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CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI

OA NO. 1257/2002

This the 2nd day of April, 2003

HON'BLE SH. KULDIP SINGH, MEMBER (J)

Sh. Prem Nath Nagpal
S/o Sh. G.M. Nagpal
F-3 Rattan Park
New Delhi-15.
(By Advocate: Sh. Ravi Kant proxy for
Sh. Arun Bhardwaj)

Versus

1. Govt. of NCT of Delhi
Through Chief Secy.
GNCT Players Building
I.P. Estate
New Delhi.
2. Director of Education
Directorate of Education,
GNCT, Old Sectt.,
Delhi.
3. Deputy Director of Education
Distt West A,
New Moti Nagar
New Delhi-15.
4. DDO
Govt. Boys Sec. School,
Shadi Khanpur
New Delhi-8.
(By Advocate: Sh. Mohit Madan proxy for
Mrs. Avnish Ahlawat)

ORDER (ORAL)

Heard.

2. Applicant in this OA has impugned order dated 27.10.2001 and 24.9.2001 vide which his representation for grant of Earned Leave in lieu of duty performed as Drawing and Disbursing Officer (DDO, for short) during summer vacation has been rejected.

3. The facts in brief are that the applicant at the relevant time was working as Vice Principal of Govt. Boys Secondary School, New Delhi. Vide order dated 13.8.1996 applicant was declared as Drawing and Disbursing Officer of Govt. Boys Secondary School, New Delhi. The case of the applicant is

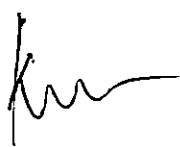
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that since he was called upon to perform the duties of the DDO till his retirement on 30.4.2001. Meaning thereby that during the summer vacations in the intervening period he had attended his office and he had been prevented to avail the vacations. Since he is prevented to avail the vacations, he is entitled to Earned Leave in lieu thereof. Thus, the applicant has prayed that respondents be directed to grant leave encashment for the days he worked as DDO and Head of School during the vacations which have fallen during the period of 13.8.96 till his superannuation.

4. Respondents are contesting the OA. Respondents had taken a preliminary objection that the number of days for which the applicant had worked during vacations has not been specifically stated in the OA. Besides that the claim pertains to the period much prior to the retirement and thus it is barred by limitation. However, it is not disputed that the applicant was assigned the duty of DDO on 13.8.96.

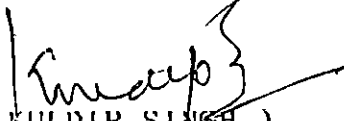
5. I have heard the learned counsel for the parties. Counsel for respondents also argued that since there is no proof as to the fact that applicant had attended the office during vacations, his representation has been rightly turned down. On the contrary, counsel for applicant had relied upon judgment given in TA-1041/85 in case of C.B. Aggarwal vs. Delhi Administration and others.. The Tribunal after quoting Rule 28 of the CCS (Leave) Rules, 1972 have observed that Government servant is not entitled to any Earned Leave in respect of duty performed in any year in which he avails himself of the full vacation. Note 1 under Rule 28 provides that a Government servant entitled to vacation, shall be considered to have availed himself of vacation or a portion of a vacation unless he has been required by a general or special order of higher



authority to forego such vacation or portion of a vacation and in case he has been prevented from enjoying more than 15 days of the vacation, he shall be considered to have availed himself of no portion of the vacation.

6. The facts of the said judgment are also similar to facts of the case in hand. The applicant in this case has been asked to work as DDO and according to the applicant the nature of job requires that applicant has to attend the office to see the working of the office and was also to sign various cheques and also to submit income tax returns of employees to the Income Tax Department for which he had to attend the office regularly during the vacations and thus he has been prevented to avail the vacations. Since he has been prevented to avail the vacations, he is entitled to Earned Leave in lieu thereof. As against this, counsel for applicant submits that there is no specific order vide which applicant has been performing duties during vacation but the fact remains that job of the DDO requires that applicant has to attend some official duties during vacations which prevents him in availing of vacations, so applicant is entitled to grant of Earned Leave for those vacations for which he has worked.

7. Accordingly, I allow the OA and direct the respondents to credit the leave of the said period in account of applicant and also to pay the leave encashment after verifying the records. This exercise be completed within a period of two months of receipt of a copy of this order. OA stands disposed of. No costs.


(KULDIP SINGH)
Member (J)

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