
(2022) 05 CAT CK 0027

In the Central Administrative Tribunal

Case No : Miscellaneous Application No. 180, 00348 Of 2022 In Original
Application No. 180, 00134 Of 2022

Rousha P.Ali

APPELLANT

Vs

Union Of India And Others

RESPONDENT

Date of Decision : 17-05-2022

Acts Referred:

Citation : (2022) 05 CAT CK 0027

Hon'ble Judges : K.V. Eapen, Member A

Bench : Single Bench

Advocate : Shafik M.Abdul Khadir, O.M. Shalina

Final Decision : Dismissed

Judgement

K.V. Eapen, Member A

1. The Original Application No.180/00134/2022 was disposed of on 4.4.2022 with a direction to the Competent Authority to consider and dispose of Annexure A-15 representation dated 1.4.2022 in the light of relevant rules and regulations and pass a speaking order on or before 19.04.2022. Counsel for the applicant in the above O.A has now filed an M.A No.180/348/2022 praying for a direction to the 2nd respondent (i.e, the Chief Postmaster General, Kerala Circle) to implement the order of this Tribunal dated 4.4.2022 in the above mentioned O.A in the true letter and spirit and to initiate all the required actions to grant Extraordinary Leave to the miscellaneous applicant in the interest of justice.

2. The matter was heard on 13.5.2022. Counsel for the miscellaneous applicant Shri.Shafik M.Abdul Khadir contends that the order passed by the Postmaster General, Northern Region, Calicut, produced by him at Annexure A-16 in this M.A, is an order which has been passed by an authority who is not the one to whom the representation at Annexure A-15 was addressed. The Annexure A-15 representation was addressed to the Chief Postmaster General, Kerala giving details of the steps taken by the applicant in applying for leave and now she was

one of the few who have qualified for the Junior Research Fellowship (JRF) and, hence, why she should be granted the Extra Ordinary Leave without leave salary. It was also brought out that the applicant was seeking no financial benefits because of her intention for enrolling for Doctoral studies as well that she was surrendering her increment as per MACP benefits due in June 2022 onwards. The applicant had also contested the fact that there is a staff shortage in Ottappalam Division as claimed by the respondent by stating that the recruitment process is going on and the vacancies will be filled up at the earliest. Further, promotion to the cadre of Postal Assistant from the candidates who have qualified in the LDCE was also going on. Thus, there was a shortage of only 25 vacancies in the cadre of Postal Assistant in the Division and 75% of this would be filled up soon through promotion/direct recruitment etc. Hence, she had prayed to the CPMG Kerala for sanction of the said Extraordinary Leave for 36 months before expiry of the JRF date. Counsel for the applicant also contended during hearing that similar leave has been granted to other Postal officials in other Divisions in Kerala Circle.

3. Counsel for the respondents Smt.O.M.Shalina, SCGSC however, submitted that this was the third representation made by the applicant, which has been dealt with by the Department of Posts. Her initial application was rejected by the Superintendent of the Ottappalam Division on the ground of acute shortage of staff prevailing in the Division. Later, after the interim direction of the Tribunal in O.A No.134/2022, the matter was once again placed before the Director of Postal Services of Northern Region who was the controlling officer of the Superintendent of Posts, Ottappalam. It was also rejected by the said officer on the ground that the leave cannot be claimed as a matter of right. It was further indicated that no appeal lies against the decision of leave sanctioning authority under any of the Rules under the CCS Leave Rules. Later, after this Tribunal disposed of the Original Application directing that the representation addressed to the CPMG, Kerala Circle at Annexure A-15 be considered by the competent authority, the detailed order at Annexure A-16 has been passed by the Postmaster General, Northern Region, Calicut who is in charge of the area under which the Ottappalam Postal Division falls. It is submitted that the Postmaster General, Northern Region had considered all aspects relating to the matter after the representation was forwarded to her by the CPMG for disposal. She is also the next higher authority to the Director of Postal Services, Northern Region in the Postal Department. Counsel for the respondent submits that the Postmaster General, Northern Region, in her Order, has found no reason to interfere with the decision of the leave sanctioning authority. The No Objection Certificate (NOC) which was granted earlier to the applicant by the leave sanctioning authority was only for application for the studies. This cannot be taken as an assurance of leave. It is also submitted that the primary responsibility of the Department is to ensure smooth functioning of the public services of all Post Offices satisfactorily. It is for that reason that there are provisions to restrict leave in the Leave Rules as it is not always possible to grant

leave to all those who want leave, as there are limits to which depletion of staff can be permitted, without dislocating the working of an establishment. Sanctioning long leave of any kind without genuine reasons like medical treatment, taking care of children and parents etc is against the welfare of other staff members as well. The completion of Ph.D in Malayalam by the applicant will not be, in any way, helpful for the Department to improve its functioning in delivery of Postal/Services. In addition, granting of Extraordinary Leave for undertaking higher studies by attending regular classrooms with fellowship etc. will become a precedent to other staff for applying similar leave. Hence, it is submitted by the respondents that all matters relating to the application had been considered and the leave sanctioning authority has exercised the right to deny the leave as prayed for by the applicant, after full consideration of all issues.

4. The counsel for the applicant, however, has contested this stating that the representation should have been considered only at the level of Chief Postmaster General, Kerala and not by any other official as it was addressed to the Chief Postmaster General directly. There is nothing like a leave appellate authority in the chain of the Postal Department and so the PMG Northern Region should not have taken the decision . The decision regarding sanction of leave should have been taken by the topmost authority who would be in full possession of all facts and circumstances without being passed down to another authority.

5. I have considered the contentions mentioned in the M.A as well as heard both sides. After due consideration I am not inclined to interfere with the decision taken by the Postal Authorities. In disposing the O.A, this Tribunal had only directed that the matter may be considered in full by the Department at the level of a competent authority. The Postmaster General of Northern Region, Kerala is a sufficiently senior officer to look into all aspects relating to the Department as the Ottapalam Division where the applicant is working falls under her. Hence, she has taken a decision by a reasoned order turning down the request of the applicant. I do not find any infirmity in the order and am of the view that it is not necessary to interfere with the decision so taken. The contention that the representation has not been disposed of at the level of Chief Postmaster General is not sufficient cause to order any relook at the order as it has been disposed of by an official who is otherwise competent to do so. The reasons spelt out by the authority while rejecting the representation are cogent and clear and do not require any further interference.

6. In the above mentioned facts and circumstances, the Miscellaneous Application is not allowed. No order as to costs.