

**Central Administrative Tribunal
Hyderabad Bench**

OA No.1269/2018

Hyderabad, this the 30th day of December, 2019

Hon'ble Mr. B. V. Sudhakar, Member (A)

GSJ Atchuta Rao
S/o Late Sri Gona Rama Rao
Aged 61 years, D.No.10-140-1/5, Devi Residency
Plot No.201, PF Colony, Chinnamusidiwada
Visakhapatnam – 530 051. Applicant

(By Advocate: Dr. P.B.Vijay Kumar)

Vs.

1. Union of India rep. by its Secretary
Ministry of Defence,
South Block
New Delhi – 110 001.
2. The Chief of Naval Staff,
Ministry of Defence Headquarters
South Block,
New Delhi – 110 001.
3. The Flag Officer Commanding-in-Chief
HQ, Eastern Naval Command,
Naval Base
Visakhapatnam – 530 014.
4. The Admiral Superintendent,
Naval Dock Yard
Visakhapatnam – 530 014.
5. The Naval Local Audit Officer (A),
BLO Complex
Naval Dockyard,
Visakhapatnam – 530 014. .. Respondents

(By Advocate: Shri B. Laxman, proxy of Shri M. Venkata Swamy) :

O R D E R (Oral)

2. The OA is filed in regard to denying encashment of Earned Leave of 224 days which was at the credit of the applicant at the time of retirement.

3. Brief facts of the case are that the applicant worked in the respondents organization as Skilled Trade Man, and retired, on attaining the age of superannuation, on 30.06.2017, after rendering 39 years of service. The applicant states that on the date of retirement, he had 224 days of Earned Leave and 21 days of Half Pay Leave, in his leave account. As per DoPT instructions, leave encashment upto 300 days is allowed. Therefore, applicant was supposed to be paid Rs.4,20,403/- for 224 days of Earned Leave whereas he was paid only Rs.2,95,651/- and that too belatedly. Aggrieved, OA has been filed.

4. The contentions of the applicant are that he is an industrial employee and is governed by industrial leave rules and not CCS (Leave) Rules, 1972. As per industrial leave rules, applicant is permitted to avail 3 months Extra Ordinary Leave (EOL) at a stretch. However, the applicant availed 60 days during his 39 years of service. The respondents deducting EOL from the accumulated Earned Leave, is against the industrial leave rules.

5. Respondents opposed the contentions of the applicant by stating that at the time of superannuation of the applicant, he had 210 days of Earned Leave at his credit and not 224 days, as stated by him. Besides, he had 21 days of Half Pay Leave in his leave account as per the Audited Leave Card. The leave was credited proportionately to the applicant's leave account after deduction of EOL and dies non period by applying the 1/10th formula on an annual basis. By deducting 66 days of Earned Leave and dies non period, the leave balance in the applicant's leave account is 144 days of Earned Leave and 21 days of HPL. The amount to be paid towards leave balance is Rs.2,95,.651/-, which was paid on 12.04.2018. The respondents cited DoPT Office Memorandum dated 28.12.2012, wherein it was clarified that CCS (Leave) Rules, 1972 apply to the applicant. Therefore, their action is as per rules.

6. Heard both the counsel and perused the pleadings on record.

7. (I) The dispute is regarding encashment of Earned Leave at the time of superannuation. The respondents have given the details of EL and HPL which have been accumulated by the applicant over the years as per rules on the subject.

(II) The applicant contends that he has to be treated as industrial worker while processing the leave encashment. However, the DoPT instructions dated 28.12.2012, submitted by Respondent No.1, clarifies that the encashment of

Earned Leave HPL to industrial employees will be treated at par with a non-industrial Central Government employees covered under CCS (Leave) Rules, 1972. This provision was extended, *mutatis mutandis* to industrial employees/Ministries/Departments except the Railways. Based on the DoPT Office Memorandum, referred to above, respondents adjusting the EOL against the Earned Leave accumulated by the applicant, is in accordance with CCS (Leave) Rules, 1972, which are indeed appreciable to the applicant. Therefore, action of the respondents is in accordance with the Rules on the subject.

(III) The Tribunal does not find any error in the decision of the respondents, and, therefore, the OA being devoid of merit, merits dismissal and, therefore, dismissed with no order as to costs.

(B. V. SUDHAKAR)
Member (A)

nsn