

(7)

CENTRAL ADMINISTRATIVE TRIBUNAL PRINCIPAL BENCH NEW
DELHI.

O.A.No.80 of 1988

Date of Decision: 8.7.93.

G.N.Oberoi

.....Petitioner.

Versus

Union of India & others

.....Respondents.

For the petitioners: Shri Ashish Kalia, Counsel.

For the respondents: Shri M.L.Verma, Counsel.

CORAM:

Hon'ble Mr. Justice V.S.Malimath, Chairman.

Hon'ble Mr. S.R.Adige, Member(A)

JUDGMENT(ORAL)

(By Hon'ble Mr. Justice V.S.Malimath, Chairman)

The petitioner Shri G.N.Oberoi was on deputation from the Government service to the Minerals and Metals Trading Corporation of India, Ltd. New Delhi during the years 1973 to 1975. After the deputation period expired, he reverted to his parent department from where he retired sometime in the year 1986. The M.M.T.C. on the request made by the petitioner passed an order on 29.4.86 to regularise various kinds of leave; such as Special disability leave of a total period of 35 days, commuted leave on M.C. of 90 days, Special disability leave of 85 days, commuted leave on M.C. of 41 days, earned leave of 46 days and 15 days as joining / journey period. Though such an order was made the monetary benefits flowing from the same were not made available to the petitioner. The reason is that some of the period which is now treated by the said order as disability leave was earlier regularised by grant of earned leave for which the leave salary contribution was paid by ~~the~~ MMTC. Besides though the salary was paid by the parent department for such period of Earned leave, compensatory allowance was paid by MMTC. It is in this background that the MMTC requested the parent department to let them know the


amount due to be paid to the petitioner of the Disability Leave period after adjusting the leave salary contribution and allowances already paid by MMTC. It is, therefore, requested that a detailed working sheet be furnished to enable them to remit the due amount to the petitioner in the light of the sanction for regularisation of the leave as aforesaid. The parent department did not respond favourably to the request on the ground that having regard to the lapse of considerable time, they have no record from which the necessary information can be gathered and furnished to MMTC. It is in this background that no payment was made to the petitioner either by MMTC or by the parent department. It is also in this background that he has approached this Tribunal for grant of monetary reliefs in the light of the order passed by MMTC dated 29.4.86 referred to above.

2. At the outset it must be stated that the MMTC not being an Organization notified under the Act we have no jurisdiction to issue any direction to the said authority. The primary responsibility to make the payment lies on the MMTC. It could not also ascertain the actual amount to be paid to the petitioner. Having regard to these circumstances, and the difficulty in which the Union of India is placed, they not having relevant records, it is not possible for us to adjudicate upon the rights of the petitioner vis-a-vis the parent department as well. Though the petitioner appears to have a claim, it is unfortunate that it is not possible to grant relief to the petitioner at this point of time.

3. The counsel for the petitioner submitted that on a reasonable estimate, the petitioner might be able to secure Rs.1000/- if proper calculation and adjustment

is made. After having examined the records and the stand taken by the parties, we are left with the impression that an earnest effort has not been made in the right spirit to assist the petitioner in securing justice. We are, therefore, inclined to take the view that though we cannot adjudicate and grant any relief to the petitioner, he should be adequately compensated as it cannot be said that he has asked for relief without any just cause.

In this back-ground, the just order to be passed would be while declining to grant relief in this case, we direct the Union of India - the 1st respondent to pay costs to the petitioner Rs. 750/-. The costs shall be paid to the petitioner within a period of four months from the date of receipt of this order.


(S.R. ADIGE)
MEMBER (A)


(V.S. MALIMATH)
CHAIRMAN.

(ug)

12071993.