

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
NEW DELHI

Regn. No. OA-863/86.

Decided on 9-6-89

K.L. Gulati

.....Applicant.

Versus

Union of India & Others

.....Respondents.

For the Applicant ... Applicant in person.

For the Respondents ... Mrs. Raj Kumari Chopra,
Advocate.

CORAM: HON'BLE MR. P.K. KARTHA, VICE CHAIRMAN.

HON'BLE MR. M.M. MATHUR, ADMINISTRATIVE MEMBER.

1. Whether Reporters of local papers may be allowed to see the judgement? *yes*
2. To be referred to the Reporter or not? *NO*

(Judgement of the Bench delivered by Hon'ble
Mr. M.M. Mathur, Administrative Member)

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JUDGEMENT:

In this application the applicant has prayed for the regularisation of excess earned leave debited to his leave account vide the impugned order dated 9.12.85 (Annexure-A).

2. The case of the applicant briefly is that earned leave for 31 days from 19.11.84 to 19.12.84 shown in the impugned order was neither applied for nor availed of by him. According to him, he had availed of duly sanctioned sick leave from 15.11.84 to 17.12.84 while serving under Garrison Engineer, Subroto Park, Delhi Cantt. Regarding other periods of leave shown in the impugned order, he has stated that some casual leave availed of by him

has been treated as earned leave and no notice has been taken of cancellation of leave intimated by him in respect of periods during which he actually attended office. These errors have resulted in double accounting of his leave. He has, therefore, requested that the impugned order may be cancelled and his leave account may be corrected.

3. The respondents have stated in their counter-affidavit that the applicant was transferred from G.E. Subroto Park, New Delhi to C.E. RCP, Delhi Cantt. under movement order dated 19.11.84. He was paid upto 30.11.84 by G.E., Subroto Park, New Delhi and, thereafter, he was on the pay rolls of C.E., RCP. They have averred that no special sick leave was sanctioned to the applicant by G.E. Subroto Park as there is no provision for the grant of such leave in the rules. The applicant while on the strength of G.E. Subroto Park remained absent from 7.11.84 and sent a post card dated 17.11.84 for extension of leave upto 24.11.84. The movement order dated 19.11.84 directing the applicant to report to C.E., RCP was sent to his residential address. The applicant, however, managed to avoid receipt of the letter and sent further leave application dated 23.11.84 requesting extension of leave alongwith medical certificate recommending absence from duty for 3 weeks from 15.11.84. Since he had been struck off strength by G.E. Subroto Park, his leave application was sent to C.E. RCP. Thereafter, the applicant reported for duty to C.E. RCP on 20.12.84. He was taken on the strength from the same date and the intervening period from 20.11.84 to 19.12.84 was treated as earned leave vide Part II order

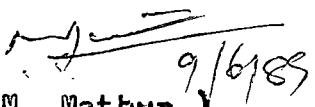
dated 26.12.84. The applicant was asked to produce medical fitness certificate and leave application for his absence not covered by his application, failing which his absence would have to be treated as extra-ordinary leave without pay. After protracted correspondence with the applicant, the period of absence from 7.11.84 to 19.12.84 was regulated as shown in the Part II Order dated 9.12.85. They have further stated that no casual leave has been wrongly debited to the applicant's leave account. In the month of April, 1985, the applicant, after availing of all casual leave due, again applied for casual leave which had to be regularised by grant of earned leave.

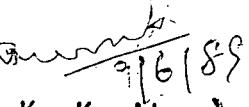
4. We have carefully gone through the records of the case and have heard the arguments of the applicant and the counsel of the respondents. The applicant has not been able to produce any evidence in support of his claim that he had availed of duly sanctioned special sick leave from 15.11.84 to 17.12.84 while serving under G.E. Subroto Park, Delhi Cantt. There is no provision in the Leave Rules for the grant of any such special sick leave. Even if he is referring to special disability leave under Rule 44 or Rule 45 of the Leave Rules, he has not been able to establish that he was in fact granted such leave after satisfying all the conditions laid down in these rules. In the facts and circumstances of the case, we are of the view that the action of the respondents in sanctioning him earned leave for the period of his absence cannot be faulted. With regard to other periods of leave shown in the impugned order,

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apart from making statements in his averment, the applicant has not been able to produce any evidence to point out the alleged accounting errors.

5. In view of the foregoing, we do not see any merit in this application and the same is dismissed.


9/6/88
(M.M. Mathur)
Administrative Member


9/6/88
(P.K. Kartha)
Vice Chairman