Das

Ms. Sreetama Biswas

.....For the Petitioner

JUDGMENT (ORAL):

Per, Sujoy Paul, ACJ.:-

1. Heard learned counsel for petitioner on admission.
2. This petition filed under Article 226/227 of the Constitution of India, takes exception to the order of Central Administrative Tribunal, Kolkata Bench, Kolkata (hereinafter referred to as "Tribunal") passed in O.A. No.350/00164/2019 dated 07.02.2023 whereby the Tribunal allowed the original application (hereinafter referred to "application") and interfered with the punishment order.

3. The admitted facts are that the delinquent employee/applicant was served with a minor penalty charge-sheet, which ended with imposition of punishment of postponing of 01 (one) increment with cumulative effect after completion of earlier penalty, if any. After exhausting the departmental remedies, the applicant filed the said O.A. assailing the said punishment.
4. The principal argument of the applicant before the Tribunal was that he was subjected to a charge-sheet dated 17.01.2013 wherein it was alleged that he remained unauthorizedly absent between 12.12.2012 to 14.01.2013. The allegation of remaining unauthorizedly absent was not found to be proved and this finding was accepted by the disciplinary authority. Interestingly, the Department accepted the application for leave for the period in question and granted him leave.
5. The Tribunal for this singular reason, allowed the original application. The Tribunal came to hold that once the application for leave is sanctioned by competent authority, his absence cannot be treated to be unauthorized or falling within the ambit of "misconduct" under the relevant Conduct Rules.
6. Criticizing this finding, learned counsel for the petitioner/Department submits that petitioner is a habitual absentee. The Tribunal has failed to see that he was facing another proceeding under Rule 14 of CCS (CCA) Rules, 1965. The minor penalty imposed should not have been interfered with. No other point is pressed by learned counsel for the petitioner.

7. On more than one occasion, we specifically asked the learned counsel for the petitioner as to whether he is disputing that the absence for which the employee was charge-sheeted is regularized by granting him leave for the said period, learned counsel for the petitioner did not dispute the said finding of fact recorded by the Tribunal. The Tribunal gave its finding as under:-

“9. In the present case, as noted hereinabove, the charge levelled against the applicant that he remained absent frequently without prior permission of the competent authority and same has been held to be proved during the departmental inquiry. However, it is not in dispute that in case of the applicant, his each leave application was sanctioned by the competent authority meaning thereby that the explanation as provided by the applicant for remaining absent was accepted by the competent authority.

10. Under the circumstances, the charge of remaining absent frequently without prior permission does not hold good. As such, no material evidence contrary to the same has been surfaced during the enquiry. Therefore, we are in agreement with the submission of Ld. Counsel for the applicant that the Disciplinary Authority and the Appellate Authority have erred in imposing penalty upon the applicant.

11. In light of the aforesaid discussion, the impugned order dated 20.8.2014 passed by the Disciplinary Authority and impugned order dated 16.2.2018 passed by the Appellate Authority is quashed and set aside. The respondents are directed to grant all consequential benefit to the applicant.”

(Emphasis Supplied)

8. In paragraph v (Grounds of the writ petition), the petitioner/department has accepted that his leave was regularized. Since he is the habitual absentee, action was taken.
9. A bare perusal of charge-sheet dated 17.01.2013 shows that only specific allegation is in relation to unauthorized absence between 12.12.2012 to 14.01.2013. Apart from this, a bald allegation is made that he was frequently absent from duty. However, in support of this, no details are given in the memorandum of charges dated 17.01.2013. Thus, in absence of showing what are the periods of such absence in

earlier spells, the allegation of habitual absence, even otherwise cannot be accepted.

The charge-sheet should be specific and in cases of absence, the days and duration of absence must be stated with clarity and precision.

10. Since no argument is advanced by learned counsel for the petitioner to demolish the singular reason given by the Tribunal that after having accepted the leave applications and granting leave, it is no more than open to the Department to treat the said period as unauthorized absence, which falls within the scope and ambit of "misconduct". We find no reason to interfere in this matter.
11. Accordingly, admission is **declined** and petition is **dismissed**.
12. Urgent photostat certified copy of this order, if applied for, be furnished to the parties expeditiously upon compliance of all legal formalities.

(SUJOY PAUL, ACJ.)

I agree.

(PARTHA SARATHI SEN, J.)