

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
NEW DELHI

O.A. No. 16 of 1986
TAX NO:

DATE OF DECISION 10-4-1987

Harsaran Singh ... Petitioner

Shri R.L.Sethi Advocate for the Petitioner(s)

Versus

Union of India & ... Respondents
another

Shri M.L.Verma Advocate for the Respondent(s)

CORAM :

The Hon'ble Mr. V.S.Bhir, Member (A)

The Hon'ble Mr. G.Sreedharan Nair, Member (J)

1. Whether Reporters of local papers may be allowed to see the Judgement ?
2. To be referred to the Reporter or not ?
3. Whether their Lordships wish to see the fair copy of the Judgement ?

10-4-1987
(G.SREEDHARAN NAIR)
MEMBER (J)

10-4-1987
(V.S.BHIR)
MEMBER (A)

(Q)

CENTRAL ADMINISTRATIVE TRIBUNAL,
PRINCIPAL BENCH,
NEW DELHI.

D.A. No. 16 of 1986.

10-4-1987.

Harsaran Singh

...

Applicant.

vs.

Union of India & Anr. ...

Respondents.

For applicant: ...

Shri R.L. Sethi, counsel.

For respondents: ...

Shri M.L. Verma, counsel.

Coram:

The Hon'ble Mr. V.S. Bhir, Member (A)

The Hon'ble Mr. G. Sreedharan Nair, Member (J)

(The judgment of the Tribunal was delivered by

The Hon'ble Mr. G. Sreedharan Nair)

The applicant is employed in the Office of the Garrison Engineer, M.E.S. Division, Kheria, Agra, under the Ministry of Defence, and he retired on superannuation on 31-10-1975. Alleging that prior to his retirement 166 days of earned leave was to his credit out of which he was allowed to avail only 146 days, he claims an amount of Rs. 833.30 along with interest on the ground that the balance of 20 days has to be treated as refused leave, as it was applied for, but was not sanctioned. Since his representations were of no avail, he has approached this Tribunal with this application.

2. On behalf of respondents, a reply has been filed contending that when the applicant has applied for leave preparatory to retirement, it was sanctioned and there is no further claim pending. It is also contended

that the amendments made to the Central Civil Services (Leave) Rules are not retrospective and as such the applicant is not entitled to the benefit of the same. There is also the plea of bar of limitation.

3. The applicant filed this application in person. As Shri R.L.Sethi, Advocate, agreed to render legal aid to the applicant, he was heard on behalf of the applicant. However, we are not in a position to grant the relief to the applicant.

4. On the face of it, the application is barred by limitation under section 21 of the Administrative Tribunals Act, as the relief that is claimed is in respect of leave that is stated to have been refused prior to the retirement of the applicant which took place on 31-10-1975. This application has been filed only in January 1986. In paragraph 5 of the application, it is stated that since there is no order passed till date as well as there is no response from the respondents to the appeal submitted to them, the application is within the time limit prescribed under Section 21 of the Act. From the documents produced by the applicant, it is seen that the claim was made before the first respondent by a representation dated 11-1-1984, which refers to a previous petition dated 6-1-1983. There is nothing on record to indicate that prior to this any claim was made as alleged. On the merits as well, there is no foundation for resting the case of the applicant. Evidently, the applicant seeks to avail the provision for leave encashment in the

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Central Civil Services (Leave) Rules which came into force after his retirement. The Note to Sub-rule (4) of Rule 39 of the Rules was pressed into service by counsel of the applicant. But that Note applies only to a Government servant who attained the age of retirement before 30-9-1977 and was on extension of service on or beyond that date. Moreover, this is not a case where there has been a refusal of earned leave so as to attract the Note. The copy of the extract of the Service Book of the applicant produced by the respondents shows that the applicant was actually granted earned leave for 30 days from 16-5-1975 to 14-6-1975 as well as 120 days' pending retirement with effect from 4-7-1975 to 31-10-1975. The copy of the extract of the Part II Order by the Garrison Engineer has also been filed by the respondents. There is also the copy of the departure report submitted by the applicant on 15-5-1975 while proceeding on earned leave.

5. Apart from what is stated above, on the applicant's own showing he had filed a petition for the identical relief before the Tribunal for Service Matters at Lucknow as early as on 13-5-1976, the copy of the application being at Annexure 'B'. Apparently, the relief has not been allowed which is

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yet another ground for rejecting the claim of
the applicant.

6. The application is dismissed.

G.S. NAIR
(G.SREEDHARAN NAIR)
MEMBER (J)
10-4-1987

V.S. BHIR
(V.S.BHIR)
MEMBER (A)
10-4-1987