

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH
NEW DELHI

OA 1136/94

New Delhi this the 30th day of July, 1999

Hon'ble Shri V. Ramakrishnan, Vice Chairman (A)
Hon'ble Smt. Lakshmi Swaminathan, Member (J)

In the matter of

1. Association of Civilian Medical Demonstrators of Armed Forces Medical College through its President Dr. Ulka P. Chobe, Demonstrator, A.F.M.C. R/O 71, Karve Road, Chandrapurma, Pune
2. Dr. C. D. Limaye, Retired Demonstrator, AFMC, R/O 1195, Sadashivpeth, Pune 7

..Applicants

(None for the applicants)

Versus

1. Union of India through the Secretary, Ministry of Defence, South Block, New Delhi.

..Respondent

(By Advocate Sh. N. S. Mehta)

O R D E R (ORAL)

(Hon'ble Smt. Lakshmi Swaminathan, Member (J))

None for the applicants even on the second call. This case was listed today specifically at the request of Shri Ajit Puduserry, learned counsel for the applicants. In the circumstances we have perused the records and heard Shri N. S. Mehta, learned senior counsel for the respondents.

2. Shri N. S. Mehta, learned senior counsel has drawn our attention to the letter dated 17.7.92 addressed to the applicants Association. The applicants have stated in para 1 of the OA that they have filed this application against non implementation of this order in spite of ^a number of representations made by them. In the prayer clause, they have prayed that a declaration may be given to the effect that they are entitled to Earned Leave as granted to other Central Government

8

vacation departments in accordance with the provisions of Rule 28 of CCS(Leave) Rules, 1972 with a further direction that these benefits may be given with retrospective effect.

3. We have carefully perused the letter dated 17.7.92. The relevation portion of the letter reads as follows:-

"In accordance with sub-rule 2 of Rule 28 of CCS leave Rules, 1972, a Government servant (other than a military officer) serving in a Vacation Department shall not be entitled to any Earned Leave in respect of duty performed in any year in which he avails himself of the full vacation. In any year if he avails of only a portion of the vacation, he will be entitled to Earned Leave in such proportion of 30 days as the number of days of vacation not taken bears to the full vacation. It is also provided that if the Vacation Department staff has been prevented from enjoying more than 15 days of the vacation, he shall be considered to have availed himself of no portion of a vacation. Accordingly, the Vacation Department staff in AFMC will not be eligible for any Earned Leave during any year so long as full vacation is availed of."

4. Learned counsel also states that nothing has been brought on record by the applicants to show that the aforesaid order is not implemented. He, however, submits that these benefits from retrospective effect cannot be granted as no documents have been placed on record to the contrary by the applicants.

5. In the light of what has been stated above, we find that no further declaration as sought for by the applicants in the OA is required as the letter dated 17.7.92 addressed to the applicants' Association is self explanatory and we have no reason to believe that the Government ~~has~~ not implement ~~to~~ ¹⁸ their own letter. In the facts and circumstances of the case, the application is disposed of as above. No order as to costs.

6. Later Shri Ajit Puddiserry, learned counsel for the applicants appears and states that he has spoken to Shri N. S. Mehta, learned senior

18.

9

counsel who has no objection to him making his submissions.

7. we have heard him. Learned counsel has submitted that as regards the retrospective effect of the letter it may be clarified that the applicants would be entitled to the benefits of leave in accordance with the then existing rules. To this extent, there appears to be no objection. It is ordered accordingly. O.A. disposed of as above with no order as to costs.

Lakshmi Swaminathan
(Smt. Lakshmi Swaminathan)
Member(J)

V. Ramakrishnan
(V. Ramakrishnan)
Vice Chairman(A)

'SK'