

Central Administrative Tribunal
Principal Bench: New Delhi

OA 1905/96

New Delhi thiss the 8th day of October 1997.

Hon'ble Mr N. Sahu, Member (A)

Bhupal Singh Adhikari
Vice Principal (Retd)
Govt. Co-Ed. Senior Secondary School
Paprawat
New Delhi - 110 043.

S/o late Shri Bhawan Singh
R/o A2A/166 Janakpuri
New Delhi - 110 058. ...Applicant.

(By advocate: Mr Arun Bhardwaj)

versus

1. Govt. of NCT of Delhi through its Secretary
Ministry of Education
5 Sham Nath Marg
Old Secretariat
Delhi.
2. The Dte. of Education
through its Director
Old Secretariat
Delhi.
3. Dy. Director of Education
Dist. South West
Administrative Branch
Vasant Vihar
New Delhi.
4. The Drawing & Disbursing Officer
Govt. Co-Ed. Sr. Secondary School
Paprawat
New Delhi - 110 043. ...Respondents.

(By advocate: Mr Vijay Pandita)

O R D E R (oral)

Hon'ble Mr N. Sahu, Member (A)

This application is directed against order dated 15.12.95 (Annexure A-1) by which the applicant has been denied the benefit of earned leave for the period he officiated as Drawing & Disbursing Officer during summer vacations from May 1992 to May 1996 (except the year 1993). The claim of the applicant was rejected for three reasons mentioned in Annexure A-1, namely (i) that the

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post of D.D.O. is a delegated post; (ii) that this is not an exclusive assignment and generally performed as an additional job. No extra remuneration is paid; (iii) that there is no provision for grant of leave on this account. It is submitted by the learned counsel for the respondents that under Rule 28 (2) of the CCS (Leave) Rules 1972, a Government servant serving in a vacation Department shall not be entitled to any earned leave in respect of duties performed in any year in which he avails himself of the full vacation. Note 1 (Rule 28), however, provides that a Government servant entitled to vacation shall be considered to have availed himself of a vacation unless he has been required by general or special order of a higher authority to forego such vacation or portion of a vacation. Proviso under Note 1 states that if he has been prevented by such order from enjoying more than 15 days of the vacation, he shall be considered to have availed himself of no portion of the vacation. On the basis of this rule, the applicant challenged the impugned order saying that being a teacher it is not his professional duty to work as DDO. If a teacher is prevented from enjoying the vacation, he shall be compensated for that under the Rules. He states that he was prevented from enjoying more than 15 days of vacation. There are orders to the effect that he should act as DDO of different schools and institutions with different working hours. These orders are placed on record. Besides the functions of DDO, he performed the job of recording attendance of the Security Guard, Peon, office assistant and had to do similar kind of other

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jobs. As he had to work as DDO in four institutions with different working hours, his presence was required throughout the working day. He also mentions that Government Boys Adult School, Najafgarh and Govt. Public Library are non-vacation schools whereas the post of the applicant is a vacational post. Learned counsel for the applicant submits that in TA 1041/85 and CW 1786/84 decided by this Tribunal on 17.9.91, it has been held that the post of a Principal is a vacation post and for working during vacation, he is entitled to earned leave. Learned counsel for the applicant also challenges each of the reasons mentioned in the impugned order dated 15.12.95. He says that it is not a delegated post. If it be so, there was no need for the respondents to issue separate orders repeatedly and also directing him to forward his specimen signatures. With regard to the second point, it is stated that it is not an exclusive assignment and it is generally performed as an additional duty. It is stated that during vacations, he has been doing the job of DDO instead of his main functions of teaching. Calling in his service by mandatory orders and not granting him leave when he was entitled to avail of the same is arbitrary, submits the counsel.

2. Learned counsel for the respondents submits that the applicant has not been specifically asked to forego the vacation. The job of DDO required his presence very rarely and that too for appending his signatures and it did not require full time duty. The learned counsel further submits that under Rule 59 (2) (h) of the Delhi

Final Answer

(A)

School Education Rules, 1973 the Head of the School shall also be the DDO for the employees of the School. The applicant being a Vice Principal and in the absence of the Principal, he is the Head of the Department. The functions of DDO are part of his duty. He, therefore, contends that this OA has no merit.

3. I have considered the various submissions of the rival counsel. Facts are that the applicant is basically a teacher. By repeated orders annexed to the OA, the applicant had been declared as DDO for various periods. He had also been directed to communicate his specimen signatures. He performed his functions in 4 different schools having different working hours. The valid point made by the learned counsel for the respondents Mr Vijay Pandita is that DDO functions are normally done as an additional job in any Government office. However, that principle does not apply to the case on hand because the applicant is a teacher and he is statutorily permitted to avail of the vacation granted to him every year. If he is made to forego the vacation, Rule 28 of the CCS (Leave) Rules, 1972 shall apply in this case. As stated above, being a DDO, if he had refused to perform the job, it would have been an act of indiscipline on his part. The functions of a DDO are clearly laid down in Financial Rules. They are highly responsible functions. It is not merely appending signatures. His functions are to authorise payments and virtually it is through him that all financial transactions get authenticated. Asking a teacher to perform the job of DDO and then to say that

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E.L. cannot be credited to his account, because it was a light job he performed is inconsistent. Having been entrusted the job of 4 different schools as DDO, I am satisfied that the applicant was prevented from utilising his summer vacations and was utilised for performing exclusive official functions as DDO.

4. This OA succeeds. Respondents are hereby directed to credit him with earned leave as per rules within a period of four weeks from the date of receipt of a copy of this order for performing the job of a DDO during summer vacation for the period from 1992 to 1996 (except 1993). The impugned orders dated 15.12.95 and 27.5.96 passed by the respondents are hereby set aside. OA is allowed. No costs.

Narasimha Sahu
(N. Sahu)
Member (A)

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